

STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING  
JUDGE RICHARD A. VLAVIANOS

DECISION AND ORDER IMPOSING  
PUBLIC CENSURE PURSUANT TO  
STIPULATION

(Commission Rule 116.5)

This disciplinary matter concerns Judge Richard A. Vlavianos, a judge of the San Joaquin County Superior Court. Judge Vlavianos and his counsel, Kathleen M. Ewins of Long & Levit LLP, have entered into a stipulation with Senior Staff Counsel Sonya Smith of the Commission on Judicial Performance, pursuant to commission rule 116.5, to resolve the pending preliminary investigation involving Judge Vlavianos by imposition of a public censure. The Stipulation for Discipline by Consent (Stipulation) was approved by the commission on February 1, 2023, pursuant to the following terms and conditions and stipulated facts and legal conclusions. A copy of the Stipulation is attached.

TERMS AND CONDITIONS OF AGREEMENT

1. This agreement resolves the matters alleged in the commission's pending preliminary investigation involving Judge Vlavianos.
2. The commission shall issue a censure based on the agreed Stipulated Facts and Legal Conclusions set forth therein.
3. If the commission accepts this proposed disposition, the commission's decision and order imposing a censure may articulate the reasons for its decision and include explanatory language that the commission deems appropriate.
4. Upon acceptance by the commission, the Stipulation and the commission's decision and order shall be made public.
5. Judge Vlavianos waives any further proceedings and review in this matter, including formal proceedings (Rules of Com. on Jud. Performance, rule 118, et seq.) and review by the Supreme Court (Cal. Rules of Court, rule 9.60).

## STIPULATED FACTS AND LEGAL CONCLUSIONS

This disciplinary matter concerns Judge Richard A. Vlavianos, a judge of the San Joaquin County Superior Court since 1999. His current term began in January 2019.

### **1. Misconduct in Connection with the Formation and Promotion of ACCESS.**

From approximately 2008 until January 2022, Judge Vlavianos presided over the multi-track DUI Court Program at the San Joaquin County Superior Court.

In July 2021, Judge Vlavianos formed the entity, Association of Comprehensive Collaborative and Equitable Supervision and Services (“ACCESS”), a California nonprofit corporation. Judge Vlavianos served as ACCESS’s Chair of the Board of Directors and Chief Executive Officer.

In his role as CEO and Chair of ACCESS, Judge Vlavianos caused to be published a promotional website that described ACCESS as “a new national non-profit organization that provides education and training for high risk, repeat DUI offenders who do not have high treatment needs. This program has been led by the Honorable Richard A. Vlavianos since 2008....” ACCESS’s website prominently featured a photograph of Judge Vlavianos wearing his judicial robe and identified him as a judge of the San Joaquin County Superior Court. ACCESS also issued a press release that used the judge’s judicial title and described him as “Chair of ACCESS and California Superior Court Judge Richard A. Vlavianos.”

ACCESS’s promotional materials conflated “the ACCESS court model” with the San Joaquin County DUI Court Program. Beginning around 2017, Judge Vlavianos worked with court administrative staff to contract with Northwest Professional Consortium Research (“NPC”) to conduct a series of evaluations including a cost-benefit analysis and longitudinal study of the San Joaquin County Superior Court multi-track DUI Court Program. In November 2017, the

court executed a contract with NPC to conduct such analysis and study and to prepare four reports. The court paid NPC \$240,500 for deliverables pursuant to the contract. NPC provided its final report directly to Judge Vlavianos in October 2021, though Judge Vlavianos was not a signatory to the contract. Pursuant to the contract between NPC and the court, the NPC study was owned by the San Joaquin County Superior Court.

Judge Vlavianos appropriated the content of the NPC study to market ACCESS. The website for ACCESS stated, “5,200 DUI recidivists have participated in ACCESS since 2008, with 80% completing the program successfully,” and contained data and graphing from the NPC study, republished under the ACCESS logo and captioned “ACCESS Multi-track Court Model.” Judge Vlavianos did not have permission from the court to use the NPC study to market ACCESS.

In forming ACCESS, Judge Vlavianos partnered with individuals whose companies were involved in business with the court, and whose services DUI court participants regularly used. West Huddleston is the Chief Financial Officer of ACCESS and a member of the ACCESS Board of Directors. Mr. Huddleston is also employed as the Chief Software Business Officer at SCRAM Systems, a company that sells alcohol monitoring software and hardware solutions to courts and agencies. From September 2020 until he was removed from the collaborative court assignment in December 2021, Judge Vlavianos sought to have the court contract with SCRAM for case management software services, at a cost of approximately \$70,000 to \$100,000.

Jacqui Sheehey was a member of the ACCESS Board of Directors. Ms. Sheehey is also employed as the Director of Marketing at AverHealth, a private drug and alcohol testing company. In 2020, Judge Vlavianos sought to have court administrative staff end the court’s existing contract for drug testing with Intercept and instead enter a new contract with AverHealth for the same drug

testing services. At Judge Vlavianos's recommendation, the court contracted with AverHealth for drug testing services, at a cost of \$146,000.

San Joaquin County Superior Court judicial officers and staff did not learn of Judge Vlavianos's involvement with ACCESS until December 2021. Judge Vlavianos canceled his morning high-risk DUI treatment calendar on December 2, 2021, and suggested that three collaborative court staff members attend a press conference in Sacramento that day during their regular work hours. Judge Vlavianos represented to the collaborative court staff members that the press conference was intended to publicize the results of the longitudinal study recently conducted by NPC. The primary purpose of the press conference was, instead, to "launch" ACCESS, and Judge Vlavianos used court employees to promote ACCESS during court time. At the press conference, Judge Vlavianos gave remarks about "ACCESS's program" that conflated it with the San Joaquin County Superior Court DUI Court Program.

Judge Vlavianos used his judicial title, the prestige of office, and court resources to promote ACCESS in subsequent press coverage. On December 20, 2021, an interview with Judge Vlavianos, conducted in his chambers, aired on a San Diego-based television news station. During the interview, the judge discussed ACCESS and said the program was paid for by funds received from the California Office of Traffic and Safety ("OTS") and the Judicial Council. Judge Vlavianos's remarks misrepresented the source of funding for ACCESS.

After learning of Judge Vlavianos's involvement with ACCESS, on December 20, 2021, then-Presiding Judge Xapuri Villapudua convened a meeting with Judge Vlavianos and incoming Presiding Judge Michael Coughlan. Judge Vlavianos was not forthright with his judicial colleagues about the amount and source of funding received by ACCESS or the nature of the press event. Judge Vlavianos initially downplayed his involvement in ACCESS, which he described as simply a training program for judges. Judge Vlavianos said two or three other California judges were members of the board and participation was

allowed under the Code of Judicial Ethics. He admitted he had misled court staff about the nature of the event in Sacramento.

Judge Villapudua and Judge Coughlan asked Judge Vlavianos about the funding source for ACCESS's administrative or operational costs. Judge Vlavianos said numerous times that ACCESS was a "nonprofit." When subsequently questioned as to how ACCESS paid for the production and maintenance of its website, Judge Vlavianos then said ACCESS received \$150,000 in what he said was "seed money" from The Foundation for Advancing Alcohol Responsibility (Responsibility.org), an organization which, at the time, counted Judge Vlavianos as a judicial advisory board member and employed ACCESS Secretary Brandy Nannini (formerly Axdahl). In his response to the commission's preliminary investigation letter, Judge Vlavianos represented that ACCESS used those funds to pay consultant Lee Axdahl of Traffic Safety Partners, LLC. At the time, Lee Axdahl was married to ACCESS Secretary Brandy Nannini.

Judge Villapudua apprised Judge Vlavianos of the impropriety of using his judicial position to further the interests of an entity involved in marketing a product to be used (and purchased) by collaborative courts. Judge Villapudua ordered Judge Vlavianos to immediately procure an ethics opinion from the California Judges Association (CJA) Ethics Committee, and to remove all reference to himself and the court from the ACCESS website.

On December 22, 2021, Judge Vlavianos informed Judge Villapudua and Judge Coughlan that the ACCESS website was down, that he had resigned from the ACCESS board, and that he would seek an ethics opinion. Judge Vlavianos did not procure a CJA ethics opinion as instructed by Judge Villapudua.

Judge Villapudua subsequently arranged a second meeting, on December 23, 2021, with Judge Vlavianos, Judge Coughlan, and the incoming assistant presiding judge, Judge Gus Barrera, after the court learned of a Fictitious Business Name Statement for ACCESS that was published in the

Stockton Record on December 20, 2021, listing “Richard A. Vlavianos,” as CEO, and the televised interview with Judge Vlavianos by the San Diego news station. At that meeting, Judge Villapudua removed Judge Vlavianos from his collaborative court assignment and prohibited him from contact with staff or attorneys involved in the program.

Judge Vlavianos’s conduct violated the Code of Judicial Ethics, canons 1 (a judge shall participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary is observed), 2 (a judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities), 2A (a judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), 2B(1) (a judge shall not allow social or other relationships to influence the judge’s judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge), 2B(2) (a judge shall not lend the prestige of judicial office or use the judicial title in any manner to advance the pecuniary or personal interests of the judge or others), 3A (all judicial duties prescribed by law shall take precedence over all other activities of every judge), 3B(8) (a judge shall dispose of all judicial matters fairly, promptly, and efficiently, and manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law), 3C(1) (a judge shall diligently discharge the judge’s administrative responsibilities impartially, free of conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary), 3C(2) (a judge shall cooperate with other judges and court officials in the administration of court business), 4A (a judge shall conduct all of the judge’s extrajudicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially, demean the judicial office, or interfere with the proper performance of judicial duties), and 4D(1)(a) (a judge shall not engage in

financial and business dealings that may reasonably be perceived to exploit the judge's judicial position). Judge Vlavianos's conduct constituted, at a minimum, conduct prejudicial to the administration of justice that brings the judicial office into disrepute. (Cal. Const., art. VI, section 18, subd. (d).)

## **2. Failure to Fully Advise DUI Defendants of their Rights.**

Judge Vlavianos automatically ordered any defendant who appeared before him, who was convicted of a second (or more) DUI charge, to the multi-track DUI court that he created. Judge Vlavianos had all defendants with second and third DUIs "screened" into either a lower-risk ("monitoring") or higher-risk ("treatment") track.

Judge Vlavianos failed to fully advise DUI court defendants of the consequences of their pleas, in violation of their rights. Prior to arraignment, Judge Vlavianos told defendants that, if they were pleading guilty or no contest to a second or third DUI, they would get a case manager, who worked for the court. The judge told defendants that the case manager's job would be to help them successfully complete probation. Judge Vlavianos told defendants they would have "some safety enhancements," have alcohol or drug monitoring for a period of one year, and be required to abstain from alcohol and drug consumption during that period. Judge Vlavianos told defendants they would have to report back to the court.

Judge Vlavianos's statements to defendants did not explicitly refer to "treatment court" or "treatment track." The first time a DUI court defendant on the treatment track heard the words "treatment" court or track was at sentencing, after entering a plea. After sentencing, all DUI court defendants would be instructed to sign up for monitoring, for a period of one year, at an out-of-pocket cost of up to \$4,000 (assuming the individual was ineligible for grant funding). Prior to accepting defendants' pleas, Judge Vlavianos did not apprise defendants of the cost, or that there was a cost, for monitoring. Nor did he inform defendants how frequently they would be required to return to court or of the nature of

treatment. Judge Vlavianos did not apprise defendants of the possible consequences for non-compliance. At sentencing, Judge Vlavianos told defendants that their jail sentences and fines were stayed, without always explaining that the stays were temporary and that, after successful completion of treatment court, defendants would still be required to complete their mandatory sentences and pay their mandatory fines.

Judge Vlavianos's conduct had the effect of coercing defendants into participating in the treatment court.

Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(8), 3C(1), and 3B(7) (a judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the full right to be heard according to law). Judge Vlavianos's conduct constituted, at a minimum, conduct prejudicial to the administration of justice that brings the judicial office into disrepute. (Cal. Const., art. VI, section 18, subd. (d).)

### **3. Poor Demeanor, Bias, and Abuse of Authority in Handling July 14, 2021, DUI Calendar.**

On July 14, 2021, Judge Vlavianos presided over a misdemeanor DUI arraignment calendar. Deputy District Attorney Jessica Wong and Deputy Public Defender Kimberly Angulo appeared before the judge. At the outset of the hearing, while reading defendants their rights, Judge Vlavianos said that if defendants wanted an attorney but could not afford one, he would have them fill out a financial form and recall their case later in the calendar, then appoint an attorney if he could make a finding of indigency. Ms. Angulo made a small wave toward the defendants to identify herself as the public defender in court that day. Judge Vlavianos immediately stopped talking and said sternly, in a raised voice, "Ms. Angulo! No communication!"

For the first three matters he called, Judge Vlavianos asked defendants if they wanted to "take care of" their cases, and made remarks to the effect of, "I love it when people come in, take responsibility, and take care of things," and



that he was having a good morning because people were “taking care of things” that day.

When Judge Vlavianos called *People v. Hasnat Joiya* (No. STK-CR-MI-2021-0006360), the judge asked Mr. Joiya if he wanted to know what would happen if he wanted to “take care of” the case today. After a brief exchange, Mr. Joiya said he was not familiar with court proceedings and wanted to talk with an attorney. Judge Vlavianos directed Mr. Joiya’s attention to the deputy district attorney and solicited the People’s offer from Ms. Wong. Mr. Joiya asked the judge if he could talk about what happened, to which Judge Vlavianos responded, “Yes, tell me what happened.” Mr. Joiya began talking about one of the alleged incidents, at which point Ms. Angulo interrupted and said to Judge Vlavianos, “Your Honor, can you please advise him that anything he says can be used against him?” Judge Vlavianos became frustrated with Ms. Angulo, said in a stern, raised voice that he would not advise Mr. Joiya, and told Ms. Angulo to stop talking.

After Mr. Joiya told his story, Judge Vlavianos asked Ms. Wong, “Does this change anything for you?” Ms. Wong said she did not understand Mr. Joiya because of his accent. Judge Vlavianos proceeded to talk to Mr. Joiya about the People’s offer.

Ms. Angulo interjected and said she believed it was inappropriate for the court to be talking with Mr. Joiya about resolving his case, because he had already told the court he did not understand the legal concepts and requested an attorney. Judge Vlavianos said, in a stern, raised voice, that Ms. Angulo would be in contempt of court if she continued and ordered her not to speak. The judge asked Mr. Joiya how long he would want to consult with an attorney but did not ask Mr. Joiya whether he could afford an attorney or whether he required an interpreter.

Judge Vlavianos’s remarks to defendants gave the appearance of bias, prejudice, and intent to coerce defendants into accepting plea offers, and

interfered with the right to counsel. The judge's conduct in engaging Mr. Joiya in a discussion of the case after Mr. Joiya had requested counsel also constituted an abuse of authority. Judge Vlavianos's conduct toward Ms. Angulo constituted an abuse of authority and was discourteous.

Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(7), 3B(8), 3B(4) (a judge shall be patient, dignified, and courteous to those with whom the judge deals in an official capacity), and 3B(5) (a judge shall perform judicial duties without bias or prejudice, or the appearance of bias or prejudice). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **4. Remarks To and About DDA Brooks.**

On various occasions during criminal proceedings in open court, Judge Vlavianos said words to the effect of, "The DA wants to put you in jail, but I'm not going to do that," "Probation, do you really think this person deserves to go to prison?" and "The DA wants to send you away, how do you feel about that?" Judge Vlavianos said, on various occasions during criminal proceedings in open court, words to the effect that Deputy District Attorney Grant Brooks was "addicted to jail," "coming from a position of anger," and "coming from a position of fear."

Judge Vlavianos's remarks were discourteous and gave the appearance of bias. Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **5. Embroilment and Ex Parte Communications in Two Parole Re-Entry Court Matters.**

From 2013 through 2021, Judge Vlavianos oversaw the court's parole re-entry court, a collaborative court designed for people who have been released from prison and violated the terms of their parole, and who have a history of substance abuse or mental health issues. In two parole re-entry court matters,

Judge Vlavianos authorized the jail to add an alert to its internal database that instructed jail employees to call him immediately, on his personal cell phone, should either defendant Carlos Haro or defendant LaTolia Gould be brought into custody. Judge Vlavianos's conduct gave the appearance he intended the jail employees to contact him so that he could order the release of either defendant, without a court hearing, should either Mr. Haro or Ms. Gould be brought into custody.

Judge Vlavianos's conduct gave the appearance of embroilment and bias and constituted an abuse of authority. Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(7). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **6. Ex Parte Email Communications with Collaborative Court Staff.**

Judge Vlavianos engaged in ex parte communications via email regarding a represented defendant in a criminal case. On September 1, 2021, Court Analyst Shelly Haynes emailed Judge Vlavianos and other collaborative court staff regarding a defendant, writing that she was seeking advice and explaining that the defendant sent the case manager inappropriate text messages, blamed the court for ruining his life, and said he would not comply with any collaborative court requirements. Judge Vlavianos responded in an email only sent to Ms. Haynes, stating that subjective personal beliefs and frustrations should not drive the response to the defendant, that the defendant's conduct should be the subject of a team discussion, and that it would not be appropriate for Ms. Haynes to speak with the defendant. Ms. Haynes replied, only to Judge Vlavianos, reiterating her request for help from the team on behalf of the case manager, whom she supervised. Judge Vlavianos sent a second email message, only to Ms. Haynes, which stated, in part:

I have told Officer Siv to stand down and let it play out in court. . . . The appropriate mechanism is for the

information to come out in the briefing. The Judge can then react to his behavior (no CBI) and the responsibility for it will clearly be on him. There appears to be no public safety emergency at this point and an arrest by SPD at this point will only likely cause more blaming of the system which would be contraindicated.

Judge Vlavianos discussed a represented defendant's conduct, the defendant's alleged refusal to participate in the program in good faith, and what might be an appropriate response by the court, without including either defense counsel or the deputy district attorney. Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(7). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **7. Additional Factors Relevant to Discipline.**

Judge Vlavianos has a history of service to his community. Judge Vlavianos has also engaged in demeanor training and found a mentor judge available to counsel him on demeanor and other issues as they arise.

In addition to consenting to discipline on the terms set forth, Judge Vlavianos expressly admits that the foregoing facts are true and that he agrees with the stated legal conclusions.

#### **DISCIPLINE**

The commission has determined to accept this Stipulation and impose this public censure, which is the strongest sanction that may be imposed on a judge short of removal from the bench, because it fulfills the commission's mandate of protecting the public, enforcing rigorous standards of judicial conduct, and maintaining public confidence in the integrity of the judicial system, and it resolves this matter without the delay and expense of further proceedings. (See *Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1111-1112; Cal. Const., art. VI, § 18, subd. (d).)

Judge Vlavianos's actions related to ACCESS, including using the prestige of his judicial office to create promotional materials and his use of a report commissioned by the court, created the appearance that he was working in association with private industry affiliates who stood to profit from ACCESS's success. Judge Vlavianos's misconduct regarding ACCESS was compounded by his misleading court employees to induce their participation in ACCESS's launch, and his prevarication in discussions regarding ACCESS with the court's presiding judges. Judge Vlavianos's misconduct created the appearance of gross impropriety and undermined public confidence in the integrity of the judiciary. Judge Vlavianos concedes that his actions in connection with ACCESS constitute, at a minimum, prejudicial misconduct.

Judge Vlavianos also engaged in several other acts of misconduct that erode public confidence in the integrity of the judiciary. He failed to fully apprise criminal defendants of their rights, creating the effect of coercing the defendants into participating in treatment court, which he concedes constitutes prejudicial misconduct. Judge Vlavianos also made remarks to defendants which created the appearance of bias, failed to safeguard the constitutional right to counsel for an unrepresented criminal defendant, improperly threatened a deputy public defender with contempt, and exhibited poor demeanor toward a deputy district attorney. In addition, Judge Vlavianos engaged in improper ex parte communications about, and embroiled himself with, two parole re-entry court defendants, and engaged in another improper ex parte communication with court staff about a criminal defendant. Judge Vlavianos admits that his conduct constitutes improper action.

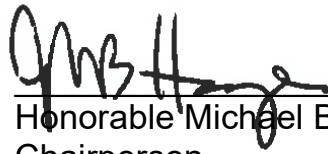
Judge Vlavianos's misconduct is seriously at odds with the canons and expected judicial behavior. In determining that a public censure is the appropriate sanction, the commission considered that Judge Vlavianos has a history of service to his community, has served as a judge for 24 years with no prior discipline, and has engaged in demeanor training and found a mentor judge to

counsel him on demeanor. Additionally, he acknowledged engaging in multiple acts of misconduct and the imposition of a censure as the appropriate sanction.

Commission members Hon. Michael B. Harper; Dr. Michael A. Moodian; Hon. William S. Dato; Rickey Ivie, Esq.; Ms. Kay Cooperman Jue; Ms. Sarah Kruer Jager; Hon. Lisa B. Lench; Mr. Richard Simpson; and Ms. Beatriz E. Tapia voted to accept the Stipulation and to issue this public censure. Commission member Mr. Eduardo De La Riva did not participate. One attorney member position was vacant.

Date: February 8, 2023

On behalf of the  
Commission on Judicial Performance,

A handwritten signature in black ink, appearing to read "M. B. Harper", is written over a horizontal line. The signature is stylized and cursive.

Honorable Michael B. Harper  
Chairperson

STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING  
JUDGE RICHARD A. VLAVIANOS

STIPULATION FOR DISCIPLINE  
BY CONSENT (Rule 116.5)

Pursuant to Rules of the Commission on Judicial Performance, rule 116.5, Judge Richard A. Vlavianos of the San Joaquin County Superior Court, represented by his counsel, Kathleen M. Ewins of Long & Levit LLP, and commission counsel (the “parties”) submit this proposed disposition of the matters set forth in the commission’s preliminary investigation letter dated March 3, 2022. The parties request that the commission resolve this matter by imposition of a censure. The parties believe that the settlement provided by this agreement is in the best interests of the commission and Judge Vlavianos because, among other reasons, in light of the stipulated facts and legal conclusions, a censure adequately protects the public and will avoid the delay and expense of further proceedings.

TERMS AND CONDITIONS OF AGREEMENT

1. This agreement resolves the matters alleged in the commission’s pending preliminary investigation involving Judge Vlavianos.
2. The commission shall issue a censure based on the agreed Stipulated Facts and Legal Conclusions set forth therein.
3. If the commission accepts this proposed disposition, the commission’s decision and order imposing a censure may articulate the reasons for its decision and include explanatory language that the commission deems appropriate.

4. Upon acceptance by the commission, this stipulation and the commission's decision and order shall be made public.

5. Judge Vlavianos waives any further proceedings and review in this matter, including formal proceedings (Rules of Com. on Jud. Performance, rule 118, et seq.) and review by the Supreme Court (Cal. Rules of Court, rule 9.60).

6. Judge Vlavianos agrees that the facts recited herein are true and correct, and that the discipline to which the parties stipulate herein is appropriate in light of those facts.

7. The commission may reject this proposed disposition and resume its preliminary investigation. If the commission does so, nothing in this proposed disposition will be deemed to be admitted or conceded by either party.

Accordingly, it is hereby stipulated and agreed that the commission shall issue a censure on the above Terms and Conditions of Agreement, and based on the following Stipulated Facts and Legal Conclusions:

STIPULATED FACTS AND LEGAL CONCLUSIONS

This disciplinary matter concerns Judge Richard A. Vlavianos, a judge of the San Joaquin County Superior Court since 1999. His current term began in January 2019.

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After learning of Judge Vlavianos's involvement with ACCESS, on December 20, 2021, then-Presiding Judge Xapuri Villapudua convened a meeting with Judge Vlavianos

and incoming Presiding Judge Michael Coughlan. Judge Vlavianos was not forthright with his judicial colleagues about the amount and source of funding received by ACCESS or the nature of the press event. Judge Vlavianos initially downplayed his involvement in ACCESS, which he described as simply a training program for judges. Judge Vlavianos said two or three other California judges were members of the board and participation was allowed under the Code of Judicial Ethics. He admitted he had misled court staff about the nature of the event in Sacramento.

Judge Villapudua and Judge Coughlan asked Judge Vlavianos about the funding source for ACCESS's administrative or operational costs. Judge Vlavianos said numerous times that ACCESS was a "nonprofit." When subsequently questioned as to how ACCESS paid for the production and maintenance of its website, Judge Vlavianos then said ACCESS received \$150,000 in what he said was "seed money" from The Foundation for Advancing Alcohol Responsibility (Responsibility.org), an organization which, at the time, counted Judge Vlavianos as a judicial advisory board member and employed ACCESS Secretary Brandy Nannini (formerly Axdahl). In his response to the commission's preliminary investigation letter, Judge Vlavianos represented that ACCESS used those funds to pay consultant Lee Axdahl of Traffic Safety Partners, LLC. At the time, Lee Axdahl was married to ACCESS Secretary Brandy Nannini.

Judge Villapudua apprised Judge Vlavianos of the impropriety of using his judicial position to further the interests of an entity involved in marketing a product to be used (and purchased) by collaborative courts. Judge Villapudua ordered Judge Vlavianos to immediately procure an ethics opinion from the California Judges Association (CJA) Ethics Committee, and to remove all reference to himself and the court from the ACCESS website.

On December 22, 2021, Judge Vlavianos informed Judge Villapudua and Judge Coughlan that the ACCESS website was down, that he had resigned from the ACCESS board, and that he would seek an ethics opinion. Judge Vlavianos did not procure a CJA ethics opinion as instructed by Judge Villapudua.

Judge Villapudua subsequently arranged a second meeting, on December 23, 2021, with Judge Vlavianos, Judge Coughlan, and the incoming assistant presiding judge, Judge Gus Barrera, after the court learned of a Fictitious Business Name Statement for ACCESS that was published in the Stockton Record on December 20, 2021, listing “Richard A. Vlavianos,” as CEO, and the televised interview with Judge Vlavianos by the San Diego news station. At that meeting, Judge Villapudua removed Judge Vlavianos from his collaborative court assignment and prohibited him from contact with staff or attorneys involved in the program.

Judge Vlavianos’s conduct violated the Code of Judicial Ethics, canons 1 (a judge shall participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary is observed), 2 (a judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities), 2A (a judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), 2B(1) (a judge shall not allow social or other relationships to influence the judge’s judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge), 2B(2) (a judge shall not lend the prestige of judicial office or use the judicial title in any manner to advance the pecuniary or personal interests of the judge or others), 3A (all judicial duties prescribed by law shall take precedence over all other activities of every judge), 3B(8) (a judge shall dispose of all judicial matters fairly, promptly, and efficiently, and manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law), 3C(1) (a judge shall diligently discharge the judge’s administrative responsibilities impartially, free of conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary), 3C(2) (a judge shall cooperate with other judges and court officials in the administration of court business), 4A (a judge shall conduct all of the judge’s extrajudicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially, demean the judicial office, or

interfere with the proper performance of judicial duties), and 4D(1)(a) (a judge shall not engage in financial and business dealings that may reasonably be perceived to exploit the judge's judicial position). Judge Vlavianos's conduct constituted, at a minimum, conduct prejudicial to the administration of justice that brings the judicial office into disrepute. (Cal. Const., art. VI, section 18, subd. (d).)

## **2. Failure to Fully Advise DUI Defendants of their Rights.**

Judge Vlavianos automatically ordered any defendant who appeared before him, who was convicted of a second (or more) DUI charge, to the multi-track DUI court that he created. Judge Vlavianos had all defendants with second and third DUIs "screened" into either a lower-risk ("monitoring") or higher-risk ("treatment") track.

Judge Vlavianos failed to fully advise DUI court defendants of the consequences of their pleas, in violation of their rights. Prior to arraignment, Judge Vlavianos told defendants that, if they were pleading guilty or no contest to a second or third DUI, they would get a case manager, who worked for the court. The judge told defendants that the case manager's job would be to help them successfully complete probation. Judge Vlavianos told defendants they would have "some safety enhancements," have alcohol or drug monitoring for a period of one year, and be required to abstain from alcohol and drug consumption during that period. Judge Vlavianos told defendants they would have to report back to the court.

Judge Vlavianos's statements to defendants did not explicitly refer to "treatment court" or "treatment track." The first time a DUI court defendant on the treatment track heard the words "treatment" court or track was at sentencing, after entering a plea. After sentencing, all DUI court defendants would be instructed to sign up for monitoring, for a period of one year, at an out-of-pocket cost of up to \$4,000 (assuming the individual was ineligible for grant funding). Prior to accepting defendants' pleas, Judge Vlavianos did not apprise defendants of the cost, or that there was a cost, for monitoring. Nor did he inform defendants how frequently they would be required to return to court or of the nature of treatment. Judge Vlavianos did not apprise defendants of the possible consequences for non-compliance. At sentencing, Judge Vlavianos told defendants that

their jail sentences and fines were stayed, without always explaining that the stays were temporary and that, after successful completion of treatment court, defendants would still be required to complete their mandatory sentences and pay their mandatory fines.

Judge Vlavianos's conduct had the effect of coercing defendants into participating in the treatment court.

Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(8), 3C(1), and 3B(7) (a judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the full right to be heard according to law). Judge Vlavianos's conduct constituted, at a minimum, conduct prejudicial to the administration of justice that brings the judicial office into disrepute. (Cal. Const., art. VI, section 18, subd. (d).)

### **3. Poor Demeanor, Bias, and Abuse of Authority in Handling July 14, 2021, DUI Calendar.**

On July 14, 2021, Judge Vlavianos presided over a misdemeanor DUI arraignment calendar. Deputy District Attorney Jessica Wong and Deputy Public Defender Kimberly Angulo appeared before the judge. At the outset of the hearing, while reading defendants their rights, Judge Vlavianos said that if defendants wanted an attorney but could not afford one, he would have them fill out a financial form and recall their case later in the calendar, then appoint an attorney if he could make a finding of indigency. Ms. Angulo made a small wave toward the defendants to identify herself as the public defender in court that day. Judge Vlavianos immediately stopped talking and said sternly, in a raised voice, "Ms. Angulo! No communication!"

For the first three matters he called, Judge Vlavianos asked defendants if they wanted to "take care of" their cases, and made remarks to effect of, "I love it when people come in, take responsibility, and take care of things," and that he was having a good morning because people were "taking care of things" that day.

When Judge Vlavianos called *People v. Hasnat Joiya* (No. STK-CR-MI-2021-0006360), the judge asked Mr. Joiya if he wanted to know what would happen if he wanted to "take care of" the case today. After a brief exchange, Mr. Joiya said he was

not familiar with court proceedings and wanted to talk with an attorney. Judge Vlavianos directed Mr. Joiya's attention to the deputy district attorney and solicited the People's offer from Ms. Wong. Mr. Joiya asked the judge if he could talk about what happened, to which Judge Vlavianos responded, "Yes, tell me what happened." Mr. Joiya began talking about one of the alleged incidents, at which point Ms. Angulo interrupted and said to Judge Vlavianos, "Your Honor, can you please advise him that anything he says can be used against him?" Judge Vlavianos became frustrated with Ms. Angulo, said in a stern, raised voice that he would not advise Mr. Joiya, and told Ms. Angulo to stop talking.

After Mr. Joiya told his story, Judge Vlavianos asked Ms. Wong, "Does this change anything for you?" Ms. Wong said she did not understand Mr. Joiya because of his accent. Judge Vlavianos proceeded to talk to Mr. Joiya about the People's offer. Ms. Angulo interjected and said she believed it was inappropriate for the court to be talking with Mr. Joiya about resolving his case, because he had already told the court he did not understand the legal concepts and requested an attorney. Judge Vlavianos said, in a stern, raised voice, that Ms. Angulo would be in contempt of court if she continued and ordered her not to speak. The judge asked Mr. Joiya how long he would want to consult with an attorney but did not ask Mr. Joiya whether he could afford an attorney or whether he required an interpreter.

Judge Vlavianos's remarks to defendants gave the appearance of bias, prejudgment, and intent to coerce defendants into accepting plea offers, and interfered with the right to counsel. The judge's conduct in engaging Mr. Joiya in a discussion of the case after Mr. Joiya had requested counsel also constituted an abuse of authority. Judge Vlavianos's conduct toward Ms. Angulo constituted an abuse of authority and was discourteous.

Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(7), 3B(8), 3B(4) (a judge shall be patient, dignified, and courteous to those with whom the judge deals in an official capacity), and 3B(5) (a judge shall perform judicial duties without bias or prejudice, or the appearance of bias or prejudice). Judge

Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **4. Remarks To and About DDA Brooks.**

On various occasions during criminal proceedings in open court, Judge Vlavianos said words to the effect of, "The DA wants to put you in jail, but I'm not going to do that," "Probation, do you really think this person deserves to go to prison?" and "The DA wants to send you away, how do you feel about that?" Judge Vlavianos said, on various occasions during criminal proceedings in open court, words to the effect that Deputy District Attorney Grant Brooks was "addicted to jail," "coming from a position of anger," and "coming from a position of fear."

Judge Vlavianos's remarks were discourteous and gave the appearance of bias. Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

#### **5. Embroilment and Ex Parte Communications in Two Parole Re-Entry Court Matters.**

From 2013 through 2021, Judge Vlavianos oversaw the court's parole re-entry court, a collaborative court designed for people who have been released from prison and violated the terms of their parole, and who have a history of substance abuse or mental health issues. In two parole re-entry court matters, Judge Vlavianos authorized the jail to add an alert to its internal database that instructed jail employees to call him immediately, on his personal cell phone, should either defendant Carlos Haro or defendant LaTolia Gould be brought into custody. Judge Vlavianos's conduct gave the appearance he intended the jail employees to contact him so that he could order the release of either defendant, without a court hearing, should either Mr. Haro or Ms. Gould be brought into custody.

Judge Vlavianos's conduct gave the appearance of embroilment and bias and constituted an abuse of authority. Judge Vlavianos's conduct violated the Code of



Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(7). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)

**6. Ex Parte Email Communications with Collaborative Court Staff.**

Judge Vlavianos engaged in ex parte communications via email regarding a represented defendant in a criminal case. On September 1, 2021, Court Analyst Shelly Haynes emailed Judge Vlavianos and other collaborative court staff regarding a defendant, writing that she was seeking advice and explaining that the defendant sent the case manager inappropriate text messages, blamed the court for ruining his life, and said he would not comply with any collaborative court requirements. Judge Vlavianos responded in an email only sent to Ms. Haynes, stating that subjective personal beliefs and frustrations should not drive the response to the defendant, that the defendant's conduct should be the subject of a team discussion, and that it would not be appropriate for Ms. Haynes to speak with the defendant. Ms. Haynes replied, only to Judge Vlavianos, reiterating her request for help from the team on behalf of the case manager, whom she supervised. Judge Vlavianos sent a second email message, only to Ms. Haynes, which stated, in part:

I have told Officer Siv to stand down and let it play out in court.... The appropriate mechanism is for the information to come out in the briefing. The Judge can then react to his behavior (no CBI) and the responsibility for it will clearly be on him. There appears to be no public safety emergency at this point and an arrest by SPD at this point will only likely cause more blaming of the system which would be contraindicated.

Judge Vlavianos discussed a represented defendant's conduct, the defendant's alleged refusal to participate in the program in good faith, and what might be an appropriate response by the court, without including either defense counsel or the deputy district attorney. Judge Vlavianos's conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(5), and 3B(7). Judge Vlavianos's conduct constituted, at a minimum, improper action. (Cal. Const., art. VI, section 18, subd. (d).)


**7. Additional Factors Relevant to Discipline.**

Judge Vlavianos has a history of service to his community. Judge Vlavianos has also done demeanor training and found a mentor judge available to counsel him on demeanor and other issues as they arise.

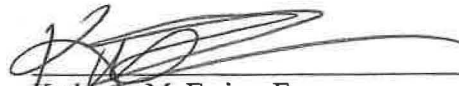
\* \* \*

By signing this stipulation, in addition to consenting to discipline on the terms set forth, Judge Vlavianos expressly admits that the foregoing facts are true and that he agrees with the stated legal conclusions.

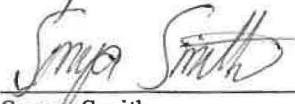
Dated: 11/21, 2022.

  
\_\_\_\_\_  
Judge Richard A. Vlavianos

Dated: 11/21, 2022.

  
\_\_\_\_\_  
Kathleen M. Ewins, Esq.  
Attorney for Judge Richard A. Vlavianos

Dated: 11/21, 2022.

  
\_\_\_\_\_  
Sonya Smith  
Senior Staff Counsel