

From: [REDACTED]
Sent: Thursday, January 12, 2023 6:38 AM
To: CourtCounsel <CourtCounsel@lacourt.org>
Cc: Gregory Dresser [REDACTED]; news@dailyjournal.com; CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>
Subject: Re: LASC Demand for Refund - Falls

If I believe the law? Have you ever reimbursed me a penny you have stolen from me? The law is the law...a litigant does not pay for a judge's transcript.

Might be time to stop this ridiculous bounce back that says my emails "are not going through" when you're clearly reading them.

Wondering why the defense can file a Motion in Limine? Where is my right to file one on all the facts he struck? (Attached).

And the craziness at LASC continues.

Judge Falls is being sued and a subject of a current recall, and STILL can't stop his biased and unlawful orders.

[REDACTED]

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On Jan 10, 2023, at 2:08 PM, CourtCounsel <CourtCounsel@lacourt.org> wrote:

Dear [REDACTED],

If you believe you are entitled to a refund, please fill out the attached Government Claim form and submit it to our office at your convenience.

Sincerely,

Court Counsel
Legal Services Division
Superior Court of California, County of Los Angeles

111 N. Hill Street | Suite 546
Los Angeles, CA 90012
CourtCounsel@lacourt.org | www.lacourt.org

From: [REDACTED]
Sent: Tuesday, January 10, 2023 7:49 AM
To: CourtCounsel <CourtCounsel@LACourt.org>
Subject: [REDIRECTED MESSAGE]Demand for Refund - Falls

[This is a Redirected Message that was NOT Delivered to Specified Recipients]

"When you provide a reporter the courts entitled to a transcript and I expect it to be here and that's the same for today's date. I've consistently ordered transcripts when the defense has supplied reporters and they've complied."

July 29, 2022

Please make certain I am refunded all monies paid for HIS original transcripts.

Gov't code 69950(a)

(a) The fee for transcription for original ribbon or printed copy is one dollar and thirteen cents (\$1.13) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original, twenty cents (\$0.20) for each 100 words.

(b) The fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty-six cents (\$0.26) for each 100 words, and for each additional copy, purchased at the same time, twenty cents (\$0.20) for each 100 words.

(c) A trial court practice and policy as to the number of words or folios on a typical transcript page shall not be unilaterally changed by a trial court.

[REDACTED]

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From: [REDACTED]
Sent: Thursday, January 26, 2023 1:43 PM
To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>; kcatlos@kdvlaw.com; Jud Ca Notify <info@jud.ca.gov>; PAJAR <pajar@jud.ca.gov>; judicialcouncil@jud.ca.gov; jctc@jud.ca.gov
Subject: Fw: Why was this sent????? and why 3 mailings? Re: California Court of Appeal Case
Notification for: [REDACTED]

Hello!

Happy 2 0 2 3!! I was sent 3 emails re: the Appeal court in [REDACTED] (see below) since I have not received a reply from you folks re: my submission, I understand the email as a "response" possibly to my claims? Please advise.

I hope this finds you well. In September I filed a complaint re: my attempts to have an evidentiary hearing/trial from 2010-current before the Honorable [REDACTED] and Others re: my intellectual properties developed in my home, leased in my name.

(I had already, years earlier, been found an owner before I was before Judge [REDACTED] but she refused to recognize me as a property owner. I had entered a court in 2000 for a hearing that identified my original 1995, thereabout, contract of ownership on, by Judge [REDACTED] I told you folks of all the shenanigans, primarily involving Judge [REDACTED] that had cheated me of my won Demurrer and Discovery order from the Honorable Judge [REDACTED], that when he retired; Judge [REDACTED] actively, with a circle of attorneys, sought to overturn all my wins without any orders to show cause for doing so allowed me and with a malicious, forgery/fraud based item utilized by Judge [REDACTED] to hit me with a now near one million dollar cash judgment.

Please review the below, someone contacted me three times yesterday from "Notify@jud.ca.gov" without identifying why or their name, yet they threw at me the opinion from the Second District -6th, this was my first appeal and it was BEFORE any Judge [REDACTED] SJ or Fee Award proceedings.

I am in the process of filing extensive CJP complaints on [REDACTED] & [REDACTED] at this time, having just finished the bulk of my State Bar complaints.

I want you folks, the oversight committee, to realize however, that Judge [REDACTED] maliciously and with fervor, in every proceeding before her, as coming out of the insurance industry herself, she argued for the [REDACTED] benefit, and herself, for me as a Pro Se, argued with me ad infinitum, violating her duties to preserve my rights, under the Cannons as I understand them.

I extensively attested and presented her with the manager bribery contracts that were executed before I was ambushed in the [REDACTED] law firm, picking up my replacement stock certificates, the 5 onsite bribed (attorney declaratory evidence proving such in SLO CV 130377 my co founders action-they were triangulated out of a trial also by securities fraud NDA's, triangulated against myself for the [REDACTED] hedge fund benefit) THEIR 01/06/07 BRIBE CONTRACTS EXCLUSIVELY STATED They could never "sue" ANY FORMER shareholder!

Yet [REDACTED] allowed CEO [REDACTED] to SUE ME for Attorney Fees @ 2013!! she was given that contract that was attested by [REDACTED] in a divorce proceeding of [REDACTED] in the SLO Civil/Family Court. I gave that contract to Officer [REDACTED] with the DA's office in SB County and presented it and argued it to Judge [REDACTED] and she gave me no quarter, not even one single evidentiary hearing, much less any subpoena power, I was targeted to be destroyed in person and property early on I believe.

[REDACTED] and the corporation ([REDACTED] (best friends of Senator [REDACTED] /Judge [REDACTED] -see certified transcript (see page 6, LINE 24)

as corporate officers along with [REDACTED] SUED me for now a near one million dollar judgment BECAUSE THE insurance company demanded it! It was part of the merger insurance policy I HAD TO PAY FOR to "indemnify"

the merger for fraud!!! [REDACTED] HAD THE NERVE to enact that very policy so they didn't have to pay for attorneys!!

I repeatedly CONTACTED the insurance company TELLING THEM I would TESTIFY on their behalf because the POLICY SAYS that if "fraud is involved" in utilizing the policy, the insurance firm has a RIGHT TO COLLECT from the fraudster; I repeatedly INFORMED in WRITING and spoke with him PHYSICALLY ON THE PHONE; [REDACTED] of Freedom Specialty Insurance that "EX G" was always a full blown fraud, moving absolutely nothing to me that wasn't already mine (Replacement share certificate contracts earlier, pre [REDACTED] executed-[REDACTED] long concealed 7/24/00 % holding contract of [REDACTED])

[REDACTED] would of never sued me for fees, nor [REDACTED] Nor would EITHER OF THEM, or ANY DEF ever attest "EX G" as true, NOR would they attach my 7/24/00 % holding contract!!! THEY ALL KNEW IT WAS CRIME ON ME!!! Why haven't they tried to collect on that judgement??? Why, they still bandy it about COURTS OF LAW TO DESTROY my constitutional rights with!!!

WHY DID [REDACTED] ALLOW this to happen WHEN I GAVE HER THE BRIBERY contract and ARGUED relentlessly that [REDACTED] HAD NO RIGHTS to do this to me? WHY?

BECAUSE SHE IS CORRUPT and this is a massive crime!

[REDACTED] wife *refused to "include" that massive cash "award"* in [REDACTED] ESTATE before the Honorable Judge [REDACTED] Why? I timely filed my claim on his estate to make argument re: all this and to preserve my claims and INSTEAD, [REDACTED] had a hearing and used her husbands fraud and criminal rulings from Judge [REDACTED] to argue that it was "determined" I had no rights on the estate;

YET, [REDACTED] refused to either "approve" OR "deny" my claim on her husbands' ESTATE because SHE KNOWS I am robbed!!!

I am cc'ing Officer [REDACTED] the managing partner of the firm the Insurance company hired as I understand she is knowledgeable of this as Officers [REDACTED] and [REDACTED] were the first and third Officers of the Court to rip from my first amendment rights "EX G" and attest the item as "true" when they had no personal knowledge to do such, knew of my objections, were under duties to confirm consideration moved to me not as being mine, and defied all of that law to further the crimes of the [REDACTED]. However, I do believe Ms. [REDACTED] probably to have been reliant on Officer [REDACTED] who I understand was "in house counsel" with the corporation during my initial proceedings, 2010-2012, and that [REDACTED], a prominent member of the [REDACTED] making a marital asset claim on the corporate securities herself to [REDACTED], misrepresented the status to conceal the share registry and the original as voided extensively documents from my law firm ambush.

Will someone, once again, cALL THE FBI???

[REDACTED] CONTRACT; NEVER TO SUE A SHAREHOLDER:

SEE PAGE TWO this was repeatedly presented to the [REDACTED] Court along with signatures (not included here, and CHECKS ; the acquirer went along with the scam, despite in writing, from NYC and Paris law firms to me the ACKNOWLEDGEMEN of my fraud allegations!! The Paris guy even went so far as to put it in writing that my "beef" was "not with the company, but with the [REDACTED] They are not "good faith" acquirers, those representations WERE BEFORE THEY CLOSED the purchase, there was a two tier/company purchase of my intellectual properties used int he I Phone and other, and there were THREE earnouts, annually, thru 2015, they "re purposed" these bribes as "Bonus Payments" from the acquirer when in fact they were EQUITY purchase payments in my intellectual properties!!!

----- Forwarded Message -----

From: [REDACTED]

To: Notify@jud.ca.gov <notify@jud.ca.gov>; info@jud.ca.gov <info@jud.ca.gov>; PAJAR <pajar@jud.ca.gov>; patricia.silva@jud.ca.gov <patricia.silva@jud.ca.gov>; judicialcouncil@jud.ca.gov

<judicialcouncil@jud.ca.gov>; jctc@jud.ca.gov <jctc@jud.ca.gov>; martin.hoshino@jud.ca.gov
<martin.hoshino@jud.ca.gov>; robert.ovung@jud.ca.gov <robert.ovung@jud.ca.gov>

Sent: Wednesday, January 25, 2023 at 08:30:01 PM PST

Subject: Why was this sent????? and why 3 mailings? Re: California Court of Appeal Case Notification for: [REDACTED]

I got this email, THREE TIMES within one hour @ closing time....Why?

let me guess....to read that particular [REDACTED] opine RE: the unverified complaint "attachment" ,i.e. "EX G"?

Here's the problem, the "attachment" reference this particular "opine" makes, ie. as to "EX G", that fraud exhibit "G" itself WAS NOT ATTACHED to the operative for demurrer/dismissal AND SJ, the 12.08.10 unverified complaint & attachments the opinion of [REDACTED] refers and rules over! whatsoever! You have a RAMPANT FRAUD GOING ON RE: a \$80 MILLION heist on near 30 people strictly by ATTORNEY FABRICATED EVIDENCE. Attorneys, NOT ONE DEF, grabbed an EARLIER 4.2.10 unverified complaint AND ATTESTED it with their "license to do so" with their Judge buddies backin em up! ALL DEFENDANTS and their direct counsel, ie. [REDACTED], ALL REFUSED TO ATTEST ANY FORM OF A "SETTLEMENT" from 2000 or 2007; they KNOW themselves this is all a scam! I am a ongoing targeted whistleblower with a NEAR \$1MILLION CASH JUDGMENT ON MY HEAD: Please do your jobs!!

Your real problem? Judge [REDACTED] had early on PUT THEM ON NOTICE that the idea of "EX G" OR any "settlement" "contract" was bunk, *he ruled 4 different times for them NOT to utilize "EX G"*. [REDACTED] in my 2.9.11 Demurrer WIN RULED he thought the item/ original, ie. a "settlement" DID NOT EXIST!! THERE WAS NO "lawsuit" people!!! It was a illegal, no vote 17 day freezeout the day the I Phone was announced to the world, with me in a law firm Picking up Replacement Share certificates; NOT "settling" a law suit!! [REDACTED] on 2.9.11 RULED SUCH A CONTRACT IDEA AS ".. not extant".....

By Law licensees benched and on the loose in CA Courts, utilizing the RAPE of that 4.2.10 singular filed exhibit "G" from an unverified complaint WITH ALL DEFS REFUSING TO ATTEST THE ITEM AND ONLY non percipient attorneys attesting it, with CA Judges Backin' em up, repeatedly, Bar Officers had to physically RIP the ITEM from the 4 pages of my FIRST AMENDMENT RIGHTS fraud allegations of the item, EX G, the singular in 13 year filing of it, the item itself!! INCLUDING, 6-7 PHYSICAL ATTRIBUTES OF FRAUD described therein those 4 pages re: "EX G"!!

AND ALL MY COMPLAINTS were UNVERIFIED, ie. no asserting "as true" "under penalty of perjury"!! THERE WERE NO FACTS TRIED OF the 4.2.10 item NOR the 12.08.10 item that had no "EX G" attached to it!! (it had 3 of the 5 pages; NO WAIVER /no SIGNATURE)

But the rEAL problem? i OBJECTED TO THE USE OF THE ATTORNEYS USING "EX G" AND MY OBJECTION WAS OVERRULED STRICTLY FOR NOT "NUMBERING" MY OBJECTION

THIS IS A HUGE FRAUD!

THE CA & FEDERAL LAW SAYS A PLEADING(attachments)IS NOT EVIDENCE see attached

On Wednesday, January 25, 2023 at 05:15:05 PM PST, <notify@jud.ca.gov> wrote:

[REDACTED] the following transaction has occurred in:
et al.

Case: [REDACTED]

Date (YYYY-MM-DD): 2012-12-19

Event

Description:

Remittitur issued.

For more information on this case, go to:



From: [REDACTED]
Sent: Friday, January 27, 2023 4:26 PM
To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>
Subject: Please Read Everything Please

To whom it may concern I [REDACTED] am a disabled combat veteran who served 13 years and deployed 8 times overseas as well as someone who owns 29 medals and ribbons and three purple hearts and I was at one point or another on active duty 82nd airborne and even enlisted in the California National Guard. And even deployed to Kosovo and Afghanistan once with the [REDACTED] National Guard and another time with the [REDACTED] National Guard. And we'll I have tried to get your help with everything below that has gone on for several years now and we'll I want your help seriously cause you see one point or another I was in Avenal state prison custody and prior to being released from Avenal State prison custody my mom and her attorney [REDACTED] decided since they never told me about my father's will and trust that they would basically have me placed on temporary LPS conservatorship prior to being released from Avenal State prison custody. And we'll when I was released I was already on temporary LPS conservatorship and my mom had her attorney [REDACTED] serve me in his office and we'll I want you to know for starters back in 1995 when my grandfather took her to court she plead out paid my grandfather \$50,000 dollars and was even charged but not according to the law you see my mom was charged vehicular manslaughter which is a felony charge is it not and we'll her judge reduced it to a infraction charge not a felony charge or a misdemeanor charge but that is correct she was charged vehicular manslaughter and given a infraction charge didn't go to jail didn't get put on probation and her attorney [REDACTED] changed his legal profession over night. So you see judge [REDACTED] has already been removed from the bench several years back and we'll I still tell this day have not heard my father's will and trust and my mom lied to have me placed on temporary LPS conservatorship by lying to the judge furthermore she was able to have me placed on temporary LPS conservatorship by using a discharge summary from the [REDACTED] CA veterans hospital and we'll the form was dated 2009 I was released in 2012 and was placed on temporary LPS conservatorship. The same exact attorney for the wrongful death case with my grandfather was the same exact attorney to represent her at this time. Also my doctor from the veterans hospital in [REDACTED] CA wrote to the courts and told the judge that he didn't ever authorize my mother to be my conservator the person in charge of me. Infact I lived in [REDACTED] CA and she lived in [REDACTED] CA and even flew to Hawaii and left me alone while she had me on temporary LPS conservatorship. Furthermore she had CONSERVATORSHIP over me and my estate in which case I knew nothing about me owning any estate and we'll there is no accounting for assets life insurance policies money 401k stocks or anything else like that there is however a deed to my dad's house in my file and we'll you realize everything that has happened my mother who is a registered chemotherapy nurse never has shown me a will now for [REDACTED] county courthouse online it says there is one in the records now I have paid [REDACTED] CA courthouse employee on two different occasions to locate it and give me a copy since I am the soul surviving heir to Samuel [REDACTED] who died in August of 1995. So you see here I emailed the district attorney for [REDACTED] county courthouse in [REDACTED] CA and she said to me had I been black I would have already been helped with this situation and probably even paid because when I was in custody and placed on temporary LPS conservatorship prior to being released from custody the judge never met with me and never met with my doctor from the [REDACTED] Veterans Hospital Dr [REDACTED] On top of everything she has made me go through the same exact bullshit yet again when my step dad [REDACTED] died recently from cancer and we'll I wasn't the only one you see she told the coroner's office not to let his family know he has died and well when his brother [REDACTED] was going to fly out from [REDACTED] Texas to find out the condition of his brother [REDACTED] was told from the corners office that [REDACTED] his brother has passed away and that my mother [REDACTED] told them not to disclose him passing away to his family

members at all. Sick right so I am asking if you can help me out I'm going to be giving you full permission to show anyone who you think will help me with this situation because the judge who placed me on temporary LPS conservatorship judge [REDACTED] never met with me or my doctor and didn't ever appointment legal counsel to me at all and I was on temporary LPS conservatorship for 11 months and we'll my mother doesn't call me at all anymore no happy birthday Merry Christmas Happy New Years nothing it's as if I am dead as well and I have been blown up shot and we'll I want you to know that I survived everything from AFGHANISTAN IRAQ KOSOVO KUWAIT. Why because I deserve to know the truth of everything that has happened in my life and I deserve to know if I was raised by someone who is guilty for killing my dad seriously do you know I had a older brother die before I was born March 25th 1985 I was born well my brother died March 15th 1985 and she has said to me and my older brother [REDACTED] who is still alive today that our brother died from heart palpitations when his death certificate says he died from Sid's so she has lied to us for years about this situation and we'll I want you to know his name is [REDACTED] and my name is [REDACTED] and my dad his name is [REDACTED] and we'll do you know her grandkids caught her telling farmers insurance company he doesn't want to go by [REDACTED] cause of his father who passed away so he goes by [REDACTED] now they asked me what is my middle name and I said James why they told me what happened I told them to tell there dad they did and we'll he did report it to the sheriff's office in [REDACTED] Ranchos CA and nothing has ever happened in regards to this situation and this is what domestic terrorism looks like when the laws protects people with money and screws over everyone else and I for one and growing very tired of people not wanting to help me out with this situation right here seriously if you served 13 years and deployed 8 times overseas or your son or daughter wouldn't you want them to be giving a copy of your will and trust or would you rather them have to go through exactly what I have had to go through in my life? Seriously I was told by the social security office had I not gotten married the first time I would have received a check from social security that my father paid into and we'll I would have received it until I was 25 years old and we'll I told them I never received one check at all they told me that I should have been receiving checks from social security office in [REDACTED] CA for the past 8 year's and we'll I never received any checks from social security office in [REDACTED] CA at all so you see my mom has a big fucking problem with stealing from me and the federal government and she needs to go to jail seriously so help me out please thank you....

So please help me out thank you you have my permission to address this to anyone who you like to my name is [REDACTED] and I give you my permission to forward this email to anyone who has the balls to fight for justice cause if not then the next item you receive from me will be my uniform and my medals and purple hearts cause America at true to it's people is it!... No justice no peace.... What is sad to is I received a call from a Life insurance investigator who wanted to know why my mom was receiving a bigger check for one of her patients and the husband wasn't receiving that much and I told him to not pay her this money he said well we are just curious cause in the past 2 months your mom has received 11 life insurance policy checks see how much fraud she has committed seriously someone needs to file charges against her and her attorney [REDACTED] needs to be disbarred what do you think about this....

From: [REDACTED]

Sent: Thursday, February 2, 2023 4:13 PM

To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>

Subject: Public comment and questions re: Committee's draft report and recommendations

I very recently submitted a formal complaint concerning a retired Superior Court Judge assigned by the Temporary Assigned Judge's Program. The judge in question presided over a felony preliminary examination and had ex parte communication with the prosecutor and a testifying witness in chambers without disclosure to the defendants or to their counsel. The substance of the ex parte communication was not privileged under the California Evidence Code, as it concerned a codefendant's party admissions. Most, but not all, of the ex parte communication was transcribed, but obviously not in time to present impeachment evidence at the prelim hearing.

In any event, I received a quick response from the Commission on Judicial Performance stating that it did not have any jurisdiction over retired judges assigned by the Judicial Council's TAJP, and that I should submit my complaint to the Judicial Council directly. This creates an inequality of remedies against judges, which should not be the case in any matter, particularly felony cases. It also denies me any independent, objective, and neutral review of judicial misconduct, since the Judicial Council made the appointment to begin with. The Judicial Council doesn't have a committee equivalent to the Commission, and even if they decided to sanction the judge there is no similar webpage for the censure or other sanction to be published.

It also seems to me to be an inaccurate understanding of the Commission's jurisdiction. Article 6, Section 18(d) states:

"...the Commission on Judicial Performance may (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, or (2) censure a judge or former judge or remove a judge for action occurring not more than 6 years prior to the commencement of the judge's current term or of the former judge's last term that constitutes willful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or (3) publicly or privately admonish a judge or former judge found to have engaged in an improper action or dereliction of duty. The commission may also bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court."

In addition, Article VI, Section 18(f) of the California Constitution memorializes the Commission's jurisdiction over judge's or former judge's of the Supreme Court, subject to review "by a tribunal of 7 court of appeal judges selected by lot."

I am asking the Review Committee and the Commission itself to step up its game, and clarify or modify its structure and assert its Constitutionally mandated jurisdiction over all judges in California, including retired judges appointed by the TAJP, so that a person whose felony preliminary hearing was heard by a retired judge presiding by assignment of the TAJP, pursuant to Article 6, Section 6e, has equal rights and remedies as any other defendant in a felony preliminary hearing. Otherwise, TAJP judges should not be allowed to preside over felony prelims.

It makes no sense to have a wholly separate mechanism for reviewing the performance of retired TAJP judges. The redundancy is a disservice to the public and is contrary to the intent of the California Constitution.

Finally, but for the fortunate timing of the Review Committee's hearings and public comment period, I would have no remedy against the Commission and its decision-making staff itself, and their arguably unconstitutional perception that they lack jurisdiction over judges assigned by the TAJP (which are all retired judges) would go unaddressed. I did review the draft document which is the subject of the public comment period, and it doesn't seem to address or clarify the Commission's jurisdiction, nor does it state the limitation of its jurisdiction concerning retired judges, if that is accurate, which I hope it is not.

Thank you for your consideration of my concerns. I intentionally omitted the details of my complaint, and also the name of the Commission employee who signed the letter denying the Commission's jurisdiction, because the complaint was confidential unless and until the Commission accepted the case for investigation, however, if that information is necessary or useful for the Review Committee's work, I will gladly provide it on either a confidential or open basis.

[REDACTED]

--

From: Heather Linn Rosing <HRosing@Klinedinstlaw.com>

Sent: Thursday, February 9, 2023 3:29 PM

To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>

Cc: Nicole Virga Bautista <nbautista@caljudges.org>; Erica R. Yew (EYew@scscourt.org) <eyew@scscourt.org>

Subject: Add'l Submission of the CJA for the Upcoming meeting of the CJP Oversight Committee on February 14-15

Good afternoon.

Attached is the CJA's submission in Word format, which we understand is the preferred format.

Thanks,

Heather

Heather Linn Rosing

CEO and President
Klinedinst PC



NOTE: Klinedinst has expanded to serve clients throughout the Western United States. During the COVID-19 pandemic, please provide electronic



Past President
and Proud Member

service of all documents in addition to other forms of required service until further notice. If you would like to discuss other alternate service arrangements and courtesies, please contact an attorney handling the matter.

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Los Angeles, CA 90017

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The Voice of the California Judiciary

2520 VENTURE OAKS WAY
SUITE 150
SACRAMENTO CA 95833
PHONE: 916-239-4068
TOLL FREE: 1-866-432-ICJA
FAX: 916-924-7323
WEB: WWW.CALJUDGES.ORG

February 9, 2023

TO: The Members of the Committee to Review the Operations and Structure of the California Commission on Judicial Performance ("the Committee")

RE: The Necessity of a Statute of Limitations in Commission Matters

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NICOLE VIRGA BAUTISTA
EXECUTIVE DIRECTOR & CEO

The purpose of this memorandum is to request that the Committee further consider the issue of the statute of limitations and discuss and adopt an alternative to eliminating it entirely. Solid public policy, fundamental notions of fairness, and the rationale and history behind statutes of limitations in general weigh heavily in favor of a workable statute of limitations for Commission matters involving California judges and commissioners. An alternate proposal is set forth at the end of this memorandum.

Thank you for considering the positions stated in this memorandum.

1. History and Rationale Regarding Statutes of Limitation

Statutes of limitation – which are widely used in many legal and judicial contexts across the world – provide a limit on when an action or proceeding may be commenced. The public policy behind them is sound. They promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared. Even if one has a just claim, it is unjust *not* to put the adversary on notice to defend within a reasonable period of time. The right to be free of stale claims is important to a functioning society and a functioning system of judicial resolution. In essence, statutes of limitation prevent the assertion of demands which, through the unexcused lapse of time, have been rendered difficult or impossible to defend. The likelihood of an unjust or erroneous result is amplified many times if the claim is stale.

California's Supreme Court agrees. Decades ago, the Court discussed the policy of limitation statutes, noting that they catalyze the "prompt resolution of claims." See *Addison v. State of California*, 21 Cal. 3d 313, 317, 578 P.2d 941, 943 (1978) (reiterating that the purpose of a limitations statute is to "prevent assertion of stale claims"). A "subsidiary function" of these statutes is to provide speedy notice of potential litigation to potential litigants. *Id.* But competing with this pragmatism is the notion of "technical and unjust forfeitures" – where a plaintiff's delay would unjustifiably prevent him or her a trial on the merits of their claim. *Id.* at 319. This scenario necessitates that courts strike a proper balance between expeditious resolution and procedural adherence. As articulated by the California Supreme Court, tribunals

typically conform to the “general policy which favors relieving plaintiff[s] from the bar of a limitations statute when, possessing several legal remedies he, reasonably and in good faith, pursues one designed to lessen the extent of his injuries.” *Id.* at 318. Such tribunals include the U.S. Supreme Court. So long as a plaintiff pursues and asserts his or her legal rights reasonably and in good faith, courts will not deem trivial delays as one’s “neglect to proceed.” See *Ord. of R.R. Telegraphers v. Ry. Express Agency*, 321 U.S. 342, 364 (1944) (a limitation statute’s “conclusive effects are designed to promote justice”); see *Burnett v. New York Cent. R. Co.*, 380 U.S. 424, 437 (1965) (this “policy of repose, designed to protect defendants, is frequently outweighed, however, where the interests of justice require vindication of the plaintiff’s rights”). Limitation statutes ensure due fairness to defendants while compelling plaintiffs to speedily assert their claims. All judicial courts in the country subscribe to this logic. See *Burnett*, 380 U.S. at 428. (tribunals “ought to be relieved of the burden of trying stale claims when a plaintiff has slept on his rights”).

The same rationale and public policy considerations apply in administrative and disciplinary proceedings, including proceedings before the Commission.

2. California’s Current Statute of Limitations and The Case for Maintaining a Statute of Limitations

California has a long-standing and constitutionally-mandated time limitation for Commission proceedings. The voters themselves determined that this statute of limitations was appropriate, and it is in keeping with the rationale that stale claims present significant fairness issues.

Article VI, section 18(d) of the California Constitution states, in pertinent part, that the Commission on Judicial Performance may censure a judge or former judge or remove a judge for action occurring not more than 6 years prior to the commencement of the judge’s current term or of the former judge’s last term.

Effectively, section 18(d) of California’s constitution provides a maximum statute of limitations of 12 years. Superior court judges serve six-year terms and are elected by county voters on a nonpartisan ballot. If a judge is nearing completion of his six-year term, they are subject to the Commission’s investigation of alleged misconduct taking place six years prior to the commencement of his current term.

California’s provision places a limit on the total time that may elapse from occurrence of an incident to imposition of discipline based on that incident. It thus combines the functions of a statute of limitations and a rule limiting the time proceedings may remain pending. This constitutional provision differs from a typical statute of limitations in that the limitations period varies depending upon how recently the judge began a new term (i.e., the clock restarts upon a judge’s re-election). The difficulty of determining the truth about events that transpired many years in the past is, therefore, not the only policy underlying the limitation. In the California

Supreme Court's words: "The provision also gives due deference to the will of the electorate in re-electing a judge to a new term."¹

As the statute of limitations is considered, the purpose of the Commission's disciplinary procedures must likewise be considered – it is not punishment, but public protection and maintenance of public confidence in the integrity and independence of the judicial system. Necessitating that a judge defend himself or herself for alleged misconduct that may be over a decade (or even decades old), with incomplete records, faded memories, and missing or deceased witnesses, does not serve this purpose.

Additionally, in today's day and age, with accessible websites, easy-to-use internet forms, and a plethora of information readily available to California residents, there is no good reason why complaints against judicial officers cannot be promptly made for consideration by the Commission. The Commission website itself is easy to find and easy to read, with clear instructions on how to make a complaint. Indeed, one only need to type in the words "judicial misconduct California" to find the Commission website. It is the first result on Google, available in .36 seconds. Having statute of limitations in fact *encourages* those concerned about judicial conduct to do the research and make timely complaints, so that problematic behavior and violations of the Canons can be promptly addressed by the public protection agency. In this manner, having a statute of limitations promotes the public protection mission of the Commission.

Moreover, any discussion of the statute of limitations in the Commission setting must be viewed in the context of how statutes of limitations are utilized in judicial proceedings and other administrative proceedings. There is no good rationale for the judges who maintain our system of justice being subjected to a harsher statutes of limitation than civil litigants, criminal defendants, judges in other states, and other professions in California.

As it currently stands, the statute of limitations for Commission matters (i.e., a maximum of 12 years) exceeds the statute of limitations for all civil causes of action² and almost all criminal offenses in California, with the exception of the most violent and heinous felonies, such as first degree murder, treason, terrorism, treason, forcible rape, etc.³ Putting judicial officers in the same bucket those accused of murder and treason is inappropriate for obvious reasons.

Moreover, statutes of limitation are routinely used in administrative proceedings, raising an issue of fairness and parity when an administrative forum has no time limitations. Many judicial performance commissions impose some form of time limit for complaints of judicial

¹ The Court suggests that the constitution's drafters intended for the statute of limitations to vary so as to allow citizen voters to consider any pending complaints of misconduct against an incumbent candidate judge. *Dodds v. Comm'n on Jud. Performance*, 12 Cal. 4th 163, 177, 906 P.2d 1260, 1270 (1995).

² Enforcement of judgments (Cal. Civ. Proc. §337.5) and latent defects in real property (Cal. Civ. Proc. §337.15) utilize a 10-year limitations period.

³ See Cal. Penal Code § 799 ("Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without the possibility of parole, or for the embezzlement of public money, may be commenced at any time").

misconduct. For example, an administrative policy in Arizona⁴ explains that its “Commission [on Judicial Conduct] will not investigate complaints...that occurred more than three years prior to the date of the complaint, unless the allegations involve a long-term pattern of misconduct.” Similarly, in Maryland, “if a complaint alleges acts or omissions that all occurred more than three years prior to the date the complaint was filed,” the complaint is dismissed absent a finding of good cause.⁵ Massachusetts, Vermont, Pennsylvania, Alaska, North Dakota, West Virginia, New Hampshire, Connecticut, Nevada, and North Carolina, among other states, also utilize time limitations pertaining to their proceedings.⁶

Even California attorneys accused of misconduct are afforded a limitations period, to prevent stale claims. With some carefully considered exceptions, the State Bar of California imposes a 5-year period from the date the violation occurred. *See*, State Bar of Cal. Rule of Procedure 5.21.

Most other California professions, which are subject to their own rules of conduct and have their own disciplinary boards, provide a statute of limitations for the prosecution of complaints. For example, the Medical Board of California adopts Business and Professions Code section 2230.5, which generally provides for a 3-year period from discovery of the act or omission, and a maximum limitations period of 7 years for all complaints against doctors. The Department of Real Estate requires that formal complaints be filed with the Department not later than 3 years from the occurrence of the alleged grounds for license discipline. The California Architects Board provides for a 5-year statute of limitations. The Contractors State License Board has a statute of limitations of 4 years. The Dental Board of California provides for a 3-year period to file an accusation against a dentist. The California State Board of Optometry also has a 3-year limitations period. These are just some of California’s consumer focused agencies that utilize a time limit. The list goes on.

It is the height of unfairness, with no good purpose served⁷, to eliminate the statute of limitations in a Commission matter when time limitations exist in virtually all other aspects of the judicial system, including civil and criminal matters, as well as administrative law. In other words, the very system of justice in which the judges work maintains a certain standard, and the proceedings against judges should adhere to that same standard.

⁴ Arizona Commission on Judicial Conduct, Administrative Policy 4.

⁵ Maryland Court Rules, Division 3, Rule 18-421(d)(2).

⁶ See Judicial Conduct Reporter, Volume 44, No. 3 at 20-22.

⁷ Eliminating the statute of limitations is a solution in search of a problem, as no data has been presented demonstrating that judicial misconduct has been perpetuated, or the public has been harmed, as a result of the current voter-instituted system with the current time limitations. Moreover, it is highly likely that Commission investigations would become much more costly, and much more difficult, if matters that are old and stale are being investigated and prosecuted due to a lack of time limitations. This puts Commission staff and ultimately the Commission in a difficult position not only from a cost perspective, but from the perspective of having to contend with acts that occurred in the distant past, with knowledge that stale matters involving a compromised evidentiary record can lead to confusion and, ultimately, miscarriages of justice.

It is also worthy of note that retired judicial officers are subject to Commission complaints, and elimination of a statute of limitations means that retired judicial officers may be subject to complaints or investigations deep into their retirement.

Retaining a temporal limit for civil matters, criminal matters, and administrative matters, including Commission matters, provides indispensable assurances of accurate fact-finding, prompt reporting, and due fairness.

3. Modification to the Constitution as a Matter of Good Public Policy

If the Committee has concerns about the practical application of California's unique statute of limitations for judicial discipline (in that investigations and inquiries of a judge's misconduct will cease upon a judge's starting of a new six-year term), an alternative to eliminating the statute of limitations or modifying the tolling aspect is to adopt a flat period of time in which a judge could be subject to investigation and punishment (*e.g.*, ten years) without tying it to the judge's current term. This would run from the date of the alleged conduct.

One articulated concern has been the necessity for the Commission to conduct investigations and proceedings very quickly if the Commission is up against a statute of limitations. This could be easily remedied by providing for tolling once the Commission officially authorizes an investigation.

A standardized statute of limitations period—that is, an enumerated time period irrespective of a judge's term— would provide consistency, transparency and fairness in the proceedings.

From: Erica R. Yew <EYew@scscourt.org>
Sent: Thursday, February 9, 2023 11:20 AM
To: CJP Committee Public Comment <committeepubliccomment@cjpc.ca.gov>
Cc: Heather Linn Rosing <HRosing@klinedinstlaw.com>
Subject: Re: Upcoming meeting of the CJP Oversight Committee on February 14 and 15 – comment by the California Judges Association and the judiciary (preregistration)

I will speak last if that works for everyone. Thank you so much.

On Feb 10, 2023, at 2:39 AM, CJP Committee Public Comment <committeepubliccomment@cjpc.ca.gov> wrote:

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender.

Hello: This is to acknowledge receipt of your email, which has been forwarded to the chair. The meeting is scheduled to begin at 9:30 a.m. on both days. I am attaching a copy of the agenda for your reference.

From: Heather Linn Rosing <HRosing@Klinedinstlaw.com>
Sent: Wednesday, February 8, 2023 10:35 PM
To: CJP Committee Public Comment <committeepubliccomment@cjpc.ca.gov>
Cc: Erica R. Yew (EYew@scscourt.org) <eyew@scscourt.org>
Subject: Upcoming meeting of the CJP Oversight Committee on February 14 and 15 – comment by the California Judges Association and the judiciary (preregistration)

Good evening. As discussed during our presentations and public comment at earlier meetings, Judge Erica Yew and myself have been coordinating the presentation of the views of the CJA and the judiciary. We have appreciated the opportunity to speak at earlier meetings.

It is our understanding that it is preferable for us to submit our list of judges who wish to give public comment by tomorrow, so we are doing so in this email. We are consolidating the list of all of our speakers into one email, for ease and convenience.

Here is our list:

Speaker	Role
Heather Rosing	Lead
Erica Yew	Lead
Larry Yellin	CJA Board
Timothy Fall	CJA Ethics Comm
Julia Allogiamento	Judicial Perspective
Matthew Guasco	Judicial Perspective
Stuart Rice	Judicial Perspective

It is our understanding that myself and Judge Yew have been allocated five minutes each to speak, to offer our expertise on issues pertaining to the statute of limitations in particular.

With regard to the other listed speakers, we would appreciate being informed of how much time each would have to speak.

It is our understanding that our speakers may be able to speak between 9 and 10 AM, which would be appreciated, given the official dockets/calendars of the judicial officers, and the need for them to attend to their assigned cases. Please let us know.

Thank you very much.

Heather
Heather Linn Rosing
CEO and President
Klinedinst PC



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From: [REDACTED]

Sent: Friday, February 10, 2023 4:27 PM

To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>

Subject: CJP Statute of Limitations

Members of the Committee:

I am distressed to see the Committee is contemplating lifting the Statute of Limitations in CJP proceedings. Time limitations are applied to the prosecution of malfeasance because general fairness and Due Process require the defense be afforded an opportunity to mount a credible opposition. The undue passage of time, in and of itself, prevents a credible defense in most situations. Memories fail, evidence is lost, and the purpose for any punishment dissipates. Therefore, all credible systems of judicial accountability require that a disciplinary action be brought within a reasonable period of time. I hope the Committee considers these traditional pillars of justice in considering any changes to the current CJP Statute of Limitations.

Thank You for Your Consideration,

[REDACTED]

Superior Court Judge

[REDACTED] County

From: [REDACTED]
Sent: Monday, February 13, 2023 4:53 PM
To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>
Subject:

To: Committee to Review the Operations and Structure of the
Commission on Judicial Performance
Cc: Governor and State Auditor

This author became aware over the weekend of your efforts and is writing to offer two recommendations not addressed in the current version of the draft report; one where the committee seems unaware of a need, and another where the committee is aware of a major issue but does not see a practical solution.

RECOMMENDATION AS TO ITEM 23:

"The Committee has heard no proposals and has not itself identified any reason to change the... composition of CJP membership... The Committee recommends no change to basic structure of CJP."

None of the judges on the CJP should be an appellate justice, and recusal should be mandatory as to any judge commissioner from the same court as a complainee.

The reason for mandatory recusal is obvious. The public should not trust a decision or any possible influence by a colleague of the complainee.

An appellate justice may also have a history with a complainee and/or the trial court (most served on a court they review). If a complainant seeks accountability with a CJP having an appellate justice member, it is possible "further action" would be unavailable if the appellate justice can directly or indirectly influence an appellate decision as to the subject behavior (since Supreme Court review is not a matter of right).

"Even where they find that a judge was biased or otherwise improperly influenced in the disposition of a case, conduct commissions may discipline the judge, but the aggrieved litigants must resort to the courts for further action on the case itself."

This is not hypothetical. In a 2022 civil case:

A third-party claim was filed as to real property in California. The claim is governed by a statute mandating a hearing to determine the validity of the claim.

Without the mandated hearing, a judge from the trial court's criminal-department entered an order (the assigned civil-department judge was not absent), denying the claim without stating a specific reason.

Although the order acknowledged that the claim was filed (which was necessary to deny it), the claim filing itself was not entered into the register of actions (the sequence number was skipped).

Subsequently, a clerk of court stated that after the order was entered the filing was moved to the department of the supervising judge. A register of actions entry did not appear until nearly eight months later, after an appeal was filed and fully briefed.

During that period a complaint was filed with the CJP, including prima facie evidence and a declaration demonstrating the stated facts. The commission refused to investigate despite its own statement; *"When a complaint states facts which, if true and not otherwise explained, would be misconduct, the commission orders an investigation in the matter"*.

The appellate justice on the commission subsequently served on the panel deciding the appeal. Affirming the order, the opinion failed to address the briefed facts regarding the trial court's "parking" the filing. The opinion also stated that any motion to consider post-brief

evidence (the ultimate emergence of the filing) would only be considered to affirm an order, not to reverse it.

Hence, none of the judges involved have been held to account for their unethical behavior, and the claimant has no assurance of any "further action" (via the Supreme Court).

RECOMMENDATION AS TO ITEM 27 (Judicial Performance Evaluations):

"Judicial Performance Evaluations - A number of public speakers at Committee meetings suggested that judges should be subject to periodic performance evaluations. The Committee is mindful of the constitutional implications of this suggestion. For example, judges are already subject to a form of evaluation in that they are on the ballot for so-called retention elections. Depending on the criteria set forth in an evaluation scheme, the independence of the judiciary could be compromised, with far-reaching and deleterious consequences to the bedrock principle in American law that judges should decide cases on the merits, free from political or other outside influences, and without fear that an unpopular but legally sound ruling could spell the end of their careers. And the questions of who would conduct such an evaluation, and how it would be used, were not addressed. The Committee makes no recommendation on this subject."

Despite the obvious difficulty, this issue has enormous potential to reverse declining trust in the judiciary (and faith in representative government).

The statement that "judges are already subject to a form of evaluation in that they are on the ballot for so-called retention elections" is not a serious explanation for not implementing an effective performance system. Unlike other public and private sectors in America with continual information flows to monitor and guide performance (and make "retention" decisions, whether in an election or boardroom), there is no reliable public information available for the public to evaluate a judge. Not because it is

inconsistent with "*the bedrock principle in American law that judges should decide cases on the merits*", but because it apparently is "beyond the ambit of the CJP" (considering the case presented in the prior recommendation, perhaps that avoidance should not be considered a disappointment).

The best answer rests with the Governor and state auditor.

First, all persons appearing before a judge or justice (lawyers and clients alike) should be actively INVITED during and the conclusion of every case to report his or her assessment of the judge's or justice's performance, with absolute confidentiality. This should be as simple as filling out an online form on the auditor's website (essential to make confidentiality believable).

Second, this is 2023 and California, the heartbeat of innovation. That information can be readily used to make RELATIVE comparisons of judges and justices (for judges and justices, the public, and the CJP); numerically, visually on bell curves (here is where the judge or justice falls on the bell curve in each area and overall relative to all judges or justices, etc), and via ChatGPT-like narration. Then there could be real information within the judiciary and to the public to make meaningful corrections and retention decisions.

The absence of such a system is a continuing risk to "*An independent, impartial, and honorable judiciary*" (stories like that presented in the prior recommendation will only accelerate already declining trust).

The Governor should cause California to quickly develop and offer this system to other states and countries for the benefit of their citizens.

From: [REDACTED]
Sent: Tuesday, February 14, 2023 1:59 PM
To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>
Subject: Changes to Report on CJP

The power to govern is divided among three equal branches: the executive, the legislative, and the judicial

The three branches are necessary because they keep each other in check and prevent others from having too much power.

The Framers structured the government in this way to prevent one branch of government from becoming too powerful, and to create a system of checks and balances.

The judicial branch interprets laws, but the Senate in the legislative branch confirms the nominations for judicial positions, and can impeach any of those judges and remove them from office.

The responsibility of the judges is protecting individual rights granted by the state constitution; and acting as a check upon the legislative and executive branches of state government.

Structures with checks and balances are essential.

Checks and balances must be restored on our courts. Accountability cannot be left in the hands of judicial conduct commissions --where rather than disciplining wrongdoing by judges, their primary function is to protect the courts and judges from legitimate complaints. The law is not the exclusive property of the bench. It rightly belongs to the people. In the interest of preserving respect for the rule of law and in order to prevent chaos from ruling in our courts the judicial branch as a whole must be accountable. Judicial accountability requires that the public must be able to see that justice is being done.

We cannot rightly claim to be a civilized just society if we do not care that our courts have become institutions of grave injustice of the sort that knowingly -as a matter of apparent judicial policy- puts lives at risk. Discipline of judges is the people's business and accountability of the judicial branch should not be in the hands of judges. At the very least, the Commission on Judicial Performance must be staffed by citizens. Any effective judicial review body must consist entirely of citizens.

Judicial organizations run by judges have demonstrated they cover up errors instead of correcting them. Letting judicial misconduct go through the rinse cycle has the same results as finding a red rag in with the whites, everything is ruined. Even so, judges then put their misdeeds through the spin cycle and tell you it all came out clean. But if you will look, you can see that everything is discolored and ruined. What the bench needs is a good ol' fashioned scrubbing. For this job sunlight will do the job better than bleach.

Confidence in judges is dependent on the public's belief in their impartiality. Judicial misconduct breaks down the very fiber of what is necessary for a functional judiciary – citizens who believe their judges are fair and impartial.

Other states

Iowa, Louisiana, Nebraska, Ohio, Oklahoma, Oregon, Utah, Washington, and West Virginia have no informal disposition of judicial complaints or private sanctions.

Bias

Judicial misconduct occurs when a judge acts in ways that are considered unethical or otherwise violate the judge's obligations of impartial conduct. In 1994 Rules of Court were enacted on the court's duty to prevent bias. But it seems that has had little effect. What, if anything, has the Commission on Judicial Performance done about it? Failure to respect the rights of parties appearing before a judge is cause for removal. Misconduct that is prejudicial to the administration of justice is serious.

Judicial bias is grounded in the principal that a biased judge denies the constitutional due process rights to an impartial judge and a fair trial.

In other states judges has been removed from office for bias against family violence victims. Bias is judicial misconduct. But here you have heard from numerous litigants who have appeared before biased judges who remain on the bench with no discipline.

It is a crime for a person acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution. But I have found and you have heard that judges in California's courts regularly deprive litigants of their right to due process of law and right to an impartial judge and the right to parent their children. What has the Commission done to rectify these serious issues?

When a judge is disqualified for cause the judge's orders are subject to being set aside because litigants have a constitutional right to an impartial judge. The same should be true for judicial discipline. People need to know when a judge is disciplined in order to protect their important rights.

Secrecy of complaints

Transparency of misconduct records is one of the keys to reform. You can't have real accountability with the public unless you are willing to share information. Should we protect the privacy rights of judges over the public's right to know? Public access is necessary to hold judges accountable. Because judges are public servants, the public has a strong interest in identifying how judges are using the public authority. Lack of accessibility to information about judicial misconduct is a significant barrier to reform.

State bar

Violating the Rules of Professional Conduct is a basis for discipline. Discipline may be imposed for violations of oaths. As to complaints, complaining witnesses will receive a letter explaining why the complaint was closed and may request a review of the decision. As part of the investigation of a complaint, the witness will be interviewed. The State Bar may waive confidentiality of a complaint. When an investigation is closed the complaining witness will receive a letter explaining any decision not to discipline an attorney and the complaining witness may request a review of the decision (a second review). The State Bar does not allow private discipline and all discipline records are made available to the public. Judicial misconduct is a serious violation of the public trust and the public has a right to access all information about how judges are performing their public duties.

Police complaints

A recent law expands on requirements for the disclosure of police misconduct records. Disclosure is required for conduct involving prejudice or discrimination. Nineteen states have open or mostly open police misconduct records. Keeping judicial misconduct records secret harms the public.

Discipline for Ethics and Oath violation

When a person assumes judicial office in this state he or she accepts the responsibility of complying with the Code of Judicial Ethics and of upholding the integrity of the judiciary. Code of ethics violations demonstrate a judge is not fit for office. This principle can be found in California case law involving removal of judges. Make judges care about the law.

Other issues

Eliminating the statute of limitations on judicial misconduct complaints is a step in the right direction. Changing the evidentiary standard of proof from clear and convincing to preponderance of evidence would better protect the public from judicial misconduct. Suspension without pay is the right choice, otherwise judges who commit misconduct simply get a paid vacation, which is not acceptable as this is no discipline at all. The Commission, of course, SHOULD ALWAYS refer evidence of crimes committed on the bench to law enforcement, and in the interest of public safety it should never have been kept secret. The Commission should explain to complainants the reasons for dismissal of a complaint in writing.

Submitted by

[REDACTED]

From: Erica R. Yew <EYew@scscourt.org>

Sent: Tuesday, February 14, 2023 5:15 PM

To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>

Cc: Heather Linn Rosing <HRosing@klinedinstlaw.com>; Emma Bradford <Emma.Bradford@cjp.ca.gov>

Subject: Suspension

Dear Members of the Committee:

Thank you so much for your time today.

I wanted to share some thoughts about suspension, although CJA has not taken an official position yet. This is an issue that bears more study. I would recommend that the Committee ask the Legislature to give you more time to study the subject.

In addition to the issues raised by Ms. Bradford regarding the impact upon a judge's retirement benefits and medical insurance status, there are questions about when suspension should be imposed with pay or without pay. Such rules should be clearly delineated.

In addition, I understand from my work on the CJP that many jurisdictions with suspension have found that the vacancy has a negative impact on the courts upon which the suspended judge is supposed to sit. Some states will suspend a judge until the end of the judge's term. That makes for a very long vacancy. Whether short or long, any suspension means more work for the other bench officers on the court who must fill the vacancy and/or a state's need to augment the fund for assigned judges to do the work of the suspended judge.

Since suspensions will impact judicial budgets, it certainly requires more study and information gathering. I would think the California Judicial Council may have an opinion. In addition, the TCPJAC, Trial Court Presiding Judges Advisory Committee, will have information to add and may have an opinion. And finally, the Governor's Office may have an opinion as suspensions leave vacancies that might otherwise be filled by appointment. I will work on ascertaining CJA's position and we can share that by written submission.

From my personal opinion, and not that of the CJA, I would think if a judge is suspended for a long period of time without pay, it might be better for the judge to have closure and to know if he/she/they are out of a job or not. The reason is that judges cannot hold certain office or position and may be prohibited from making alternative income from certain jobs during suspension. And if the suspension is without health insurance, it may really impact the judge and the judge's family.

Further, as the CJP's mandate is protection of the public, suspension does not seem to meet that end. Suspension is more of a punishment for the judge. Requiring some corrective action – such as mentoring or education – would be more in line with protection of the public.

This is certainly a complex issue and one that perhaps the committee would like to consider further before making any recommendations on the subject.

Thank you again.

From: [REDACTED]
Sent: Tuesday, February 14, 2023 11:37 PM
To: CJP Committee Public Comment <committeepubliccomment@cjpc.ca.gov>
Subject:

Dear Senators and Cjp Members:

I am [REDACTED], a Coalition 2023 Parent and proud mother of three beautiful children. My two older children, ages 15 and 9, were taken by DCFS LA in 2016 under WIC 300 (b) "...unable to provide regular care" and were never returned. There wasn't a shred of evidence to prove this perjury and just like the Coalition 2023 letter stated, the social worker was not cross examined at any of the 30 hearings since 2016 and I can confirm and testify to the misuse of public funds by CLC and LADL for over seven years!

The CLC lawyer who represented my children and the LADL lawyer who represented me, never cross examined the CSW and I never waived by rights to cross examine the CSW. In the very beginning of my dependency case in 2016, I asked the lawyer if I could put on a defense. He told me to shut the ****up and take the ****ing classes.

CEO [REDACTED] told me in 2021 on the phone that I have no rights to cross examine the CSW, that it is up to the lawyers. According to all the parents in our vast network, no one has been allowed to cross examined the CSW. I asked for the monthly invoices that CLC and LADL submitted to the AOC on my case which is over 160 and was told there are no invoices. This a cover up.

In Feb 2021, I gave birth to a beautiful baby boy. The CSW did not detain him because she said I am able to provide regular care, but stated at the same time that I am unable to take regular care of my 12 and 15 year old children. In placement for seven years, my daughter started cutting her arms, body piercing, and smoking marijuana. Commissioner [REDACTED] terminated reunification, ordered guardianship that failed in 2022, ordered the children placed with their fathers, and kept the case open.

My daughter is now in Washington with her father since Dec 2022. He discovered in her phone that she posted hundreds of sex photos of her and videos including sex in the school bath room with boys, sex in the park, orally copulating adult males, ejaculations on her body and in her mouth, masturbating, showing her breasts, wants to be a porn star, created by CLC and LADL. She is forever changed...

I am fighting tirelessly for my children for seven years. I filed WIC 388 Petitions based IAC (ineffective assistance of counsel) and denial of due process by CLC and LADL (see Attached) that were denied. I reported Commissioner [REDACTED] for judicial misconduct to the Presiding Judge that was denied (see Attached). I reported the CLC and LADL lawyers to the State Bar based IAC and denial of due process (see Attached) and received no response for four months. The CAP panel refuses to file an Appeal based IAC and denial of due process by CLC and LADL. The entire court system is illegitimate

I and thousands of parents support cancellation of the contracts starting with CLC and LADL, the proposed legislation, and the audits as the means to immediately restore the rule of law and due process to dependency court and the return our children. Stop turning a blind eye

From: Anonymous

Sent: Wednesday, February 15, 2023 10:25 AM

To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>

Subject: Confidential public comment (please do not identify me by name)

Re: draft report

The CJP's mission is to serve the public, to enhance the public's confidence in the judicial system. It is to be a checks and balances process, giving the public (or even attorneys like myself) a voice to combat violations where ethics rules have been violated. This exists whether the case at issue involves family law, wrongful death, medical malpractice, wills and trusts/estate planning, civil rights involving police misconduct or even employment discrimination cases. Ethics violations span a wide spectrum of cases and are not just limited to one area of the law, the reason being is that judges handle many types of, and a variety, of cases over the course of their judicial career. With a current clear and convincing standard, a party may not be able to provide a pattern of the judges misconduct today, but over the course of time, the judge may engage in countless violations over and over again, that span a 10 plus year career that somehow manages to catch up to that judge. This is the reason why the burden of proof and statute of limitations currently in place are so troubling, and why cameras are so greatly needed.

There has obviously been a need, and rightfully so, to ensure that the operations and structure of the CJP are designed to support its mission to protect the public, enforce rigorous standards of judicial conduct, and maintain public confidence in the integrity and independence of the judiciary.

I listened to the comments on February 14, 2023 regarding the draft report, and some were very striking, and contrary to my experiences and the past published opinions on the CJP website. For example, most recently, an appellate jurist was censured and removed from office due to numerous violations where conduct had spanned approximately a decade. With the statute of limitations in place, there was probably more evidence of misconduct that did not reach the decision makers. That conduct also included a fellow appellate jurist complaining about that judge engaging in sexually inappropriate conduct towards her. The special masters presided over 17 days of testimony, with over 100 witnesses and 120 admitted exhibits, and multiple discovery motions. Whether one agrees with the outcome or not is not determinative. The key consideration is that having a statute of limitations inhibits the CJP from fulfilling its role, mission and purpose. Given the vast majority of discovery in that case involving the appellate jurist that was obtained during the process, it is a demonstration that even with the passage of time, when allegations and violations are so significant, witnesses remember and there is record of evidence that can be obtained. It does not grow stale. It's also why the burden of prove is a huge issue as well.

When the scales are balanced where people will be heard, believed and taken seriously, and feel protected, they are more apt to come forward. It is an extremely difficult decision to bring a CJP complaint: a fear of backlash, judgment, not being believed and most importantly retaliation. In the above described case, there was even a powerful appellate justice (and others) who were reluctant obviously to speak about incidents immediately around the time when they actually happened.

The CJP's purpose is frustrated if a party or attorney has to prove appearance or impression of bias by "clear and convincing evidence". The current state of events makes it so difficult for the public to prove

ethics violations to the CJP. Sometimes even when it is obvious, there is a tendency for a violating judge to escape discipline.

Judges talk to other judges, and no party-litigant, attorney, (or judge)-wants to find themselves blackballed. What about instances where there's a conflict of interest with a CJP commissioner and a judge who has a complaint filed against him or her? What system is in place to protect the complainant and confidentiality of the complainant, when there is ongoing litigation pending before the judge whom the party or attorney has complained about?

Within the past few years, the world has been plagued with the Covid pandemic. It has delayed cases from moving through the judicial system. With an already 5 year rule in place, and the impacts of Covid on the courts, a statute of limitations imposed on the CJP would frustrate the goals of the CJP because a party or attorney could find themselves faced with a race against the clock to file a complaint when the litigation engaged in is still pending. A litigant or attorney should not have to choose between litigating a case without fear or reproach, or filing a CJP complaint where needed.

Cameras in the Courtroom are necessary. Access would be dramatically increased, and appreciation for the law, the legal system and the administration of justice would be greatly enhanced, if people could readily see the process with a record of what actually transpired.

There is a sense of apathy when one is faced with judicial misconduct where there is no place to turn without risks. Currently, unless the CJP is empowered to fulfil its mission, there will be a chilling impact on people making complaints and coming forward with information. No one wants to put themselves at risk and in harm's way if ultimately the complaint will go nowhere and the judge is able to engage in ethics violations with no real consequences over and over and over again. When the violations are real, it is not a gender, race or color issue where a violating judge should be able to argue that the system should be more lenient because of a protected class status. A violation is a violation. The issue becomes more of one that is a class or a fraternal issue, where a group of people, some judges not all, might have a tendency to protect their own. The process is not in place to focus on those law-abiding judges, who have nothing to worry about. But those judges who abuse their power and violate the law and ethics rules.

If violations are allowed everyone is in harm's way.

From: [REDACTED]
Sent: Saturday, February 25, 2023 7:20 AM
To: CJP Committee Public Comment <committeepubliccomment@cjp.ca.gov>; Gavin Newsom <gavin@gavinnewsom.com>; Myron Moskowitz <myronmoskovitz@gmail.com>
Subject: Re: COMMISSOIN ON JUDICIAL PERFORMANCE DRAFT REPORT

Course one more thing: with all the national news re SCOTUS abuses of discretion with congress power to subpoena Judges seems .. well that CA legislature should pass a bill that enables Senate and Assembly Judiciary Committees to subpoena Superior Court Judges... like the PJ in [REDACTED] County Superior Court bc well there is a long list of issues esp post COVID with the flood of cases, pending crim cases too, shortage of staff (attorneys do not want to work for law firms or Judges or Courts that do not comply with ABA or CA Rules of Professional Conduct).. attorneys...

On Friday, February 24, 2023 at 06:38:52 PM PST, [REDACTED] wrote:

Here is the puzzle I have to attend to...

The case I have in [REDACTED] County Superior Court, I recently learned, involves a party who is a public company which I knew but I learned its shares are part of CALPERS... Mr. [REDACTED] that disqualifies possibly the entire California Court System .. and there is more.. so take headline not in the headlines...but I have an idea too.. at any rate [REDACTED] County Superior Court is a rogue Superior Court unregulated and with brain exploding issues to share another time. The PJ and its Judges think they can amend Calif Const Art XI Sec 21 unilaterally without a bill passed by the legislature or on the ballot, for example.. OMG

On Friday, February 24, 2023 at 06:21:32 PM PST, Karen Fletche [REDACTED] wrote:

[REDACTED]

To All:

I have read about the approved audit of the Commission on Judicial Performance and result that the reports were not produced. I have been in civil litigation since the 1980s, left the field of law, into the arts. But the concerns about court reform and disciplining of attorneys and Judges have been issues for decades. Off the top I believe there needs to be legislation to amend the California Constitution so that the Bar Association is more like the Medical Association so that more objective remedial measures may apply. I have worked with attorneys in the field of legal malpractice, Bar court proceedings and Commission on Judicial Performance while in law school.

I will not go into details right now, but I have a case in [REDACTED] County Superior Court for which I am feeling like I am on another planet. The PJ and Judges are not on any

panel. There are no tenant right attorneys unlike Rent Control Cities like SF, LA and Oakland, which provide attorney fee provisions thus ability to represent tenant on contingency basis. There are no tenant attorneys in [REDACTED] County or rural areas full stop. I would work for them if they existed. Thus the imbalance is stunning a rogue Court requiring Motions To Disqualify for Cause. I am able enough to respond to the matters (w/ JD and 20+ years in field) unlike general folks in landlord tenant disputes. My approach was however to file a complaint directly with the PJ, it is filed public record (instead of being blocked by Commission on Judicial Performance) eventually those matters will come to legal press, etc.

My thought with the Commission on Judicial Performance refusal to produce records was to get them but "redacted" from the names of the Judges as can be done with California Bar Association attorney complaints for the substantive data necessary to respond with new legislation and reform as your March 2023 recommendations attempts to do, in addition to amending the Calif Const but the new model is failing . Having been inside the field for decades has been failing for decades reasons why I left the field. So I went public and filed my Complaint For Judicial Performance directly with the PJ during proceedings as well: public. I will report on the details another time but the rule of law of has been denigrated by rogue attorneys and Judges for decades and I am of hundreds of former members of the legal field.

I will contact Mr. [REDACTED] separately on my story and how I am approaching it but the courts are in crises in California with the flood of tenant suits and criminal proceedings back logged. There is one Civil Division in [REDACTED] County open two days a week unsustainable as are most Superior Courts where by LA and Alameda put a stay on evictions because of the associated high housing costs and homelessness. There is also the high volume of civil litigation caused by, wait for it, personal computers. I was in the transition from typewriters to personal computers: state courts also can not handle the volume so bias and cut and paste "legal errors" emerge an issue in law practice. These perspectives the public understands.

More to come. Appreciate the efforts being taken but I am not optimistic the recommendations will achieve results.

[REDACTED]