

Heather L. Rosing, Bar No. 183986
Email: hrosing@rosinglaw.com
Christine Roskopf, Bar No. 156555
Email: crosskopf@rosinglaw.com
ROSING POTT & STROHBEHN
in partnership with Zelms Erlich
501 West Broadway, Suite A380
San Diego, CA 92101
Telephone: (213) 695-4409

Attorneys for Hon. Michael J. Carrozzo

FILED

January 16 2025

**COMMISSION ON
JUDICIAL PERFORMANCE**

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE
MICHAEL J. CARROZZO.

NO. 210

**VERIFIED ANSWER OF JUDGE
MICHAEL J. CARROZZO TO
NOTICE OF FORMAL
PROCEEDINGS**

COMES NOW the Honorable Michael J. Carrozzo responds to the Notice of Formal Proceedings (“Formal Notice”) now pending before the Commission on Judicial Performance pursuant to rule 119(c) of the Rules of the Commission on Judicial Performance (“Commission Rules”), admits, denies, and alleges as follows:

I. TO THE OVERALL FORMAL NOTICE,

Judge Carrozzo: Answers and alleges that his current term in office commenced on January 1, 2023.

Judge Carrozzo accepts full responsibility for his conduct. He offers no excuses. Most importantly, he has learned from these experiences; sought additional training and mentorship; and will not permit reoccurrence of the violations. He cannot and does not, however, accept responsibility for allegations that are false.

Judge Carrozzo did not intentionally mislead or misrepresent the facts in his prior responses to the Commission. None of the Commission’s allegations relate to Judge Carrozzo’s official acts on the bench, to a case or matter before the court, or involve allegations that Judge Carrozzo failed to perform his judicial duties.

Judge Carrozzo denies that his private conduct constitutes willful misconduct in office, failure or inability to perform his duties, involves habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of article VI, section 18(d) of the California Constitution, providing for censure or removal from office.

Judge Carrozzo denies that he has engaged in conduct constituting a dereliction of duty within the meaning of article VI, section 18(d) of the California Constitution providing for public or private admonishment.

Judge Carrozzo admits that he has engaged in an improper action within the meaning of article VI, section 18(d) of the California Constitution providing for public or private admonishment.

Judge Carrozzo responds specifically here to the Commission's allegations:

COUNT ONE

Judge Carrozzo admits that in 2017 and 2018, he was Assistant Presiding Judge of the Santa Barbara County Superior Court and that, in 2019 and 2020, he served as the Presiding Judge in that court.

Judge Carrozzo admits that Sara Eklund was his assigned judicial secretary beginning in November 2016 until he became Assistant Presiding Judge on January 1, 2017.

Judge Carrozzo denies that he intentionally engaged in the unauthorized practice of law in 2018, 2019, and 2020 as alleged in the Formal Notice.

A. Traffic Accident

Judge Carrozzo is informed and believes, and on that basis admits that Ms. Eklund was involved in an auto accident on or about October 19, 2018, and that she sought reimbursement from Alliance United/Kemper Auto Insurance Company and The Rawlings Group.

Judge Carrozzo admits that between August 16 and August 19, 2019, he signed a letter to the Rawlings Group dated August 16, 2019, bearing letterhead which identified him as "Attorney at Law." Judge Carrozzo denies that he caused the letter to be transmitted to the Rawlings Group by facsimile transmission from the court's administration office.

Judge Carrozzo denies that he misrepresented material facts and intentionally conveyed the false representation that he was entitled to practice law on August 16, 2019.

Judge Carrozzo admits that, on November 13, 2019, he spoke on the telephone with Mr. Brock Llyod, a representative of the Rawlings Group, concerning Ms. Eklund's claim.

On information and belief, Judge Carrozzo admits that Rawlings Group closed Ms. Eklund's claims file on or about November 13, 2019.

Judge Carrozzo admits that, on November 13, 2019, he was not an active licensee of the State Bar of California and was not permitted to practice law.

Jude Carrozzo denies that he knew and intended that Mr. Lloyd believed him to be Ms. Eklund's attorney, that his statements to Mr. Lloyd were deliberately deceptive and misleading. Judge Carrozzo further denies that he misrepresented material facts and intentionally conveyed the false representation that he was entitled to practice law at the time.

All other facts set forth in subsection A of Count One of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection A of Count One.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, 4A, and 4G of the Code of Judicial Ethics, as well as sections 6125 and 6126(a) of the California Business and Professions Code as alleged in the Formal Notice.

B. Lease

On information and belief, Judge Carrozzo admits that, on or about May 2019, Ms. Eklund entered into a new lease.

All other facts set forth in subsection B of Count One of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection B of Count One.

Judge Carrozzo denies that his conduct violated canons 2, 2A, 4A, and 4G of the Code of Judicial Ethics, as well as sections 6125 and 6126(a) of the California Business and Professions Code as alleged in the Formal Notice.

C. Mattress

On information and belief, Judge Carrozzo admits that on June 29, 2019, Ms. Eklund ordered a mattress from DreamCloud.

On information and belief, Judge Carrozzo admits that DreamCloud did not timely deliver the mattress to Ms. Eklund.

All other facts set forth in subsection C of Count One of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection C of Count One.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, 4A, and 4G of the Code of Judicial Ethics, as well as sections 6125 and 6126(a)

of the California Business and Professions Code as alleged in the Formal Notice.

D. Santa Barbara County Employee Retirement System
("SBCERS") Form

Judge Carrozzo admits that he took a SBCERS form, placed it on pleading paper and fixed the formatting of the fill-in items paper for Ms. Eklund.

All other facts set forth in subsection D of Count One of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection D of Count One.

Judge Carrozzo denies that his conduct violated canons 2, 2A, 4A, and 4G of the Code of Judicial Ethics, as well as sections 6125 and 6126(a) of the California Business and Professions Code as alleged in the Formal Notice.

E. Car

On information and belief, Judge Carrozzo admits that Ms. Eklund sold a Ford Focus in October of 2019.

All other facts set forth in subsection E of Count One of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained

the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection E of Count One.

Judge Carrozzo denies that his conduct violated canons 2, 2A, 4A, and 4G of the Code of Judicial Ethics, as well as sections 6125 and 6126(a) of the California Business and Professions Code as alleged in the Formal Notice.

COUNT TWO

Judge Carrozzo's responses to the allegations in Count One are incorporated by reference herein.

A. Preliminary Investigation Letter

Judge Carrozzo admits that on August 1, 2023, he responded to the Commission March 30, 2023, preliminary investigation letter. The letter speaks for itself.

Judge Carrozzo denies each and every remaining allegation in subsection A of Count Two.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, 3, 3C, and 3D(4) of the Code of Judicial Ethics as alleged in the Formal Notice.

B. Preliminary Investigation Letter

Judge Carrozzo admits that on August 1, 2023, he responded to the Commission's March 30, 2023, preliminary investigation letter. The letter speaks for itself.

Judge Carrozzo admits that on August 14, 2023, he responded to the Commission's August 10, 2023, follow-up letter. The letter speaks for itself.

Judge Carrozzo admits that his statement to the effect no letter was sent was later determined to be inaccurate.

Judge Carrozzo denies that his statement to the effect no letter was sent was misleading or reflected a lack of candor to the Commission or that he knew or should have known that his statement to the Commission was false.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, 3, 3C, and 3(D)(4) of the Code of Judicial Ethics as alleged in the Formal Notice.

C. C. Preliminary Investigation Letter

Judge Carrozzo incorporates his response to subsection B of Count Two herein.

Judge Carrozzo admits that on August 1, 2023, he responded to the Commission's March 30, 2023, preliminary investigation letter. The letter speaks for itself.

Judge Carrozzo denies that his statements and representations in the letter were inaccurate, incomplete, misleading, and reflected a lack of candor to the Commission or that he knew or should have known that his statements and representations were inaccurate, incomplete, or misleading.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, 3, 3C, and 3(D)(4) of the Code of Judicial Ethics as alleged in the Formal Notice.

COUNT THREE

Judge Carrozzo's responses to the allegations in Count One and Count Two are incorporated by reference herein.

Judge Carrozzo denies that in 2018, 2019, and 2020, he misused his judicial title and the prestige of judicial office for the benefit of himself or others.

A. Statements Regarding Ms. Eklund's Absence from Work

Judge Carrozzo admits that, on December 19, 2018, he prepared a letter on office stationery stating Ms. Eklund's job title, hourly wage, and

confirming her absences from work on December 4 and December 5, 2018. The letter speaks for itself.

Judge Carrozzo admits that he did not have access to the Human Resources Department's court employee database or payroll records.

Judge Carrozzo cannot admit or deny whether only employees in the Human Resources Department have access to that data needed to verify a court employee's employment information. By way of example, while he was not an employee in the court's Human Resources Department, he did have knowledge of the information contained in the December 19, 2018, letter.

Judge Carrozzo denies that his conduct constituted an abuse of authority and violated canons 2, 2A, 2B(1), and 2B(2) of the Code of Judicial Ethics as alleged in the Formal Notice.

B. Department of Motor Vehicles

Judge Carrozzo incorporates his responses to subsection A of Count Three.

All other facts set forth in subsection B of Count Three of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e) exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection B of Count Three.

Judge Carrozzo denies that his conduct constituted an abuse of authority and violated canons 1, 2, 2A, 2B(1), and 2B(2) of the Code of Judicial Ethics as alleged in the Formal Notice.

C. California Highway Patrol ("CHP") Collision Report

Judge Carrozzo admits that on October 26, 2018, he obtained an unredacted copy of a collision report relating to Ms. Eklund's October 2018 traffic accident from the CHP for Ms. Eklund's benefit without filing the usual form or paying the fee to the CHP.

All other facts set forth in subsection C of Count Three of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection C of Count Three.

Judge Carrozzo admits that his conduct constituted an abuse of authority and violated canon 2B(2) of the Code of Judicial Ethics as alleged in the Formal Notice.

Judge Carrozzo denies that his conduct violated canons 2, 2A, and 2B(1) of the Code of Judicial Ethics as alleged in the Formal Notice.

D. School

Judge Carrozzo asserts that gratuitous references in the Formal Notice to Ms. Eklund's medical status violate Ms. Eklund's constitutional right to privacy, Commission Rules, rule 118(b), and California Rules of Professional Conduct ("CRPC") rules 3.6(a), 3.6(d), and 3.8(e). Further, Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

Judge Carrozzo admits that in 2020 he contacted the School about his child's possible enrollment.

All other facts set forth in subsection D of Count Three of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection D of Count Three.

Judge Carrozzo denies that his conduct constituted an abuse of authority and violated canons 2, 2A, 2B(1), and 2B(1) of the Code of Judicial Ethics as alleged in the Formal Notice.

COUNT FOUR

Judge Carrozzo's responses to the allegations in Counts One through Three are incorporated by reference herein.

Judge Carrozzo asserts that gratuitous references to Ms. Eklund's work history, duties, and marital status violate Ms. Eklund's constitutional right to privacy, Commission Rules, rule 118(b), and CRPC rules 3.6(a), 3.6(d), and 3.8(e). Further, Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

Judge Carrozzo admits that Ms. Eklund was his assigned secretary beginning November 2016 until he became Assistant Presiding Judge on January 1, 2017. Judge Carrozzo is informed and believes that Ms. Eklund

performed her assigned secretarial duties while she served as a judicial secretary for the Santa Barbara County Superior Court.

All other facts set forth in the preface to Count Four of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in the preface to Count Four.

Judge Carrozzo denies each and every other allegation contained in the preface to Count Four including but not limited to his reasonable expectation of privacy for email communications housed on a third-party server.

A. Intemperate Statements

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

All other facts set forth in subsection A of Count Four of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge

Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection A of Count Four.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, and 2B(1), 3B(4), 3C(1), and 3C(3) of the Code of Judicial Ethics as alleged in the Formal Notice.

B. Intemperate Statements

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates CJP rule 118(b).

All other facts set forth in subsection B of Count Four of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection B of Count Four.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, and 2B(1), 3B(4), 3C(1), and 3C(3) of the Code of Judicial Ethics as alleged in the Formal Notice.

C. Intemperate Statements

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

All other facts set forth in subsection C of Count Four of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection C of Count Four.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, and 2B(1), 3B(4), 3C(1), and 3C(3) of the Code of Judicial Ethics as alleged in the Formal Notice.

D. Intemperate Statements

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

All other facts set forth in subsection D of Count Four of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection D of Count Four.

Judge Carrozzo denies that his conduct violated canons 1, 2, 2A, and 2B(1), 3B(4), 3C(1), and 3C(3) of the Code of Judicial Ethics as alleged in the Formal Notice.

COUNT FIVE

Judge Carrozzo's responses to the allegations in Counts One through Four are incorporated by reference herein.

Judge Carrozzo asserts that gratuitous references to Ms. Eklund's marital status, Judge Carrozzo's marital status, and Ms. Eklund's medical history violate their constitutional right to privacy, Commission Rules, rule 118(b), and CRPC rules 3.6(a), 3.6(d), and 3.8(e). Further, Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

Judge Carrozzo admits that in 2018, 2019, and 2020, he utilized public property resources, including court email, fax machine, telephone, and computer for personal, nongovernmental purposes.

Judge Carrozzo denies that his use of public property was not a *de minimus* use of public resources.

A. Use of Public Property

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion violates Commission Rules, rule 118(b).

Judge Carrozzo admits that in 2018, 2019, and 2020, he utilized public property resources, including court email, fax machine, telephone, and computer for personal, nongovernmental purposes

All other facts set forth in subsection A of Count Five of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection A of Count Five.

Judge Carrozzo denies that his conduct violated canons 2 and 2A of the Code of Judicial Ethics as alleged in the Formal Notice.

B. Use of Public Property

Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

Judge Carrozzo admits that in 2019, and 2020, he utilized public property resources, including court email, fax machine, telephone, and computer for personal, nongovernmental purposes

All other facts set forth in subsection B of Count Five of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in subsection B of Count Five.

Judge Carrozzo denies that his conduct violated canons 2 and 2A of the Code of Judicial Ethics as alleged in the Formal Notice.

COUNT SIX

Judge Carrozzo's responses to the allegations in Counts One through Five are incorporated by reference herein.

Judge Carrozzo asserts that gratuitous references to Ms. Eklund's marital status, Judge Carrozzo's marital status, and Ms. Eklund's medical history violate their constitutional right to privacy, Rules of the Commission on Judicial Performance, rule 118(b), and California Rules of Professional Conduct rules 3.6(a), 3.6(d), and 3.8(e). Further, Judge Carrozzo asserts that the Commission has no jurisdiction over non-judges and therefore allegations regarding the actions of Ms. Eklund and/or her expectations, beliefs or state of mind are irrelevant to this proceeding and their inclusion in the Formal Notice violates Commission Rules, rule 118(b).

All facts set forth in Count Six of the Formal Notice are based on information stored on a third-party server to which Judge Carrozzo and others have a right to privacy and therefore required the examiner to obtain authorization or a subpoena with notice to Judge Carrozzo and others providing an opportunity to quash or seek a protective order. The examiner failed to comply with privacy laws and thus obtained the information illegally. Pursuant to Commission Rules, rule 104(e), Judge Carrozzo exercises his right to refuse to respond to each and every other allegation based thereon contained in Count Six.

Judge Carrozzo denies that his conduct violated canons 2, 2A, 2B(1), 3C(1), 3C(5), and 4A of the Code of Judicial Ethics as alleged in the Formal Notice.

II. AFFIRMATIVE DEFENSES

1. The California Constitution Article Six, Section 18(d) limits the authority of the Commission to censure or remove a judge to actions that constitute 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. The conduct alleged by the Commission in the Formal Notice does not fall within the Commission's authority to censure or remove Judge Carrozzo.

2. Judge Carrozzo cannot be disciplined for actions of others. The Commission must determine, by clear and convincing evidence, that Judge Carrozzo's actions, and his actions alone, support the finding of misconduct sufficient to support discipline.

3. Pursuant to Rule 111.4, Judge Carrozzo cannot be disciplined for mere legal error. If the Commission finds that Judge Carrozzo's belief that his actions were legally permitted was in error, the Commission must, in addition, prove by clear and convincing evidence that Judge Carrozzo's error, "clearly and convincingly reflects bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard of the law, or any purpose other than the faithful discharge of judicial duty."

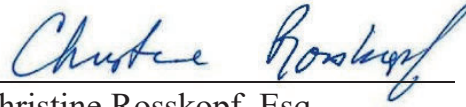
4. The Preliminary Investigation letter was defective in that it failed to include the actual emails which contained Judge Carrozzo's alleged comments.

5. The Formal Notice is defective in that it contains so much extraneous, unnecessary, and inflammatory material that it violates Commission Rules, rule 118(b) requiring that, "[t]he notice shall specify in ordinary *and concise language* the charges against [Judge Carrozzo] and

the alleged facts *upon which such charges are based* (emphasis added).”

Respectfully submitted,

January 16, 2025



Christine Rosskopf, Esq.

ROSING POTT & STROHBEHN

In partnership with Zelms Erlich

Counsel for Hon. Michael J. Carrozzo

VERIFICATION

I, Michale J. Carrozzo, am the respondent in the above-referenced proceeding.

I have read the VERIFIED ANSWER OF JUDGE MICHAEL J. CARROZZO TO NOTICE OF FORMAL PROCEEDINGS and know its contents. The matters stated therein are true of my own knowledge except as to those matters which are stated on information and belief and, as to those matters, I believe them to be true.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed this 16th day of January at Santa Barbara County, California.



Michael J. Carrozzo

PROOF OF SERVICE

I, the undersigned am over 18 years of age and not a party to this action. I am employed in the County of San Diego, State of California. My business address is 501 West Broadway, Suite A380, San Diego, California 92101. My email address is lgilmore@rosinglaw.com.

On January 16, 2025, I served true copies of the following document(s) described as:

VERIFIED ANSWER OF JUDGE MICHAEL J. CARROZZO TO NOTICE OF FORMAL PROCEEDINGS

on the interested parties in this action:

Emma Bradford, Esq.
Legal Advisors to Commissioners
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102

Mark Lizarraga, Esq., Trial Counsel
Gregory Cleaver, Esq., Assistant Trial Counsel
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102

REDACTED

REDACTED

Gabrielle Jackson, Esq.
Long & Levit LLP
350 S. Grand Avenue, Suite 2360
Los Angeles, CA 90071
GJackson@longlevit.com

as follows:

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I electronically served the document via email to the persons listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 16, 2025, at San Diego, California.



Lori Gilmore