

1 MULL & MULL
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Sacramento, California 95814
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4 Attorneys for Respondent

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THE COMMISSION ON JUDICIAL PERFORMANCE

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THROUGH ITS MASTER, THE HONORABLE

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ROTHWELL B. MASON

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INQUIRY CONCERNING A JUDGE)

No. 39

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ANSWER TO SECOND AMENDED NOTICE
OF FORMAL PROCEEDINGS

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COMES NOW JERROLD L. WENGER, Judge of the El Dorado Justice

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Court District, County of El Dorado, State of California, and

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answering the Second Amended Notice of Formal Proceedings herein,

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admits, denies and alleges as follows:

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FIRST CAUSE OF ACTION

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Answering Count=One, A-1, Respondent admits having conversa-

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tions with attorney JOHN R. OLSON in chambers concerning one

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ROBERT ALDRICH. Respondent further admits referring to ALDRICH

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in said conversations by the terms, "puke" and "psychopath".

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Respondent further admits that a local newspaper published certain

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of Respondent's remarks concerning a ruling of the El Dorado

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County Superior Court, in which Respondent's contempt order re:

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ALDRICH was annulled.

1 Except as expressly admitted, Respondent denies each and
2 every, all and singular, generally and specifically the allega-
3 tions contained in Count One, A-1.

4 II

5 Answering Count One, A-2, Respondent admits the allegations
6 contained in the first paragraph of Count One, A-2.

7 Respondent further admits that attorney BRAUNSTEIN, after
8 June 3, 1977, requested a trial on the merits; that Respondent,
9 on June 20, 1977, notified the parties that "further proceedings"
10 would be held on July 1, 1977; and that attorney BRAUNSTEIN, on
11 June 22, 1977, filed a motion to disqualify Respondent pursuant to
12 Code of Civil Procedure, section 170.6.

13 Respondent further admits that a hearing in the case was
14 held July 1, 1977 in the absence of attorney BRAUNSTEIN and
15 defendant LeROY LePEILBET and that, Respondent issued a Notice of
16 Order to Show Cause hearing, dated July 7, 1977, regarding a contemp-
17 of court hearing against attorney BRAUNSTEIN and defendant LePEILBET

18 Respondent further admits that, on July 29, 1977, Respondent
19 called and questioned witnesses in this case.

20 Respondent further admits that judgment was entered in
21 plaintiff's favor and that, on December 29, 1977, said judgment was
22 reversed on appeal to the Superior Court.

23 Except as expressly admitted, Respondent denies each and
24 every, all and singular, generally and specifically the allegations
25 contained in Count One, A-2.

26 III

27 Answering Count One, A-3, Respondent admits the allegations
28 contained in the last two sentences of Count One, A-3. Except as

1 expressly admitted, Respondent denies each and every, all and
2 singular, generally and specifically the allegations contained in
3 Count One, A-3.

4 IV

5 Answering Count One, A-4, Respondent has no information
6 or belief sufficient to enable him to answer the allegation con-
7 tained in the last sentence of the first paragraph thereof, and
8 basing his denial upon that ground, denies each and every, all
9 and singular, generally and specifically, the allegations contained
10 in the last paragraph of Count One, A-4.

11 V

12 Answering Count One, A-5, Respondent has no information
13 or belief sufficient to enable him to answer the allegation con-
14 tained in the last sentence thereof, and basing his denial upon
15 that ground, denies each and every, all and singular, generally
16 and specifically, the allegations contained therein.

17 VI

18 Answering Count One, A-6, Respondent admits the allegations
19 contained in the first sentence thereof. Except as expressly
20 admitted, Respondent denies each and every, all and singular,
21 generally and specifically the allegations contained in Count One,
22 A-6.

23 VII

24 Answering Count One, B-1, Respondent admits the allegations
25 contained in the first three paragraphs thereof.

26 Respondent further admits that, on May 15, 1978, Respondent
27 found attorney CLINE in summary contempt of court and imposed a
28 fine of \$300.00. Respondent further admits that attorney CLINE

1 refused to pay said fine and that, thereupon, Respondent ordered
2 attorney CLINE to surrender himself to the custody of the El Dorado
3 County Sheriff for incarceration until such time as the fine was
4 paid. Respondent further admits execution of said order was stayed
5 upon request, and that a written order was filed on May 16, 1978.

6 Except as expressly admitted, Respondent denies each and every
7 all and singular, generally and specifically the allegations con-
8 tained in Count One, B-1.

9 VIII

10 Answering Count One, B-2, Respondent has no information
11 or belief sufficient to enable him to answer the allegations con-
12 tained in the third sentence of the first paragraph thereof, and
13 basing his denial upon that ground, denies each and every, all and
14 singular, generally and specifically, the allegations therein.

15 Respondent denies each and every, all and singular, generally
16 and specifically the allegations contained in the first and third
17 sentences of the second paragraph of Count One, B-2.

18 IX

19 Answering Count One, B-3, Respondent admits the allegations
20 in the first sentence thereof.

21 Respondent has no information or belief sufficient to
22 enable him to answer the allegations contained in the second and
23 third sentences thereof, and basing his denial upon that ground,
24 denies each and every, all and singular, generally and specifically
25 the allegations therein.

26 Respondent denies each and every, all and singular, generally
27 and specifically the allegations contained in the fourth sentence
28 of Count One, B-3.

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X

Answering Count One, B-4, Respondent admits the allegations thereof.

XI

Answering Count One, B-5, Respondent denies each and every, all and singular, generally and specifically the allegations contained in the fourth and eight sentences thereof.

XII

Answering Count One, B-6, Respondent denies each and every, all and singular, generally and specifically the allegations contained in the last sentence thereof.

XIII

Answering Count One, B-7, Respondent admits the allegations thereof.

XIV

Answering Count One, B-8, Respondent refers to his answer to Count One, A-2, and incorporates that answer herein by reference as if fully set forth at length.

XV

Answering Count One, B-9, Respondent refers to his answer to Count One, A-3, and incorporates that answer herein by reference as if fully set forth at length.

XVI

Answering Count One, B-10, Respondent refers to his answer to Count One, A-4, and incorporates that answer herein by reference as if fully set forth at length.

XVII

Answering Count One, C-1, Respondent admits that, in the

1 case of People v. Cornblum, No. 7438, he dismissed the complaint.
2 Except as expressly admitted, Respondent denies each and every,
3 all and singular, generally and specifically the allegations in
4 Count One, C-1.

5 XVIII

6 Answering Count One, C-2, Respondent admits the allegations
7 thereof.

8 XIX

9 Answering Count One, C-3, Respondent refers to his answer
10 to Count One, A-1, and incorporates that answer herein by reference
11 as if fully set forth at length.

12 XX

13 Answering Count One, C-4, Respondent refers to his answer
14 to Count One, A-6, and incorporates that answer herein by reference
15 as if fully set forth at length.

16 XXI

17 Answering Count One, D-1 through D-7, Respondent refers
18 to his answer to Count One, A-2; Count One, B-1; Count One, B-2;
19 Count One, B-4; Count One, B-5; Count One, B-6; and Count One,
20 B-7; respectively, and incorporates those answers herein by referenc
21 as if fully set forth at length.

22 SECOND CAUSE OF ACTION

23 I

24 Answering Count Two, Respondent refers to his answer to
25 Count One, A through D, respectively, and incorporates those answers
26 herein by reference as if fully set forth at length.

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VERIFICATION

I, Richard M. Skinner, declare:

I am an attorney at law duly admitted and licensed to practice before all courts of this State and I have my professional offices at 1007 Seventh Street, Sacramento, Sacramento County, California.

I am one of the attorneys of record for respondent in the above-entitled matter.

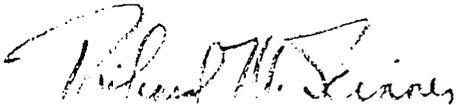
Said respondent is absent from the county in which I have my office and for that reason I am making this verification on his behalf.

I have read the foregoing ANSWER TO SECOND AMENDED NOTICE OF FORMAL PROCEEDINGS and know the contents thereof.

I am informed and believe that the matters stated therein are true and, on that ground, I allege that the matters stated therein are true.

Executed on April 30, 1979, at Sacramento, Sacramento County, California.

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


Richard M. Skinner

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715 Crocker Bank Building
2 1007 Seventh Street
Sacramento, California 95814
3 Telephone: (916) 443-4626

4 Attorneys for Respondent

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ROTHWELL B. MASON

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No. 39

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ANSWER TO THIRD AMENDED NOTICE
OF FORMAL PROCEEDINGS

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COMES NOW JERROLD L. WENGER, Judge of the El Dorado Justice
Court, County of El Dorado, State of California, and answering the
Third Amended Notice of Formal Proceedings herein, admits, denies,
and alleges as follows:

FIRST CAUSE OF ACTION

I

Answering Count One, Respondent refers to his answer to
Count One, as set forth in his answer to the Second Amended Notice
of Formal Proceedings herein, and incorporates that answer herein
by reference as if fully set forth at length.

II

Answering Count One, E, Respondent denies each and every,
all and singular, generally and specifically the allegations contained
therein.

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III

Answering Count One, F, Respondent denies each and every, all and singular, generally and specifically the allegations contained therein.

SECOND CAUSE OF ACTION

I

Answering Count Two, Respondent refers to his answer to Count One, A through F, respectively, and incorporates those answers herein by reference as if fully set forth at length.

THIRD CAUSE OF ACTION

II

Answering Count Three, Respondent refers to his answer to Count One, A through F, respectively, and incorporates those answers herein by reference as if fully set forth at length.

AFFIRMATIVE DEFENSE TO THE FIRST CAUSE OF ACTION

Respondent has committed no acts amounting to wilful misconduct in office.

AFFIRMATIVE DEFENSE TO THE SECOND CAUSE OF ACTION

Respondent has committed no acts prejudicial to the administration of justice. Respondent has committed no acts that bring the judicial office into disrepute.

AFFIRMATIVE DEFENSE TO THE THIRD CAUSE OF ACTION

Respondent has committed no acts which amount to a persistent failure, or a failure of any kind or amount, to perform his judicial duties. Respondent has committed no acts which amount to a persistent inability, or an inability of any kind or amount, to perform his judicial duties.

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Dated: August 13, 1979

MULL & MULL

By Richard M. Skinner
Richard M. Skinner

