

LAW OFFICES OF  
**BARBARA A. KAUFFMAN**

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July 12, 2014

C. Hallinan  
Public Inquiry Unit  
State of California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244

Tani Cantil-Sakauye  
Chair, Judicial Council  
455 Golden Gate Ave.  
San Francisco, CA 94102

Commission on Judicial Performance  
455 Golden Gate Avenue  
Suite 14400  
San Francisco, CA 94102

The Honorable Faye D'Opal  
Presiding Judge  
Marin County Superior Court  
3501 Civic Center Drive  
San Rafael, CA 94903

Re: Follow-up to 6/9/14 Report of Evidence Tampering, Obstruction of Justice by:  
Marin Superior Court Judge Beverly Wood  
Marin Court Executive Officer Kim Turner

Dear Sir/Madam:

I am in receipt of C. Callahan's letter of June 24, 2014 from the Public Inquiry Unit ("PIU") of the State of California, Department of Justice, a copy of which is attached hereto.

The PIU letter indicates that the complaints about Kim Turner should be directed to the Presiding Judge of the Marin Superior Court, and the Administrative Office of the Courts ("AOC"). I did include Marin Presiding Judge Faye D'Opal as an addressee in my June 9, 2014

complaint. I understand from Judge D'Opal's court clerk that a letter response will soon be forthcoming. I also sent a copy of the complaint to Tani Cantil-Sakauye, Chair of the Judicial Council. She recently made clear via public announcement that the AOC is the staff arm of the Judicial Council, and that she and the Judicial Council are directly responsible for AOC actions and activities. According to tracking information, the 6/9/14 complaint addressed to Chief Justice Cantil-Sakauye was delivered the morning of June 12, 2014. I called the Judicial Council on June 30, 2014, to check on the status, but the gentleman who answered the phone told me he did not know where the complaint was, and had no way to track it. I have not heard anything more but would greatly appreciate it if, as suggested by the Attorney General's office, Chief Justice Tani Cantil-Sakauye would direct the complaint to the appropriate person within the Judicial Council and make it a personal undertaking to make sure this is handled appropriately. This is especially important as last year the Judicial Council gave former Judicial Council Member Kim Turner an award for administrative excellence. I am certain the Judicial Council understands the grave danger to the public of having a court administrator purposefully perpetuate a false date of entry of a minute order in the official certified Marin Superior Court Register of Actions and in the official, certified minute order itself, particularly when the date of entry of the minute order is a key issue in the case. The public and the integrity of the Marin Superior Court official records must be protected from such actions.

The PIU letter indicates that the complaints about Beverly Wood should be directed to the Commission on Judicial Performance ("CJP"), and I did include the CJP as an addressee in my June 9, 2014 complaint. I understand it has been assigned to the legal department and it will take three to four months for a result.

The 6/9/14 complaint named a variety of criminal statutes that appear applicable to the actions of Wood and Turner (Government Code section 6200, CA Penal Code sections 182 and 96.5, and Federal RICO statutes ), and I would like to add another—CA Penal Code Section 134. This is NOT an exhaustive list. I expect law enforcement personnel know far better than I all of the laws applicable to a case where two court officials are perpetuating a false date of entry of order in the official court records. The complaint requested, among other things, a **criminal** investigation of evidence tampering and indictments of Wood, Turner and others involved for all applicable crimes.

Yet, the PIU did not make a referral to an appropriate law enforcement agency. *If the Attorney General does not have legal authority over crimes committed by judicial officers and judicial branch employees, who does?* The Commission on Judicial Performance? The Presiding Judge of the Marin Superior Court? The Judicial Council? Are they appropriate entities to undertake a criminal investigation? I am requesting that the Attorney General give me direction with respect to this matter.

I must express my concern to all addressed herein about the delay in action taken to address the issues raised in the 6/9/14 complaint. On June 20, 2014, Judge Wood issued a sworn statement in another case stating that all rulings made by her in **every action** over which she presides are based entirely on the facts and arguments officially presented to her and her understanding of the law. In other words, she is unapologetic about her behavior in FL064080, and appears to genuinely believe that what she did (holding secret hearings, issuing secret orders,

and purposefully perpetuating a false date of entry of an order) is just fine. As all addressed herein are fully aware, none of those things are fine under the law, and perpetuating backdated orders when the date of entry is the key issue is particularly egregious. Please see the attached CJP Decision and Order Imposing Public Admonishment on Napa Judge Francisca Tisher, and a related resignation announcement of Commissioner Kelly Boyd made days after Napa County DA Gary Lieberstein asked the Attorney General's office to investigate Boyd's conduct in a 2002 child custody case in which Napa Superior Court personnel backdated a court document.

Apparently the Napa County DA believed, as I did, that the Attorney General was an appropriate person to investigate a bench officer's involvement in backdating court documents.

I look forward to a referral from the PIU as to which law enforcement agency/entity should be handling the investigation with respect to crimes that may have been committed by Judge Wood and Kim Turner.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Barbara Kauffman". The signature is written in dark ink and is positioned above the printed name.

BARBARA A. KAUFFMAN



**PUBLIC INQUIRY UNIT**  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
(916) 322-3360  
TOLL FREE: (800) 952-5225  
TTY: CA Relay Service  
(800) 735-2922

June 24, 2014

PIU: 97476

Ms. Barbara Kauffman, Esq.  
204 West Lake Street, Suite D  
Mount Shasta, CA 96067

**RE: Marin County Superior Court Executive Officer Kim Turner**  
**Marin County Superior Court Judge Beverly Wood**

Dear Ms. Kauffman:

Thank you for your follow-up correspondence of June 9, 2014 regarding your complaints against an employee and a judge of the Marin County Superior Court.

As we explained in our letter of March 17, 2006, our office does not have legal authority over judicial branch employees. Again, if you wish to pursue this matter, we suggest that you send a letter of complaint to the presiding judge of the court. In addition, you may wish to send a letter of complaint to the Administrative Office of the Courts. This office may be contacted as follows:

Administrative Office of the Courts  
Attn: Human Resources Division  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

In regards to your complaint against Judge Beverly Wood, as you know, the Commission on Judicial Performance is the independent state agency in California responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges, pursuant to article VI, section 18 of the California Constitution. This agency has exclusive jurisdiction over judicial complaints. You may contact the Commission as follows:

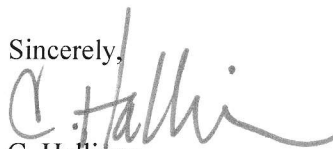
Commission on Judicial Performance  
455 Golden Gate Avenue, Suite 14400  
San Francisco, CA 94102  
Telephone: (415) 557-1200  
Fax: (415) 557-1266  
Internet: <http://cjp.ca.gov/>

We regret that we could not be of further assistance to you, but hope that the information we have provided clarifies our restrictions in regard to your request.

June 24, 2014  
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Thank you again for sharing your concerns with our Office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C. Hallinan', written over the printed name.

C. Hallinan  
Public Inquiry Unit

For KAMALA D. HARRIS  
Attorney General

**STATE OF CALIFORNIA**  
**BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE**

IN THE MATTER CONCERNING  
JUDGE FRANCISCA P. TISHER

DECISION AND ORDER IMPOSING  
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge Francisca P. Tisher, a judge of the Napa County Superior Court since June 1998. She was previously a judge of the Napa County Municipal Court from May 1995 to June 1998. Her current term began in January 2003. Following the appearance of Judge Tisher and her attorney, Mr. James A. Murphy, on March 30, 2004, pursuant to rule 116 of the Rules of the Commission on Judicial Performance, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18(d) of the California Constitution, based upon the following Statement of Facts and Reasons:

STATEMENT OF FACTS AND REASONS

On the afternoon of October 3, 2002, Judge Tisher was sent an e-mail message by a commissioner of her court concerning a family law case, *Maroney v. Ruiz*, then being handled by the commissioner.

*Maroney v. Ruiz* involved a couple who had divorced in Texas; the father had moved to New Jersey and the mother had moved to California. In February 2002, the parties stipulated in the Napa County Superior Court that the parties would take certain actions and that California would retain jurisdiction over custody issues. However, in July 2002, the father asked the New Jersey court to assume jurisdiction over the custody dispute. The New Jersey court did assume jurisdiction, on August 30, 2002, but the order assuming jurisdiction was stayed by a New Jersey appellate court on September 5, 2002. After the stay went into effect, the New Jersey trial court judge communicated with the California commissioner handling the case, and the commissioner agreed to prepare an order declining California's jurisdiction. On October 3, 2002, while the New Jersey appellate court's stay was still in effect, the father removed one of the children from school in California and took him back to New Jersey, without notifying the mother or school officials. The police, Napa Child Abduction Unit, and FBI were contacted. Later that day, the commissioner sent Judge Tisher the e-mail message mentioned above.

The e-mail message the commissioner sent to Judge Tisher on the afternoon of October 3 read, "The judge in New Jersey asked me to prep an order declining jurisdiction. Here is what I have written. I forgot to do it and now someone came and picked up the kid and it sounds like it is going to heat up but I would like to have it heat up in NJ." Judge

Tisher replied on October 4 at 9:45 a.m. She wrote, "It looks fine. I don't exactly know what you mean by the sentence 'The law of venue jurisdiction differs from venue for custody and visitation and that issue is not yet upon us.'" The commissioner replied one minute later, at 9:46, "The rules for child SUPPORT are different from the rules for CUSTODY. It is entirely possible Napa will be the appropriate jurisdiction for child support." A minute later, at 9:47, Judge Tisher e-mailed the commissioner, "OK. We'll keep it in. [A clerk] is in my office and I'll tell her to fax it off." The commissioner replied one minute later, at 9:48, with the fax number, and added, "They are waiting by the fax for it in NJ. Also [the mother's attorney] has an ex parte for today in this case and she is not stippling to a Commish."

The order was then signed by the commissioner, dated September 30, 2002, and file-stamped September 30, 2002. A copy was transmitted by fax to New Jersey.

Later the same morning (October 4), Judge Tisher presided over the ex parte hearing set by counsel for the mother. The transcript of that hearing shows that Judge Tisher called the case before the father's attorney arrived, and stated to the mother's attorney:

THE COURT: ...I have had a chance to review the order to show cause for modification of child custody, visitation, attorneys fees and costs and immediate return of the child and other orders and the injunctive order.

(10/4/02 R.T. 3:21-24.)

Shortly thereafter, Father's attorney arrived, and Judge Tisher said:

THE COURT: What I was indicating is that I understand that we have some serious issues here and I have had a chance to look at the paperwork and I'm not sure that you have.

MR. ROTHSCILD [Father's attorney]: I have not.

THE COURT: *I also have the file in front of me, which indicates that there was an order filed by Commissioner Boyd on September 30<sup>th</sup>, 2002. I don't know if you both have copies of that, but it is an order where she declined jurisdiction.*

MS. RICHARDS: I have never received that, your Honor.

MR. ROTHSCILD: Nor have I.

THE COURT: Okay.

MR. ROTHSCILD: And--

THE COURT: I don't see the proof of service attached to this.

(10/4/02 R.T. 5:1-17; emphasis added.)

A short time later, Judge Tisher stated that she was not going to make any orders that day, and asked mother's counsel what she would like to do. After the attorney began to reply, Judge Tisher interrupted the attorney and stated:

THE COURT: I'm not going to make an order *when one was made September 30<sup>th</sup>*, the order having the child returned. It looks like the child was just taken to New Jersey. I'm not saying it's right or wrong and I understand that your client would like to have the matter resolved one way or the other, but certainly I cannot do that on an ex parte.

(10/4/02 R.T. 7:9-15; emphasis added.)

Mother's counsel then asked that the matter be put on calendar for the following Monday. Judge Tisher responded:

THE COURT: One of my problems is that I have an order here in the court file *from September 30<sup>th</sup>* indicating that jurisdiction has been declined by the Superior Court of California, County of Napa. So I think this really goes back as to how you wish to proceed.

(10/4/02 R.T. 8:9-13; emphasis added.)

At the time that she presided at the October 4 hearing, Judge Tisher knew that the order declining jurisdiction had been signed and filed earlier that same morning, not on September 30, 2002. During the hearing, she made misleading statements repeatedly indicating to the parties that the order had been filed on September 30, 2002. The making of these misleading statements was contrary to canon 2A of the Code of Judicial Conduct, which provides that judges should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Commission members Justice Vance W. Raye, Mr. Marshall B. Grossman, Judge Frederick P. Horn, Mr. Michael A. Kahn, Mr. Jose C. Miramontes, Mrs. Penny Perez, Judge Risë Jones Pichon, and Ms. Barbara Schraeger voted to impose a public admonishment. Mrs. Crystal Lui did not participate in this matter. There is currently one public member vacancy on the commission.

Dated: April 8, 2004

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Honorable Vance W. Raye  
Chairperson





## Commissioner Boyd unexpectedly resigns from bench

MAY 20, 2004 12:00 AM • BY DAVID RYAN - NVP SERVICES

Superior Court Commissioner Kelly Boyd has resigned from the bench.

The Monday announcement came days after Napa County District Attorney Gary Lieberstein asked the Attorney General's office to investigate Boyd's conduct in a 2002 child custody case in which Napa Superior Court personnel backdated a court document.

"On Friday Commissioner Boyd submitted her resignation," Presiding Judge Scott Snowden said in an interview. "It was accepted by the court."

Snowden would not say what reasons Boyd gave for her departure, if any. Boyd was unavailable for comment and has not returned phone calls for previous stories about the child custody case, *Maroney v. Ruiz*, in which the document was backdated.

A former prosecutor in Napa County, Boyd was named a commissioner in 2000.

In the child custody case, New Jersey resident Harry Maroney took his 13-year-old son, Michael Maroney from Silverado Middle School on Oct. 3, 2002, and flew to New Jersey with him. Maroney didn't have legal custody of Michael at the time and didn't run his plans past school officials or Michael's mother, Napa resident Kim Ruiz.

The incident triggered an investigation by the Napa Child Abduction Unit and the FBI, but investigators say Boyd's court order hampered their inquiry. No charges were filed against Maroney, and even after a New Jersey court flipped the case back to Napa, Maroney was ultimately awarded custody of Michael and the boy's older brother, Ryan.

According to the state Commission on Judicial Performance, Boyd found out about Maroney's actions at Silverado, and then rushed to issue an order formally transferring the child custody dispute from Napa to New Jersey. In an Oct. 3, 2002 e-mail, she told Napa County Superior Court Judge Francisca Tisher, "The judge in New Jersey asked me to prep an order declining jurisdiction. Here is what I have written. I forgot to do it and now someone came and picked up the kid and it sounds like it is going to heat up, but I would like to have it heat up in New Jersey."

After Boyd consulted with Tisher, the document was sent on Oct. 4, 2002, but the date stamp read Sept. 30, 2002, a few days before Maroney took his son.

The state Commission on Judicial Performance publicly rebuked Tisher in April for misleading attorneys for both ex-spouses about the order. According to a transcript for an Oct. 4, 2002 court hearing, Tisher repeatedly told lawyers in the case that Boyd's order was filed on Sept. 30, even though Tisher had reviewed it just hours earlier.

The commission did not state who sent the order to New Jersey.

The commission, which can impose discipline ranging from a private letter of admonishment to instigation of public proceedings to remove a jurist from the bench, took no public action against Boyd.

The Napa District Attorney's office called the state last week after urging from local venture capitalist Mark Power, who was unsuccessfully prosecuted by Boyd for back child support when she worked as a deputy district attorney.

Ruiz said she also placed calls to Lieberstein demanding a probe.

Lieberstein said his conversations with a deputy attorney general convinced him there were potential conflicts of interest if his office started an investigation. Besides being a former employee of the office, Boyd is married to a Napa prosecutor.

Power sent a letter to Snowden last week, telling the judge he believed Boyd should be suspended from her post because she "is" the subject of a criminal investigation.

Hallye Jordan, a spokeswoman for the Attorney General's office, said the office is mulling Lieberstein's request. She could not say how long it would take officials to decide whether to launch a criminal probe.

"Typically there is no time limit," Jordan said.