STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE TONY R. MALLERY, No. 208	NOTICE OF FORMAL PROCEEDINGS

To Tony R. Mallery, a judge of Lassen County Superior Court from January 2013 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.

COUNT ONE

In approximately September 2020, you became aware that you were the subject of a commission investigation of your conduct. On or about

March 5, 2021, you instructed then-Court Executive Officer ("CEO") Christopher Vose to initiate an investigation of members of the court's management team, including then-Administrative Manager Brandy Cook, then-Operations Manager Marian Tweddell-Wirthlin, and then-Operations Supervisor Crystal Jones, for sending court documents and other information to their personal email addresses and other external recipients. You instructed Mr. Vose to provide you with the dates that court documents or information were sent since July 2017, along with copies of the documents and information that were sent. At the time of your instructions, you knew or suspected that all three court employees had cooperated with the commission's investigation of you. Subsequently, Mr. Vose asked Information Systems Technician Wyatt Horsley to assist him in the internal investigation. With your approval, the internal investigation included a search of emails sent to commission investigating attorney Anne Hunter. During the internal investigation, you told Mr. Horsley that court employees who were cooperating with the commission were getting "payback" or "what's coming to them," or words to that effect. You also asked Mr. Horsley how court employees were able to purge emails that they had deleted, making it more difficult to find them. By making known that you wanted court staff's communications with the commission to be examined and that you intended to retaliate against individuals cooperating with the commission, you caused there to be a chilling effect on the willingness of witnesses to cooperate with the commission's ongoing investigation of your conduct.

Beginning on approximately March 9, 2021, Mr. Horsley placed copies of the emails he had retrieved in a "discovery mailbox" to which Mr. Vose was provided full access. Mr. Horsley provided Mr. Vose with access to 11 emails sent between Anne Hunter and Ms. Tweddell-Wirthlin, 23 emails sent between Ms. Hunter and court reporter Ellen Hamlyn, and

seven emails sent between Ms. Hunter and court clerk Lori Barron. The emails were sent between May 20, 2020 and March 1, 2021. Most of Ms. Hunter's emails to court staff stated that they were "***Confidential under California Constitution, Article VI, Section 18, and Commission Rule 102***." Court documents, including transcripts and minute orders, were attached to some of the emails.

On March 15, 2021, you asked the Judicial Council of California ("JCC") to engage an attorney or law firm to advise the court and investigate allegations that court employees were downloading court information from the court server to their personal email servers. You stated that an investigation was necessary to determine what court employees had sent and why. On or about March 17, 2021, you informed JCC attorney Patrick Sutton, who was overseeing the intake process, that "[t]ime is short," and you requested that the JCC interview Marian Tweddell-Wirthlin that week, as she was set to retire on March 26, 2021. Even though you knew that you were the subject of an ongoing commission investigation and that court employees had exchanged emails with commission staff, you did not inform anyone at the JCC of either of those facts.

On March 15, 2021, Kim Gallagher became Acting CEO of Lassen County Superior Court ("court"). On or about April 2, 2021, Ms. Gallagher forwarded to you an email that Mike Etchepare, Supervising Attorney for Legal Services at the JCC, had sent to her. The email stated that the JCC could not conduct a further investigation into the court employees' conduct because doing so could implicate the JCC in potential retaliation claims or claims that the JCC was preventing or discouraging court employees from cooperating with the commission, which court employees were required to do by statute. Mr. Etchepare's email pointed out that at least some of the emails the court wanted to investigate were direct communications between

court employees and commission investigating attorney Anne Hunter, apparently in relation to an ongoing commission investigation. Mr. Etchepare wrote that the emails between court employees and Ms. Hunter established that at least some employees were talking with the commission, and made it appear that the commission had asked those employees to provide certain documents. Mr. Etchepare wrote that this would likely explain why court employees were scanning court documents and sending them to their personal email addresses. Mr. Etchepare wrote that it would be impermissible for the court to investigate or discipline an employee for participating in a commission investigation, or for the JCC to provide for, or conduct, that investigation. The email "strongly" advised that the court not further investigate or discipline any conduct that was discovered as part of former CEO Vose's inquiries about commission conduct.

On April 2, 2021, you drafted a letter to Mr. Etchepare attempting to rebut his claims and renewing your request that the JCC assist with conducting interviews of court employees about their use of the court's email system to send court documents. At your direction, Acting CEO Gallagher finalized the letter and emailed it to Mr. Etchepare that evening over her signature block.

On Saturday, April 3, 2021, you forwarded to Ms. Gallagher a September 6, 2019 email that then-CEO Vose had sent to court staff in which Mr. Vose advised court staff of the following:

> Please carefully review the court's grievance procedure, attached. Put simply, if you have a grievance, you are required to discuss the matter with your immediate supervisor. They will (*after consulting me regarding the grievance and their intended first level response*) address your grievance in writing. If you are dissatisfied with that first level response, you are required to elevate your grievance to me. I

> will then address you[r] grievance in a written decision, and that decision is final.
>
> The grievance procedure is in place to ensure appropriate employee-employer relations and to resolve grievances at the earliest possible level. Unfortunately, there have been instances in which court employees (*perhaps unaware of the grievance procedure*) have attempted to circumvent the required steps. Please be advised that attempts to circumvent the grievance procedure will be considered misconduct and may lead to disciplinary action, up to and including termination. And please see me if you need further clarification.

(Emphases in original Vose email.) In your email to Ms. Gallagher, you asked her, "Do you think it is time to circulate this information again and cc both judges while stressing the requirement to not address the issue with a judge?" The purpose of your email to Ms. Gallagher was to discourage court employees from filing complaints with the commission or providing information to then-Assistant Presiding Judge Mark Nareau that might be forwarded to the commission.

After receiving Mr. Etchepare's April 2, 2021, email that "strongly" advised the court not to further investigate any conduct that was discovered as part of Mr. Vose's inquiries about commission conduct, you proceeded with your plan for the court to retain outside counsel to interview court employees, including Brandy Cook, who was scheduled to leave the court on April 9. On or about April 5, 2021, you contacted attorney Ren Nosky of Johnson, Rovella, Retterer, Rosenthal & Gilles, LLP ("JRG Attorneys at Law") in Watsonville for the purpose of retaining him to conduct the investigation.

On April 6, 2021, Mr. Etchepare sent an email to Acting CEO Gallagher in which he wrote the following:

> While I understand that the court would like a deeper inquiry into the deletion of emails, sending court information to non-secured servers, and similar actions, it is our belief from reviewing the materials that you provided that these actions are inextricably intertwined with the CJP investigation. As outlined in my previous email, one example is that Ms. Hunter asked Marian Twed[d]ell on February 25 to send certain "files," and that corresponds with many of the questionable emails that were sent on February 25 and 26, attaching court documents. This is just one example, based on the emails we were provided. It seems probable that employees would have sent these emails to personal email accounts and then deleted their email trails so that the court would not be aware of these confidential communications with the CJP. Without knowing more, and given the serious offense of interfering with a CJP investigation, we cannot conduct a further investigation (or recommend that you conduct a further investigation) based on these facts. While it is possible that some additional emails were sent beyond the scope of the CJP investigation, there is no way to investigate that without interviewing the employees and asking them the scope of their communications with CJP, which would be impermissible.

Acting CEO Gallagher forwarded a copy of Mr. Etchepare's email to you on the morning of April 7, 2021. Later that day, at your direction, Ms. Gallagher signed a retainer agreement with JRG Attorneys at Law. Pursuant to the agreement, the court retained JRG Attorneys at Law to investigate the conduct of court employees. The agreement contemplated that at least two interviews of court staff would take place.

On October 4, 2021, Teresa Stalter became the court's new CEO. In approximately November 2021, you asked CEO Stalter what was happening, or had happened, with the court's investigation of court staff's

emails. When Ms. Stalter responded that she had "no idea," you suggested that she conduct an investigation into who had been giving information to the commission over the previous couple of months to find out who the "mole" is.

The purpose and effect of your conduct (authorizing a search of emails court staff had sent to commission investigating attorney Anne Hunter, threatening to terminate court employees who circumvented the court's grievance procedure, attempting to get the JCC to quickly investigate court employees whom you knew or suspected to have cooperated with the commission's investigation, retaining a law firm to investigate the employees after the JCC counseled that no further investigation be conducted, and suggesting that CEO Stalter reopen the investigation to find out who the "mole" is) was to retaliate against Brandy Cook, Crystal Jones, and/or Marian Tweddell-Wirthlin for cooperating with the commission, and/or to discourage them and other witnesses, including Kim Gallagher, Wyatt Horsley, Teresa Stalter, and/or Christopher Vose, from cooperating with the commission.

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

COUNT TWO

The allegations set forth in count one are incorporated by reference.

In your November 8, 2021, response to the commission's supplemental preliminary investigation letter dated August 17, 2021, you stated through counsel that, to conduct a "reasonable and timely investigation" of the conduct of court employees, the court "requested the Judicial Council to assist and advise." Your response falsely stated that "[t]he Judicial Council was informed early in the process that the Commission on Judicial Performance had an open investigation pertaining to Judge Mallery and that the court would not be investigating information

that could be linked to the Commission on Judicial Performance." Alternatively, if you informed the Judicial Council, or caused the Judicial Council to be informed, that the court would not be investigating information that could be linked to the commission, that assertion was false and/or misleading.

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

COUNT THREE

Beginning in June 2021, you made the following statements to Teresa Stalter, the court's former Administrative Services Manager and current CEO, with the intent to discourage her and other court employees from cooperating with the commission's investigation of you.

A. On several occasions, you told Ms. Stalter that Brandy Cook, Crystal Jones, and Marian Tweddell-Wirthlin had cooperated with the commission's investigation, and you stated that you did not trust Ms. Jones because of her cooperation with the commission.

B. On or about June 11, 2021, after court reporter Ellen Hamlyn had given notice that she was leaving the court, you told Ms. Stalter words to the effect that it was "no loss" as Ms. Hamlyn was cooperating with the commission's investigation, like Ms. Cook, Ms. Jones, and Ms. Tweddell-Wirthlin had done.

C. On or about July 22, 2021, you told Ms. Stalter that Brandy Cook and Crystal Jones had given information to the commission for its investigation, and that you had instructed then-CEO Vose to fire Ms. Cook, but that he did not do so.

D. In approximately August 2021, around the time commission attorney Anne Hunter sent you the August 17, 2021 supplemental preliminary investigation letter, alleging that you had retaliated against three management employees (including Crystal Jones) whom you knew or

suspected to have cooperated with the commission's investigation, you told Ms. Stalter that you were restructuring the staff by getting rid of management positions and creating a Clerk IV series of positions. In early September 2021, you told Ms. Stalter several times, including on September 3, that the purpose of the Clerk IV series was to get rid of the supervisor position or some of the management. On or about September 8, 2021, you told Ms. Stalter that you needed to reduce management staff within 90 days so that the next presiding judge (Mark Nareau) could not change it. Other than Acting CEO Gallagher, Crystal Jones was the court's only supervisory employee at the time you made these comments. When you told Ms. Stalter that the court needed to reduce management staff, you sometimes made negative comments about how Ms. Jones was cooperating with the commission.

E. On or about August 30, 2021, you complained to Ms. Stalter that court employees, including Crystal Jones and Wyatt Horsley, had improperly given court information to the commission, as Brandy Cook had done, which you claimed violated the ethical tenets. In that context, you again mentioned that you had told CEO Vose to fire Ms. Cook.

F. On multiple occasions, including on or about August 31, 2021, and in early October 2021, you told Ms. Stalter that court employees do not have to cooperate with the commission and that, unless subpoenaed, they can choose not to say anything to the commission. On those occasions, you discussed with Ms. Stalter Government Code section 68725, which provides that court employees and others "shall co-operate with and give reasonable assistance and information to the commission and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the commission." You falsely told Ms. Stalter that the word "shall" in statutes means "should," not "must" or "have to."

G. On multiple occasions, including on August 31, 2021, you told Ms. Stalter that you thought court employees were being disloyal and needed to "know their place," or words to that effect.

H. In October 2021, you told CEO Stalter that attorneys, clerks, and others would really hate you if you had to go back to being a lawyer because you would file many peremptory challenges against judges and would create a large workload and a miserable environment for the court.

I. In November 2021, you told CEO Stalter that she could try to find out who the "mole" is, using a derogatory term to refer to court employees who may have supplied information to the commission about your conduct.

J. On November 9, 2021, the commission sent you a supplemental preliminary investigation letter alleging in part that you had committed misconduct in your handling of *People v. Andrew Skaggs*, No. CR038661. On November 10, 2021, you told CEO Stalter that you wanted to know, or were trying to figure out, whether the person "ratting" on you about your conduct in *People v. Skaggs* was a court employee.

K. In late November 2021, you again complained to CEO Stalter about the commission's investigation. You expressed anger about the allegations concerning *Amie Gower v. Russell Bates*, No. FL58333, which were a subject of the commission's October 13, 2021 supplemental preliminary investigation letter. You told Ms. Stalter that you had done nothing wrong and that the commission had abused its power and discretion. When Ms. Stalter asked you what you were going to do if you were removed from your position as a superior court judge, you said (twice), "I'm gonna go postal," which she reasonably perceived to be a threat of violence. After Ms. Stalter warned you about using that phrase, you replied, "If someone were to take everything from you, it's inevitable to feel that way," or words to that effect.

L. On the morning of November 30, 2021, after leaving your courtroom, you told CEO Stalter, referring to attorney Leesa Webster, "I walked in there and I could hear her voice; it made me cringe!" or words to that effect. (Ms. Webster represented the petitioner in *Gower v. Bates*, *supra*.) You also spoke to Ms. Stalter about how you cannot stand Ms. Webster. When you made the comments, you believed that Ms. Webster had complained about you to the commission and was the source of the allegations about *Gower v. Bates* that were set forth in the commission's October 13, 2021 letter to you. You also told Ms. Stalter on several occasions that you believed that Ms. Webster had complained about you to the commission.

M. On December 2, 2021, you asked CEO Stalter about what the costs for contract court reporter services had been and whether it was cheaper to not have a court reporter working directly for the court. When Ms. Stalter told you that it was not cheaper, you replied, referring to Ellen Hamlyn, that it was better than dealing with the staff the court previously had. You also reiterated that Ms. Hamlyn had cooperated with the commission.

N. On December 10, 2021, you told CEO Stalter that you were going to arrange a Christmas luncheon for court staff to take place on or about December 22, 2021. You told Ms. Stalter that it was not going to be as nice as in past years because the court's employees always complain about everything. You told Ms. Stalter that, after clerk Amber Klinetobe once helped, people complained to the commission, and you received a complaint letter. You told Ms. Stalter that you went out of your way to do nice things for people and that they turn around and "stab [you] in the back," that court staff were "snitches," and that "snitches get stitches." You also told Ms. Stalter that Brandy Cook, Crystal Jones, and Marian Tweddell-Wirthlin had cooperated with the commission.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 3B(4), 3C(1), 3C(2), 3D(4), 3D(5), and 4A. Your comments about Leesa Webster also violated the Code of Judicial Ethics, canon 3B(5).

COUNT FOUR

In or between June and August 2020, you approved the purchase of and ordered, or directed a court employee to order, a metal storage container, for $5,577, from Lassen Rents, Inc., for the ostensible purpose of storing old court documents. Lassen Rents, Inc., was owned and operated by your brother, Terry Mallery. On August 26, 2020, your first day back at the courthouse after a vacation, Terry Mallery and his son delivered the ordered storage container to the courthouse. On or about August 29, 2020, the court received an invoice from Terry Mallery, at Lassen Rents, Inc., in the amount of $5,577.

At the time that you approved the purchase of the storage container, you knew or should have known that (1) the court did not need a new storage container, and (2) the storage container that was purchased was not suitable to store the court's historical documents because they were old and delicate and required a temperature-controlled storage environment, which the storage container that was purchased could not provide.

Your conduct constituted an improper use of your judicial authority to benefit your brother, a breach of the public trust, and a misuse of public funds, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 3, 3C(1), 3C(2), 3C(3), and 3C(5).

COUNT FIVE

On or about November 27, 2018, you met with criminal defense attorney Jacob Zamora and Deputy District Attorney ("DDA") David Evans in a conference room to discuss a resolution in *People v. Channel Vasquez*, Nos. CR033635 and CR035826. Mr. Zamora told you that the defendant was a perfect candidate for mental health diversion, that DDA

Evans did not oppose mental health diversion, and that various people, including the Probation Department, said that the defendant was a good candidate for mental health diversion. You responded that you would not place the defendant on mental health diversion, that you would never consider mental health diversion for any defendant in the county, and that no criminal defendant in the county would ever get diversion. Your comments reflected bias, prejudgment, and a refusal to exercise your judicial discretion.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), 3B(8), and 3B(12).

COUNT SIX

You failed to timely disqualify yourself in the following proceedings in which disqualification was required by law. Your conduct constituted an abuse of authority, reflected bad faith, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), and 3E(1).

A. At the November 27, 2018 arraignment in *People v. Channel Vasquez*, No. CR035826, defendant's attorney Jacob Zamora asked you, "Do we know who is going to handle the trial or is that going to be assigned out?" You responded: "Do not know at the moment." Mr. Zamora later stated that he was filing a Code of Civil Procedure section 170.6 challenge ("peremptory challenge"). You replied that you were not going to be accepting the challenge because you "very well could be hearing the official case." You added: "I have made substantial decisions in these proceedings, therefore, I am denying your 170.6." After Mr. Zamora said that he would "writ it[,]" you stated, "As there are only two judges in the court, Judge Nareau having been disqualified in the proceedings previously, that only leaves one judge." You later added, "In essence, with Judge Nareau, I'm assigned for all purposes, and in a two judge court, absent it

being reassigned." In fact, Judge Nareau had not been disqualified, and the case had not been assigned to you for all purposes.

On December 7, 2018, Mr. Zamora, on the defendant's behalf, filed a petition for writ of mandate in the Court of Appeal, seeking review of your ruling rejecting the 170.6 challenge in case number CR035826. On January 3, 2019, the Court of Appeal issued a *Palma* notice in which it stated that "[t]here is nothing in the docket sheet that would indicate any proceeding occurred in which Judge Mallery might have considered contested facts relating to the merits." (DCA No. C088444.) As for the all-purpose assignment claim, the Court of Appeal stated:

> The judge's comments seem to reflect that assignment of the matter for the preliminary hearing meant that he would continue to handle the case due to the size of the court. But the judge did not refer to a court rule or other notice of assignment that established he must be the trial judge in the case at issue. In fact, the current Lassen County rules of court (effective July 1, 2018) state that matters assigned for "all purposes" to the other judge mentioned by Judge Mallery, Judge Nareau, include "Felony Criminal matters, other than those . . . which arise upon a crime alleged to have been committed by an inmate in the custody of the Department of Corrections, including: Felony Criminal Arraignments, Preliminary Hearings, Felony Information, Disposition Conferences, and Jury Trials." [Footnote.] (Lassen County Local Rule No. 1(B).) Finally, a challenge against Judge Nareau in another pending case would not normally preclude petitioner's challenge of Judge Mallery in the present matter.

The *Palma* notice went on to state that the Court of Appeal was "considering issuing a peremptory writ of mandate in the first instance, i.e., without first issuing an alternative writ[]" and that the Lassen court "may avoid issuance of the writ by vacating its ruling of November 27, 2018,

which declined petitioner's peremptory disqualification against Judge Mallery, and by issuing a new and different order." The notice asked the Lassen court to inform the Court of Appeal of "any relevant action taken consistent with this notice and to provide a status update on or before January 17, 2019."

At a hearing that took place in your department on January 14, 2019, you improperly attempted to persuade Mr. Zamora to withdraw the peremptory challenge by telling him that, if he withdrew it, Judge Candace Beason would preside over the trial. You stated:

> I tend to believe that one of the reasons why there may have been a bump in this proceeding is because based upon the decision that the Court made as to whether or not there would be a consideration of mental health diversion for this person. [*Sic*.] We're not here to argue that, what we're here to argue is whether or not Mr. Zamora wishes to proceed with the 170.6 with the understanding that this case would be heard by Judge Beason and that any matters of the 170.6 is withdrawn [*sic*], that any matters leading up to trial would still be heard by this judicial officer and if the matter goes to trial, Judge Beason will be hearing the trial that is scheduled for the 19th of February, 2019 at 9:00 a.m.
>
> You're the maker of your request in these proceedings. How do you wish to proceed today, Mr. Zamora?

When Mr. Zamora stated that the defendant was not prepared to withdraw the peremptory challenge, you persisted, stating:

> Okay. And once again, a 170.6, if you please review, knowing that this judge would not be hearing the trial, is it proper before the court? Because once again is that these procedural matters moving the case forward, judges are able to hear those issues in this proceeding. And

> second of all, the Court is put into position as to whether or not the Court is going to weigh in on whether or not making a determination as to mental health as part of the sentence is something that is substantial in a case proceeding so as to prevent judge shopping in the future when a judge has made that determination that mental health diversion will not be considered, so that to frustrate litigation that, once that determination has been made, is that a substantial portion of the case? [*Sic*.] And it's a question that has to be answered and the question becomes is it going to be this case?

Mr. Zamora explained that he was not withdrawing the peremptory challenge because there were "also other motions and there may be other issues that come up prior to the jury trial that may be [*sic*] need to be heard and I believe that they need to be heard before the trial judge or a judge that's going to hear this case." You responded:

> That's not going to happen. With regards to these proceedings as well, it would almost be like having a master calendar where you don't know who the judge you're going to get [*sic*] until the courtroom announces ready [*sic*] and it could be that day you finally find out who your judge is going to be. All those motions, in essence, that you're talking about would be heard by judges other than the trial judge on a master calendar unless they're to be heard on the day of the trial.

After Mr. Zamora continued to dispute that the issue of mental health diversion was "a contested issue going to the merits of the case," you suggested that, if Mr. Zamora withdrew the peremptory challenge, Judge Beason would even be able to grant mental health diversion. You stated:

> I've already informed you that Judge Beason is going to be hearing the matter and that Judge Beason ultimately would have the ability to make the determination of what sentencing

> would be, including allowing you at that point to make your request in front of Judge Beason regarding any diversion or other type of program that is now available based upon mental health that you have claimed your client may suffer.

Mr. Zamora still did not withdraw the peremptory challenge.

You eventually stated that, "[d]ue to limited resources in these matters, the Court's not going to contest the recommendation from the appellate court and [will] go on ahead and accept the 170.6 in [the] case ending in 826." You stated that, as Judge Nareau had not been disqualified from the case, the matter would probably be reassigned to him.

B. On January 9, 2019, after you received the *Palma* notice from the Court of Appeal in *People v. Vasquez*, *supra*, Mr. Zamora filed a peremptory challenge against you on behalf of the defendant in *People v. Tommy Edward Hernandez II*, No. CR035434. On January 16, 2019, two days after you accepted the peremptory challenge in *Vasquez*, you denied the challenge in *Hernandez* as untimely. You based your denial on two grounds. First, you wrote that, since Judge Nareau had recused himself from the case, the challenge was untimely under the "one-judge court" rule (Code Civ. Proc., § 170.6, subd. (a)(2)), as it was made more than 30 days after the arraignment was held on January 9, 2018. You cited *People v. Superior Court* (*Smith*) (1987) 190 Cal.App.3d 427, which was inapplicable because, in that case, the court *did* only have one judge. You also asserted, as you had in *Vasquez*, that "upon Judge Nareau becoming disqualified, Judge Mallery, as the only other judge in the Lassen Superior Court, became the assigned judge for all purposes," which required that the peremptory challenge be filed within 10 days after notice of the all-purpose assignment. This was the same ground that the Court of Appeal had tentatively rejected in *People v. Vasquez*, a position with which you had agreed just two days previously.

On January 25, 2019, Mr. Zamora filed in the Court of Appeal a petition for writ of mandate challenging your decision denying the peremptory challenge. On February 26, 2019, the Court of Appeal issued another *Palma* notice, in which it stated that it was "considering issuing a peremptory writ of mandate in the first instance, i.e., without first issuing an alternative writ[,]" and that the Lassen court may avoid issuance of the writ by vacating its January 16, 2019, order and entering a new order granting the peremptory challenge. (DCA No. C088734.) The Court of Appeal rejected both of your stated grounds for denying the peremptory challenge. The Court of Appeal quoted *People v. Superior Court* (*Lavi*) (1993) 4 Cal.4th 1164, in which the court stated that, for an assignment to be deemed one for all purposes, "the method of assigning cases must 'instantly pinpoint' the judge whom the parties can expect to ultimately preside at trial." (*Id*. at p. 1180.) On or about March 7, 2019, you vacated your order on the peremptory challenge and the *Hernandez* case was referred to the Judicial Council for assignment.

C. On February 5, 2020, Jacob Zamora filed a peremptory challenge against you on behalf of the defendant in *People v. Ivan Sandoval*, No. CH036947. On or about February 7, 2020, you found the peremptory challenge to be untimely and denied it. In your response to a preliminary investigation letter, you suggested through counsel that the peremptory challenge was untimely because you had ruled on a contested issue of fact relating to the merits of the case when you rejected a plea bargain in which the defendant would have received formal probation with credit for time served. Based on your experience in *People v. Vasquez*, *supra*, you should have known that a decision rejecting a proposed case resolution did not involve a determination of contested fact issues relating to the merits that might justify the denial of a peremptory challenge.

On February 20, 2020, Mr. Zamora filed in the Court of Appeal a petition for writ of mandate challenging your denial of the peremptory challenge. On March 20, 2020, the Court of Appeal issued a *Palma* notice, in which it stated that it was considering issuing a peremptory writ of mandate in the first instance, but that the petition for writ of mandate would become moot if you vacated your order denying the peremptory challenge as untimely and entered a new order disqualifying yourself. (DCA No. C091503.) On March 26, 2020, you granted the peremptory challenge, and the case was reassigned.

COUNT SEVEN

You retaliated against and/or made improper comments to, or about, attorneys for filing statements of disqualification and peremptory challenges against you pursuant to Code of Civil Procedure sections 170.1 and 170.6, respectively, as follows.

A. Jacob Zamora and Stephen King

In approximately 2008, attorney Stephen King began accepting appointments from the court to represent prisoner defendants in prosecutions related to alleged crimes committed within the prison system ("prison cases"). In approximately June 2016, attorney Jacob Zamora began accepting appointments from the court to represent defendants in prison cases. Mr. King and Mr. Zamora were two of the approximately four attorneys who routinely appeared before you after you started to hear prison cases. Beginning in approximately late 2018 or early 2019, you took control of selecting which defense attorney would be appointed to represent each defendant in prison cases.

1. After Mr. Zamora filed peremptory challenges against you in *People v. Vasquez*, *supra*, and *People v. Hernandez*, *supra*, you retaliated against him by gradually appointing Mr. Zamora in fewer prison cases. Between August 16 and November 15, 2019, inclusive, Mr. Zamora filed

peremptory challenges against you in at least eight cases. After November 18, 2019, you stopped appointing Mr. Zamora in prison cases. On or about March 4, 2020, Mr. Zamora notified you that he would no longer accept appointments.

2. On March 13, 2019, Mr. King filed peremptory challenges against you on behalf of the defendants in *People v. Joseph Dupre*, No. CR036688, and *People v. Rico Vitali*, No. CR036725. On March 15, 2019, you granted the peremptory challenges and referred the cases to Department 1 for reassignment. On March 22, 2019, Mr. King filed a statement of disqualification against you on behalf of the defendant in *People v. Daisy Midnight*, No. CR034917. On March 25, 2019, you struck the statement of disqualification. Subsequently, you retaliated against Mr. King by gradually appointing him in fewer prison cases**.**

3. Between April 19 and June 27, 2019, inclusive, Mr. King filed peremptory challenges against you in at least eight cases. After Mr. King filed a peremptory challenge against you on October 31, 2019 in *People v. Joshua Bland*, No. CH037405, a prison case, you stopped appointing Mr. King in prison cases, with rare exceptions.

4. On numerous occasions in 2019 and 2020, you told various court employees that, if Mr. Zamora and Mr. King were going to file peremptory challenges or statements of disqualification against you, you would no longer appoint either attorney in prison cases. In approximately 2019, you told visiting Judge Candace Beason not to appoint Mr. King or Mr. Zamora to represent criminal defendants, partly because they were filing peremptory challenges against you.

Your conduct created, at a minimum, the appearance of retaliation against Mr. Zamora and Mr. King for exercising statutory rights on behalf of their clients and the appearance that you had stopped appointing them

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

B. P.J. Van Ert

In approximately February 2021, the Lassen County Department of Children and Family Services ("DCFS"), began filing peremptory challenges against you in all new dependency cases. On the morning of April 12, 2021, during a short break in a 12-month review hearing in juvenile dependency case numbers J6533, J6534, J6535, J6536, and J6537 (hereafter "M. matters"), P.J. Van Ert, counsel for DCFS, discovered that four infants (including two twins) who were the subjects of three new dependency cases that were on calendar in Judge Nareau's department that morning were present in the hallway, along with their three mothers, two fathers, a paternal aunt, three DCFS workers, personnel from a drug treatment facility (where the babies and their mothers were staying), and attorney Bill Abramson. The new cases had been assigned to Judge Nareau after Ms. Van Ert, on behalf of DCFS, filed peremptory challenges against you. Ms. Van Ert, as counsel for DCFS, needed to appear on the new matters before Judge Nareau, as did some of the other attorneys present in your courtroom on the M. matters. Ms. Van Ert requested a break in the M. matters that were being heard in your department so that the detention hearings in the cases involving the infants could proceed promptly in Judge Nareau's department. In response to Ms. Van Ert's request, you summoned into chambers Ms. Van Ert and the three other attorneys who were present. In chambers, in a raised voice, you improperly referenced the peremptory challenges that Ms. Van Ert had filed, and stated that this is what happens when an attorney disqualifies a judge, that peremptory challenges are going to create scheduling challenges, and that your calendar was going to go first.

Your conduct created, at a minimum, the appearance that you were retaliating against Ms. Van Ert for having exercised statutory rights on behalf of her client, and discouraging her and the other attorneys present from filing challenges against you in the future. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

C. District Attorney S. Melyssah Rios

On or about March 8, 2021, Lassen County District Attorney S. Melyssah Rios started filing peremptory challenges against you in all criminal cases newly assigned to you. In approximately early April 2021, you entered Judge Mark Nareau's chambers and told him that you had "figured out" Ms. Rios or why she was filing peremptory challenges against you. You stated that Ms. Rios has "daddy issues," and that she "wants some 'Mark' and not some 'Tony,'" or words to that effect.

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

COUNT EIGHT

You also retaliated against attorney Leesa Webster for filing statements of disqualification against you in *Amie R. Gower v. Russell Austin Bates*, No. FL58333, and you improperly took actions in that case while those statements of disqualification were pending and undetermined, as follows.

A. On March 4, 2020, in *Gower v. Bates*, *supra*, you ordered Amie Gower to undergo an evaluation pursuant to Evidence Code section 730, and directed counsel for Russell Bates to file a request for an evaluation, along with a request for an order shortening time so that you could hear the matter on March 25, 2020. On April 1, 2020, you affirmed your order for an Evidence Code section 730 evaluation. On May 5, 2020, Ms. Gower's attorney, Leesa Webster, filed a motion to recuse you pursuant to Code of Civil Procedure section 170.1 (statement of disqualification). Among other

things, the statement of disqualification alleged that your order that Amie Gower undergo an Evidence Code section 730 evaluation was improper. On May 13, 2020, you struck Ms. Webster's statement of disqualification on the grounds that it was untimely and disclosed no legal grounds for disqualification.

On May 6, 2020, before the question of your disqualification had been determined, you presided over a hearing in *Gower v. Bates* at which you discussed the Evidence Code section 730 evaluation you had ordered. You stated that you understood that Ms. Gower was not opposed to a section 730 evaluation, but that she objected to having to pay for a portion of the evaluation. You also argued that you had the authority to order the evaluation. You stated that you were very aware of the lack of communication between the parties, and that it appeared to you that Ms. Gower was astounded that co-parenting classes with the other parent needed to be completed. You stated that, although Ms. Gower completed the co-parenting classes, she missed the whole spirit of what a co-parenting class is really for. You told Ms. Webster to review the latest recommendations of Child Custody Recommending Counseling ("CCRC"), where she would find an outline of Ms. Gower's destructive behavior that was purportedly jeopardizing the health and safety of the parties' child. You also told Ms. Webster that, even when Ms. Gower had been found guilty of violating the court's order that she complete co-parenting classes, she was still reluctant to follow the court's order. You stated that there was no point in sending the parties to CCRC and that CCRC's past recommendations portrayed Ms. Gower in a poor light.

You also (1) ordered that the parties write down five concerns that they had about the other parent, "with factual evidence and not generalities," (2) ordered that counsel meet and confer regarding each party's five concerns prior to the next hearing, which you set for May 27,

2020, and (3) stayed the Evidence Code section 730 evaluation, pending the May 27, 2020 hearing.

By taking the above actions while a statement of disqualification was pending and undetermined, you failed to respect and comply with the law, abused your authority, demonstrated embroilment, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), and 3B(8).

B. On June 9, 2020, Leesa Webster filed on behalf of Amie Gower a Request for Order to modify the amount of monthly child support and to award attorney's fees pursuant to Family Code sections 271 and 2030. On July 1, 2020, Ms. Webster filed an amended, verified statement of disqualification. On July 8, 2020, while the statement of disqualification was pending, you presided over a hearing on Ms. Gower's June 9 Request for Order. Ms. Webster appeared at the hearing via CourtCall. When she appeared, you criticized Ms. Webster for not appearing in person. You angrily told her that her CourtCall request was not timely, that it was supposed to have been made five days ahead of the hearing, and that she did not use Zoom, the preferred way to appear remotely in family law cases, which also required multiple days' notice. You criticized her for violating court orders regarding telephonic appearances, and said she had a "bad habit" of not following court rules, or words to that effect.
Ms. Webster explained that she had had to appear that morning in Shasta County Superior Court in a lengthy, contested juvenile detention proceeding, which had statutory priority and had lasted longer than expected. When Ms. Webster tried to make substantive arguments during the hearing, you cut her off and told her, "I know where you're going, don't bother," or words to that effect.

Ms. Webster asked for a contested hearing and made multiple requests that you continue the hearing to a subsequent date. You denied the requests and told her that you would put the case over until 4:00 p.m., and

that, if she wanted a hearing or to introduce evidence, she needed to drive to Susanville that day. After Ms. Webster told you that she could not make it on time, you told her, "I don't care. You've got until 4:00 to be here," or words to that effect. You later told her that, since she was choosing to not appear, you were denying her request for sanctions and attorney's fees. You also denied without prejudice her request for a modification in child support.

Your conduct and rulings were in retaliation, or gave the appearance that you were retaliating, against Ms. Webster for filing statements of disqualification against you and for making the claims set forth in those statements. In addition, by taking the above actions after the July 1, 2020 statement of disqualification had been filed and before the question of your disqualification was determined, you failed to respect and comply with the law, abused your authority, and demonstrated embroilment. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), and 3B(8). By criticizing and raising your voice at Ms. Webster, you also violated the Code of Judicial Ethics, canon 3B(4).

C. You also presided over a hearing in *Rachel David v. Robert David* (No. FS63064) on July 8, 2020. Leesa Webster appeared via CourtCall on behalf of Rachel David. During the hearing, you were curt and hostile toward Ms. Webster. You asked Robert David's counsel, Van Kinney, how much it cost for him to be in court that day. He replied, "$1,500." You then stated your intention to impose sanctions on Ms. Webster in the amount of $1,500 and scheduled a sanctions hearing to take place on August 26, 2020. On August 6, 2020, you issued an Order to Show Cause re: Sanctions (OSC), ordering Ms. Webster to show cause why she should not be sanctioned for up to $1,500, pursuant to Code of Civil Procedure section 177.5, for (1) failing to contact Mr. Kinney regarding her client disputing the Interim Child Custody Agreement, (2) being unable to

provide the court with a "list of contentions[]" relating to that proposed agreement, and (3) Ms. David's failing to appear in court on July 8, 2020. Your OSC lacked merit and appears to have been made in retaliation against Ms. Webster for filing statements of disqualification against you in *Gower v. Bates* and for making the claims set forth in those statements. Your conduct reflected embroilment and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(4), 3B(5), and 3B(8).

D. After the July 8, 2020 hearings in *Gower v. Bates* and *David v. David*, you told Court Operations Manager Marian Tweddell-Wirthlin that Leesa Webster was very frustrating, and that you did not want her appointed in any new cases. Your directive appears to have been made in retaliation against Ms. Webster for filing statements of disqualification against you in *Gower v. Bates* and for making the claims set forth in those statements. Subsequently, on July 9, 2020, Ms. Tweddell-Wirthlin sent an email to court staff that stated, "Effective immediately per Judge Mallery, the court will no longer be appointing Leesa Webster to any new cases." After you learned of the email, you told Ms. Tweddell-Wirthlin to revise it to say instead that Ms. Webster may not be appointed in any new cases without your approval. Your conduct was retaliatory (or gave the appearance of retaliation), reflected embroilment, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(5), 3C(1), 3C(2), and 3C(5).

COUNT NINE

On or about October 27, 2016, pursuant to a peremptory challenge filed by the defendant, you were disqualified from *People v. Juan Ruiz Esqueda*, No. CR034417. On February 7, 2018, the defendant filed a motion for change of venue, which Judge Mark Nareau was scheduled to hear on February 15, 2018. You subsequently abused your authority by making comments to other judges that might substantially interfere with a fair trial or hearing in the case, as follows.

A. Prior to the February 15, 2018 hearing, you initiated an improper ex parte communication with Judge Nareau in which you told him that he could not grant the motion to change venue because of the financial cost Lassen County would incur.

B. On February 15, 2018, after your ex parte communication with Judge Nareau, Judge Nareau recused himself from the case and continued the hearing on the defendant's change of venue motion. On or about February 20, 2018, the case was reassigned to retired Judge Candace Beason. On or about March 12, 2018, or April 9, 10, 11, or 13, 2018, prior to the hearing on the motion, you initiated an improper ex parte communication with Judge Beason in which you told her that she could not grant the motion to change venue because it was too expensive for Lassen County, or the county could not afford it. Judge Beason granted the motion on April 13, 2018.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(7), 3B(9), 3C(1), and 3C(2).

COUNT TEN

On January 3, 2019, in *Meralinda Sue Owings v. Randolph Lee Owings*, No. 39150, the petitioner filed a Request for Order to change spousal support and divide an omitted asset. As the judge assigned to the family law calendar, you were assigned this matter. At the time, you had never presided over any aspect of the *Owings* case. On or about January 18, 2019, Mr. Owings submitted a peremptory challenge against you. On January 22, 2019, you struck the challenge as untimely. On February 1, 2019, attorney Eugene Chittock, on Mr. Owings's behalf, filed a petition for writ of mandate in the Third District Court of Appeal, seeking review of your order striking the challenge.

On February 6, 2019, while Mr. Chittock's writ petition was pending in the Court of Appeal, you presided over the scheduled hearing on

Ms. Owings's Request for Order. Before calling the matter, you summoned Mr. Chittock to speak with you privately. When Mr. Chittock asked if Ms. Owings also should be present, you told him that it would "only take a second," or words to that effect. You then had an improper ex parte conversation with Mr. Chittock in which you stated, "When I'm done today, you're going to want to dismiss your writ petition," or words to that effect. At the end of the ensuing hearing, you informed the parties that you were denying Ms. Owings's Request for Order.

On February 14, 2019, in response to Mr. Chittock's writ petition, the Court of Appeal issued a *Palma* notice, stating that it was considering issuing a peremptory writ of mandate in the first instance, but that it would dismiss the petition for writ of mandate as moot if you accepted the peremptory challenge. On February 19, 2019, Mr. Chittock filed in the Court of Appeal a request to dismiss the writ petition, and, on February 22, 2019, the Court of Appeal dismissed the writ petition and vacated the *Palma* notice. On March 1, 2019, you issued Findings and Order After Hearing, denying Ms. Owings's Request for Order.

At a minimum, your conduct gave the appearance that you ruled the way you did as an attempt to induce Mr. Chittock to withdraw his petition seeking review of your order striking the peremptory challenge. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), 3B(7), and 3B(8).

COUNT ELEVEN

On October 17, 2019, retired Judge Rebecca Wiseman, sitting on assignment, presided over proceedings in *People v. Sheldon Vaughn Silas* (No. CH036652), *People v. Julian Reyes Tafolla* (No. CH037094), *People v. Patrick Michael Rossiter* (No. CC036837), and *People v. Lonnie Ray Sartor* (No. CC036838). You recently had sentenced each defendant; had imposed on each defendant a $300 restitution fund fine under Penal Code

section 1202.4, subdivision (b); and had stayed each fine, pending an ability-to-pay hearing, which you scheduled in each case for October 17, 2019. (In *People v. Dueñas* (2019) 30 Cal.App.5th 1157, the court had held that execution of any restitution fine "must be stayed unless and until the trial court holds an ability to pay hearing and concludes that the defendant has the present ability to pay the restitution fine." (*Id*. at p. 1164.)) You also had requested briefing on whether the prosecution or the defense would have the burden of proof at the ability-to-pay hearing. Before Judge Wiseman heard the cases on October 17, 2019, you initiated an improper communication with Judge Wiseman in which you told her that you wanted her not to conduct the ability-to-pay hearings, not to allow the defendants to be heard on the issue, and to maintain the court's imposition of the restitution fund fines. You told Judge Wiseman that you believed that *People v. Dueñas* had been incorrectly decided and that, if she were to hold the ability-to-pay hearings, you would then be burdened with having to hold such hearings routinely.

Your conduct constituted an abuse of authority and violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 2B(3)(a), 3B(9), 3C(1), and 3C(2).

COUNT TWELVE

On multiple occasions, including the following, you abdicated your judicial responsibility to objectively evaluate plea agreements reached in criminal cases, made improper remarks that reflected a blanket refusal to accept plea agreements with negotiated sentences in criminal cases, or indicated that your decisions about whether or not to accept proposed plea agreements were based on reasons other than the faithful discharge of your judicial duties, such as your concern about public perception or your ability to win reelection. Your comments created the appearance of a loss of impartiality and an assumption of the prosecutorial role.

A. On or about March 27, 2017, in the morning, you summoned to your chambers or a conference room several attorneys who were waiting for the misdemeanor calendar to begin. You told the attorneys that the plea deals they were negotiating in criminal cases were too lenient and that "it stops now," or words to that effect. You also told the attorneys that they could no longer negotiate plea agreements in criminal cases, and that, if a defendant wanted to plead guilty and avoid trial, the defendant would have to "plead to the sheet," that sentencing would be completely up to you, and that you would impose the "standard sentence," or words to that effect. You stated that "the complaint is the offer," or words to that effect. During this discussion, you referenced the public outcry about how crime was being handled in Lassen County.

B. During a dispositional conference that took place in the jury deliberation room in approximately 2017, you told criminal defense attorney Jacob Zamora and Deputy District Attorneys Mark Beallo and Stephanie Skeen that attorneys could no longer negotiate sentences in criminal cases. You stated that determining a defendant's sentence after a plea was not within the purview of the district attorney's office or defense counsel, and that counsel had no authority to "tie the hands of the court," or words to that effect. You stated that defendants could plead guilty, and that sentencing would be left entirely up to the court. When Mr. Zamora objected to your pronouncement and explained that this would mean he could never ethically recommend that his clients plead guilty, particularly in one-count cases, which would, in turn, mean that every case would go to trial, you stated that perhaps Mr. Zamora would then be too busy to accept any more court appointments. This comment, at a minimum, suggested that you might retaliate against Mr. Zamora if his clients asserted their constitutional rights to trials instead of entering into plea agreements that did not restrict your ability to impose maximum sentences.

C. On or about February 15, 2018, during an in-chambers discussion with Deputy District Attorney David Evans and Deputy Public Defenders Autumn Paine and Savina Haas about a possible resolution in *People v. Samuel Craig Lima*, No. CR035123, you rejected a proposed plea agreement and made remarks suggesting that you would no longer have to worry about how a lenient plea deal might affect your chances at reelection, but that Mr. Evans, who was running in a contested election for district attorney that year, did have to worry. (The time to file a declaration of intent to run against you for your judicial seat had expired on February 7, 2018, and no one had filed such a declaration.) Your statement, at a minimum, gave the appearance that you made decisions about proposed plea agreements, like this one, based on the fear of public clamor or criticism.

D. The defendant in *People v. Jack Lee Judlin*, No. CR036853, was charged with three misdemeanor counts. On or about June 24, 2019, Deputy District Attorney Mark Beallo and Deputy Public Defender Savina Haas presented to you a proposed plea agreement under which Mr. Judlin would plead guilty to one count in exchange for a sentence of time served. You rejected the proposed plea deal and stated that you would not agree to such a lenient sentence because the defendant was a "menace to society," or words to that effect.

At the conclusion of the calendar, when only you, Mr. Beallo, and Ms. Haas were present in the courtroom, you criticized Ms. Haas (and criminal defense counsel in Lassen County cases, generally) for making plea deals with lenient sentences, stating that such deals make defense attorneys look stellar, but that, when the community learns about light sentences, it makes you and the district attorney's office look bad. You repeatedly expressed concern about what the community would think about such plea agreements and discussed the fate of former Santa Clara County

Superior Court Judge Aaron Persky, who you stated had followed a sentencing recommendation and was "standing in the unemployment line now," or words to that effect. (In 2018, Judge Persky was recalled following his imposition of a six-month jail sentence, which was consistent with the probation department's recommendation, in a sexual assault case.)

E. On or about June 25, 2019, before the morning calendars began and while full courtrooms were waiting, you entered Judge Mark Nareau's jury deliberation room to speak with numerous criminal defense and prosecuting attorneys who were assembled there. You addressed the attorneys, stating that the plea agreements they were reaching in criminal cases were too lenient and that defense attorneys were taking advantage of the new district attorney. You angrily announced a policy that the court would no longer accept negotiated plea deals, and you announced that defendants should expect the court to impose maximum sentences. You stated that you "did not want to go down like Judge Persky," that you were "not going to be the Persky of this community," and that you were not going to let the attorneys make you "look bad in this community," or words to that effect. After several of the attorneys objected to the policy you had announced, and to your remarks reflecting that your judicial decision-making was improperly affected by public opinion, you indicated that this was not, in fact, a "policy," and stated, "I'm just telling you what we're going to do from now on," or words to that effect.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(4), 3B(5), 3B(7), 3B(8), 3B(12), 3C(1), and 3C(4).

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COUNT THIRTEEN

On the following occasions, you abandoned your role as a neutral factfinder, exceeded your authority under Penal Code section 1009, usurped the prosecuting agency's discretionary authority to control the institution of proceedings, and/or violated article III, section 3 of the California Constitution.

A. In approximately February 2019, you approached District Attorney S. Melyssah Rios in the parking lot at the district attorney's office and told her that you had noticed that she had been charging violations of Vehicle Code sections 14601 or 14601.1 (driving with a suspended license) as misdemeanors. You suggested to Ms. Rios that she should instead charge those violations as infractions, because infraction defendants do not have the right to appointed counsel or the right to a jury trial.

You thereby abused your authority, engaged in an improper ex parte communication, attempted to deprive certain litigants of their fundamental rights to counsel and to a jury trial, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(5), 3B(7), 3B(8), and 3C(1).

B. On September 11, 2019, in *People v. Kimberly Seamons*, No. CR037312, you presided over the defendant's arraignment on a single trespass charge (Pen. Code, § 602, subd. (m)). You asked the deputy district attorney who was present why the district attorney had charged only one count of trespass, and you directed that a second count be added. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(5), and 3B(8).

C. On or about March 15, 2020, Kenneth Massey was arrested and taken into custody. On the morning of March 18, 2020, the day that Mr. Massey was to be arraigned at 4:00 p.m., you learned that District Attorney Rios had charged Mr. Massey, in case number CR037832, with a violation of Penal Code section 591.5 (interference with a wireless

communication device). You reviewed the arrest record, were dissatisfied with the charging decision, and instructed Operations Manager Marian Tweddell-Wirthlin to initiate an ex parte communication with Ms. Rios, question her decision not to charge Mr. Massey with domestic violence, suggest that Ms. Rios amend the charging document, and convey your intention to order the jail to release the defendant if she did not do so. After you learned that Ms. Rios had refused to add a charge, you reduced Mr. Massey's bail to $5,000 and caused the defendant to be released and the arraignment vacated, thus depriving the People of the opportunity to be heard on the subject of custody and bail.

You thereby abused your authority, initiated improper ex parte communications, and created the appearance of pique and/or retaliation against the district attorney's office because you disagreed with the district attorney's charging decision. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3B(4), 3B(5), and 3B(7).

COUNT FOURTEEN

On February 3, 2021, the defendant in *People v. Andrew Skaggs*, No. CR038661, was charged with various offenses relating to a February 1, 2021 incident in which he allegedly threatened and inflicted injury on his spouse, Jayne Faulkner. At the time of the alleged offense, Mr. Skaggs and Ms. Faulkner lived together with their three young children. At the February 3 arraignment, you issued a criminal protective order ("CPO"), at the request of the district attorney's office, to keep the defendant away from the alleged victim. The CPO did not prohibit Mr. Skaggs from having contact with the couple's children.

On March 4, 2021, Mr. Skaggs pled guilty to two misdemeanors on the conditions that he would be sentenced to 120 days in custody and be placed on probation. On March 29, 2021, you imposed sentence. On April 2, 2021, you signed a new CPO that listed Ms. Faulkner and the three

children as protected parties. On June 7, 2021, during a review hearing in the case, you modified the CPO to allow peaceful contact, but you prohibited Mr. Skaggs from coming within 100 yards of the family residence, thereby preventing Mr. Skaggs from residing with his family. You also required that any contact Mr. Skaggs had with the children be supervised by Ms. Faulkner.

You thereafter abused your authority, as evidenced by the following conduct.

A. On June 7, 2021, you ordered: "Parents are to go to CCRC and open a Family case." At the time, you presided over the family law calendar in Lassen County. You issued your order even though you had no jurisdiction over Ms. Faulkner, neither Mr. Skaggs nor Ms. Faulkner had ever expressed to you any interest in separating from one another or needing a custody or visitation arrangement, and they had consistently represented, since the March 4 hearing, that their intention was to resume living together as a family as soon as the CPO restrictions that prohibited them from doing so were lifted.

B. On or about October 28, 2021, you presided over a status conference in the case. During the status conference, you asked Mr. Skaggs several personal questions, including whether the family was going to church. You suggested to Mr. Skaggs that he take the children to church and that it would be good for the children.

Your conduct constituted an abuse of authority, reflected bias or prejudice based on religion, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), and 3B(5).

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COUNT FIFTEEN

You engaged in speech that would reasonably be perceived as bias or prejudice based on race, national origin, or ethnicity, as follows.

A. In approximately 2013, in the courthouse and in the presence of court staff, including clerk Kele Hathaway (now, Kele Kaona), you referred to Ms. Kaona, who is native Hawaiian, as "Queen Latifah" and "the Hawaiian princess." On one occasion, you remarked that Ms. Kaona had "worked her tribal magic," or "Hawaiian magic" or "mojo."

B. On or about September 30, 2021, the Biden administration published new guidelines regarding which undocumented immigrants should be prioritized for arrest, changing the previous administration's policy to arrest any noncitizen who was in the country without authorization. As a result, you were upset and conveyed to Teresa Stalter, a naturalized United States citizen whom you knew was born in Mexico, your disapproval that some undocumented immigrants would receive a benefit. You then asked Ms. Stalter whether her family had come to the United States legally.

C. On or about February 3, 2022, court employee Lori Barron came to your chambers to deliver something and asked you how you were feeling, because you had been out sick for nearly two weeks. After Ms. Barron, who had also been out sick, told you that she had tested positive for COVID-19, you referred to COVID-19 as "the Chinese virus," and told her, "I wouldn't test. I don't want the Chinese to know that they got another American," or words to that effect.

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

COUNT SIXTEEN

You engaged in the following conduct that would reasonably be perceived as bias, prejudice, or harassment based upon sex or gender, as follows.

A. Ryann Brown

Ryann Brown was a Sheriff Security Officer in Lassen County in 2020 and 2021. On December 6, 2021, Ms. Brown started working as a court employee. You made the following comments to Ms. Brown that embarrassed her and made her very uncomfortable.

1. Between approximately February and May 2021, when Officer Brown first served as a bailiff in your courtroom, you told her that you had heard that she was "the life of the party." You had read in a yearbook belonging to your son that Ms. Brown had been voted "Life of the Party" in high school. When Officer Brown asked you whether you had seen an old yearbook, you replied, "No, I just know a lot about you," or words to that effect. On about three subsequent occasions, when you passed Officer Brown in the hallway, you made comments to her about her being "the life of the party."

2. On or about October 7, 2021, Officer Brown assisted you when you presided over Teen Court. While Officer Brown sat with one group of high school students participating in a question-and-answer contest, you told the students, "Here's Ryann. You guys all probably know Ryann from high school. Resident party girl," or words to that effect. You also stated that "the life of the party should be good at this game," or words to that effect.

3. On or about November 18, 2021, Officer Brown assisted you when you presided over another session of Teen Court. You told the high school students who were checking in with Officer Brown, "You should

know her [Officer Brown] because you probably partied with her in high school," or words to that effect.

4. In December 2021, during the first two weeks of her employment with the court, Ms. Brown brought some in-custody files to you in your chambers. While Ms. Brown was in your chambers, you rolled your chair partly into the doorway and asked her how her job was going. You told her that the court was definitely different from high school, that she could not drink there like she did in high school, and that she probably did not have boys following her around like she did in high school.

5. On December 21, 2021, which was her birthday, Ms. Brown attended the Christmas luncheon for court staff. When you walked into the jury assembly room, you sat down near Ms. Brown, asked her what she was going to do for her birthday, and told her that you bet she was going to be drinking that night. You also asked her what she was going to be drinking and with whom she was going to be drinking.

B. District Attorney S. Melyssah Rios

On multiple occasions, you made disparaging remarks about Lassen County District Attorney S. Melyssah Rios to court personnel. In approximately 2019, you told Operations Supervisor Crystal Jones that Ms. Rios "acts like a schoolgirl," has "no self-control," is emotional, and "would do a good job if she could get her emotions under control," or words to that effect. In approximately March 2021, you told clerk Megan Reed that Ms. Rios is emotional. In approximately early April 2021, you told Judge Mark Nareau that Ms. Rios has "daddy issues," and that she "wants some 'Mark' and not some 'Tony,'" or words to that effect.

C. Teresa Stalter

1. On October 4, 2021, Teresa Stalter's first day as CEO, you told Ms. Stalter that she was "not like a girl" and that she was "cool," or words to that effect.

2. Later that day, you told Ms. Stalter that Judge Nareau only likes "pretty girls," or words to that effect. You told her that, when you and Judge Nareau were interviewing candidates for CEO, you liked a candidate who was "like Kim [Gallagher]," while Judge Nareau liked the "prettier girl" who was not as experienced, or words to that effect. Your comments made Ms. Stalter uncomfortable because they implied that the physical appearance of the female applicants was a factor in the hiring decision for her position. You added, "It's obvious he [Judge Nareau] only likes to hire pretty women by the age of his wife" (or words to that effect) and by the clerks he favors.

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

COUNT SEVENTEEN

On the following occasions, you engaged in poor demeanor toward court staff.

A. In or about early 2020, you told Operations Supervisor Crystal Jones, who had approached you to ask a question about something involving attorney Stephen King, "If he wants to make this a fucking game, then we just won't appoint him on any more cases," or words to that effect.

B. In approximately March 2021, you told court clerk and jury commissioner Lori Barron that she should issue 350 jury summonses for an upcoming criminal trial over which Judge Nareau would preside. On or about March 15, 2021, at approximately 7:00 a.m., you approached Ms. Barron and asked her how many jury summonses she had sent for the upcoming trial. When Ms. Barron informed you that she had sent 200 summonses, as Judge Nareau had directed, you became angry and said to Ms. Barron, in a raised voice, words similar to: "You don't listen to anyone else. I'm the presiding judge, and when I say we need 350 jurors, that's what we need." When Ms. Barron responded that she would inform her

supervisor, Crystal Jones, you continued to speak to Ms. Barron in a raised and angry tone, saying words similar to: "No. You do what I tell you to do. You were told 350, and you do 350."

C. On or about July 21, 2021, you lost your temper and yelled at Acting CEO Kim Gallagher when she told you that she had told a visiting commissioner (William Neil Shepherd) that the court was going to be closed due to a power outage and that the commissioner need not come to the courthouse that day. Your conduct caused Ms. Gallagher to be visibly shaken.

D. On or about September 9, 2021, you became angry and yelled at then-Administrative Services Manager Teresa Stalter for sending to the trial court employees' union the Clerk IV job description she had drafted, without showing it to you first and obtaining your permission.

E. On the afternoon of November 30, 2021, you entered CEO Stalter's office and, referring to your monthly paycheck, asked her if she had some money for you. Ms. Stalter responded that it was not payday yet, but she would look into it. When you replied, "I always get my checks early," Ms. Stalter responded that that was against the rules and that payday was not until the following day, but that she would look into it. Later that day, when Ms. Stalter told you that your check had been found, you said, "I told you! I know the culture here!" or words to that effect. When Ms. Stalter responded that what she had been trying to tell you was that the state controller's office had very specific pay dates, you interrupted her and yelled that you knew the "culture" around the court and knew how things worked there. You were angry, your voice was raised, your lips were pressed, your teeth were clenched, and your tone was belittling.

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

COUNT EIGHTEEN

You made disparaging remarks about Judge Mark Nareau and Teresa Stalter, as follows.

A. Beginning in approximately June 2021, you told then-Administrative Services Manager Teresa Stalter that you did not trust Judge Nareau.

B. On or about August 31, 2021, you told Ms. Stalter that Judge Nareau and Crystal Jones were conspiring against you and that you thought Judge Nareau might be assisting the commission with its investigation. You also stated that you thought that Judge Nareau would "screw" you, or words to that effect.

C. On or about October 5, 2021, you told CEO Stalter that, if your "colleague [Judge Nareau] wasn't such an ass," or words to that effect, Kim Gallagher would have been hired as permanent CEO.

D. On or about November 15, 2021, and on at least one other occasion in approximately the second half of November 2021, you told CEO Stalter that Judge Nareau was interested in the court's budget because he was trying to figure out whether the court could afford to fire her and pay her the severance pay that she would be due. You told Ms. Stalter, "Watch your back," or words to that effect.

E. On or about December 29, 2021, at around 12:00 noon, court clerk Heather Murphy-Granfield went to your former chambers to deliver the in-custody file to you, but you were not there. She eventually saw you in the hallway and found that you had moved to chambers at the other end of the hallway. You told Ms. Murphy-Granfield that you had to get as far away as possible from "*those* people," and gestured to the other end of the hallway, which was occupied only by CEO Stalter and Judge Nareau.

F. On or about January 13, 2022, Judge Nareau told you that it had come to his attention that you had made several disparaging remarks about

him, including commenting on his wife and their age difference, saying that Judge Nareau only hired pretty girls and that Ms. Stalter needed to "watch her back" (with respect to Judge Nareau), and telling a court employee that you had moved your chambers to get away from Judge Nareau and Ms. Stalter. You falsely denied making the remarks and told Judge Nareau that you wanted him to identify the people who had made those allegations. Later that day, you called Judge Nareau at home and admitted that you had made the disparaging remarks, but falsely claimed that you had made them because you had just found out that Judge Nareau had hired Susan Rados as a court commissioner, without consulting you, and you were upset.

G. On or about January 14, 2022, you met with Judge Nareau and told him that you did not trust Teresa Stalter and did not want to be in joint meetings with just the three of you anymore. You also complained that you had had to respond to about 200 commission allegations that included conduct in which Judge Nareau also had engaged, and that you had had to respond to about ten allegations that Judge Nareau had made. You added, referring to the derogatory remarks you had made to Teresa Stalter about Judge Nareau, that you were going to be "pissed" if you received a letter from the commission about the things you and Judge Nareau had discussed the previous day. You made your comments to discourage Judge Nareau from cooperating with the commission.

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

COUNT NINETEEN

On September 19, 2019, Deputy District Attorney Jolanda Ingram-Obie appeared before you in a single matter on the misdemeanor arraignment calendar. When the matter concluded, DDA Ingram-Obie left your courtroom. About ten minutes later, after you spoke to a traffic court litigant, you decided that you wanted a prosecutor to be in court to address

the litigant's traffic citation for a broken headlight, told your bailiff that DDA Ingram-Obie needed to return to the courtroom, and asked him to see if she could be found. You requested DDA Ingram-Obie's presence even though you knew that the district attorney's policy was not to appear in infraction cases. A sergeant eventually located DDA Ingram-Obie in the women's restroom and told her that she was needed in your courtroom. When DDA Ingram-Obie entered your courtroom, you asked her to dismiss the litigant's traffic citation. The district attorney's office, which does not receive copies of traffic infraction citations, and plays no role in the charging of traffic infractions that cannot be charged as misdemeanors, had not previously been involved in the matter.

By instructing the bailiff to have DDA Ingram-Obie return to your courtroom after she had left the courtroom and had no further matters that required her presence, you abused your authority and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), and 3B(4). In addition, by directing DDA Ingram-Obie to dismiss a traffic infraction, you abused your authority, demonstrated favoritism, and violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(1), 3B(2), 3B(5), and 3B(8).

COUNT TWENTY

In the following cases, you failed to disqualify yourself or timely disclose on the record information that was reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1.

A. You were friends with the late Ronald Morales (whom you knew as "Comanche") and provided legal services to him when you were an attorney. You presided over at least two criminal cases in which Ronald Morales was the alleged victim and his grandson, Michael Morales, was the defendant, as follows.

1. On May 10, 2019, you presided over the defendant's arraignment in *People v. Michael D. Morales*, No. CR036973. The defendant was

charged with two counts, including trespassing at the residence of Ronald Morales. You increased the defendant's bail from $5,000 to $7,500. You then disclosed that you knew the defendant and his family and recused yourself. You did not disclose on the record your relationship with Ronald Morales.

2. On February 16, 2021, you presided over the defendant's arraignment in *People v. Michael Morales*, No. CR038697. The defendant was charged with vandalism, resisting an officer, and aggravated trespass. The alleged victim of the vandalism and trespass was Ronald Morales. You set bail at $27,500, and signed a criminal protective order listing Ronald Morales as a protected person. You did not disclose on the record your relationship with Ronald Morales or your familiarity with the defendant.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, and 3E.

B. On October 19, 2020, you presided over the arraignment of Michael J. Deal, who had been charged with five counts of public intoxication and one count of trespass. (Nos. CR038129 and CR038225.) You improperly failed to disclose your personal relationship with the defendant at the outset of the proceeding. After the defendant was arraigned and entered a plea of not guilty, you addressed Mr. Deal for several minutes on the record. You remarked on the great potential he had shown when you knew him in high school and he was a star athlete. You told Mr. Deal that he could have gone a lot further than he did if he had not engaged in substance abuse, and that you did not want to see this going on with him. You remarked, "Now, you've gone down this path; look at you," or words to that effect. You asked Mr. Deal what had happened to him, and Mr. Deal responded, "Alcohol."

Your gratuitous and inappropriately personal remarks violated the defendant's fundamental right to the presumption of innocence and your duty to consider only the evidence presented or facts that may be properly judicially noticed. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(4), 3B(5), 3B(7), and 3E.

COUNT TWENTY-ONE

A. Lassen Family Services is a nonprofit organization that assists victims of domestic violence by, in relevant part, assisting with the preparation and filing of restraining order petitions, and accompanying petitioners to court for hearings. On several occasions, you personally participated in and supported public events benefitting Lassen Family Services.

1. On October 14 and/or 15, 2016, you served as a judge at the Lassen Family Services Dancing for a Brand New Me fundraising event. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 4, 4A(1), 4A(3), 4A(4), 4C(3)(d)(i), and 4C(3)(d)(iv).

2. On October 20, 2017, you donated your catering services to the VIP portion of the Lassen Family Services Dancing for a Brand New Me fundraising event, and prepared food at and for the fundraiser. Attendees of the VIP evening paid $500 per table. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 4, 4A(1), 4A(3), and 4A(4).

3. On April 13, 2019, the "Legal Eagles" participated in and supported the Lassen Family Services Walk a Mile in Their Shoes event by providing free hot dogs to event participants. You are widely known to be a member of the Legal Eagles, along with your spouse, attorney Tamara Thomas-Mallery, and, often, Justin Cadili and Gary Bridges, both of whom have been members of the Lassen Family Services Board of Directors. The Legal Eagles are also widely known to be your cooking team. Advertising for the event, posted on the Lassen Family Services public Facebook page

on March 26, March 29, and April 12, 2019, identified the Legal Eagles as one of the vendors for the event and announced: "Free Food For Officially Signed Up Participants P[r]ovided by Legal Eagles: Hot Dogs (while supplies last)." Each of those Facebook posts solicited donations to Lassen Family Services. You and the other members of the Legal Eagles set up a table at the event, from which you distributed free hot dogs, with a large sign that read "Legal Eagles." At the event, you wore an apron that read "Legal Eagles." A photograph from the event, shared on the Lassen Family Services public Facebook page on April 13 and 26, 2019, pictured you and two other individuals in red "Legal Eagles" aprons. Gary Bridges, then-Chairman of the Lassen Family Services Board of Directors, posted a comment on the photo that read: "A BIG Thank You to Tony Mallery and Lumberjack Restaurant (Justin Cadili) they donated about 300 hot dogs and everything! Then we cooked and fed several hundred people! All in all it was an AMAZING DAY!"

By (1) providing free food for participants in the 2019 Lassen Family Services Walk a Mile in Their Shoes event, and (2) permitting the Legal Eagles name and contributions to the Walk a Mile in Their Shoes event to be used as draws for the event, you violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1), 2B(2), 4, 4A(1), 4A(3), and 4A(4).

B. In June 2017, when you became the court's presiding judge, you assigned the domestic violence restraining order ("DVRO") calendar to yourself. You have subsequently presided over more than 150 DVRO proceedings. Lassen Family Services assisted the DVRO petitioners in approximately 70-75% of those proceedings. In the DVRO proceedings over which you presided, in which Lassen Family Services provided assistance to petitioners, including accompanying petitioners to court, you never disqualified yourself or disclosed (1) your participation in or support for the 2016 or 2017 Lassen Family Services Dancing for a Brand New Me

fundraising events, or (2) your participation in or support for the 2019 Lassen Family Services Walk a Mile in Their Shoes event. In addition, you continued to assign yourself the DVRO calendar after your participation in and support for these events. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3C(1), 3C(2), 3E(1), and 3E(2)(a).

C. Since approximately 2012, you have maintained a close personal friendship with Gary Bridges. Mr. Bridges served as a member of the Lassen Family Services Board of Directors from approximately 2012 to approximately September 2020, and as president of the board for most of his time on the board. You assigned yourself to handle the DVRO calendar during the time that Mr. Bridges was a board member, despite your close personal friendship with Mr. Bridges. While Mr. Bridges was a board member, you never disqualified yourself or disclosed your close personal friendship with Mr. Bridges in any DVRO proceeding in which Lassen Family Services provided assistance to the petitioner, including accompanying the petitioner to court. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3C(1), 3C(2), 3E(1), and 3E(2)(a).

D. Since approximately 2013, you have maintained a close personal friendship with Justin Cadili. Mr. Cadili served as a member of the Lassen Family Services Board of Directors from March 2017 to approximately January 2019, and again from approximately May 2020 to approximately October 2020. You assigned yourself to handle the DVRO calendar during the time that Mr. Cadili was a board member, despite your close personal friendship with Mr. Cadili. While Mr. Cadili was a board member, you never disqualified yourself or disclosed your close personal friendship with Mr. Cadili in any DVRO proceeding in which Lassen Family Services provided assistance to the petitioner, including accompanying the petitioner

to court. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3C(1), 3C(2), 3E(1), and 3E(2)(a).

E. You and your spouse have been close personal friends with Brooke Mansfield for approximately 25 years. Ms. Mansfield served as executive director of Lassen Family Services from approximately March 2019 to approximately November 2019 and resided in your home during that period of time. You assigned yourself to handle the DVRO calendar during the time that Ms. Mansfield was executive director, despite the personal relationship you and your spouse had with Ms. Mansfield and the fact that she was residing in your home. While Ms. Mansfield was executive director, you never disqualified yourself or disclosed the personal relationship you and your spouse had with Ms. Mansfield in any DVRO proceeding in which Lassen Family Services provided assistance to the petitioner, including accompanying the petitioner to court. In addition, you never disqualified yourself or disclosed the personal relationship you and your spouse had with Ms. Mansfield in any dependency proceeding over which you presided in which Ms. Mansfield appeared in her capacity as executive director of Lassen Family Services. Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, 3B(2), 3C(1), 3C(2), 3E(1), and 3E(2)(a).

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.

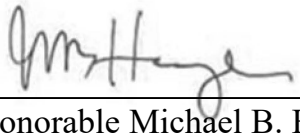
Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden

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: September 6, 2022



Honorable Michael B. Harper
Chairperson

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE TONY R. MALLERY, No. 208	ACKNOWLEDGMENT OF SERVICE OF NOTICE OF FORMAL PROCEEDINGS

I, James A. Murphy, on behalf of my client, Judge Tony R. Mallery, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 208 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 Tony R. Mallery has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 9/9/2022

James A. Murphy
Attorney for Judge Tony R. Mallery
Respondent