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Commission on Judicial Performance  
455 Golden Gate Avenue, Suite 14400  
San Francisco, CA 94012

Judicial Council of California  
455 Golden Gate Avenue,  
San Francisco, CA 94102

CC: Federal Bureau of Investigation, U.S. Attorney, Governor Brown, Attorney General  
Kamala Harris, Marin County District Attorney's Office, Marin County Sheriff's Office

**Re: June 9, 2014 Report of Evidence Tampering, Obstruction of Justice by:  
Marin Superior Court Judge Beverly Wood  
Former Marin Court Executive Officer Kim Turner**

Dear Commission and Judicial Council Members:

Please make certain this letter is provided to each and every commission and council member.

It has been over 28 months since my complaint about Judge Beverly Wood's actions in the Diop case was made to the Commission on Judicial Performance (hereafter "CJP") and the Judicial Council, and 40 months since the initial *patently problematic judicial and administrative conduct* addressed in the June 9, 2014 complaint occurred. A copy of the complaint without exhibits is attached hereto as **Exhibit "A"**. According to the CJP's own statements, 28 months is far longer than usual for resolution of a CJP complaint. I have been told repeatedly by the CJP that the case is "under investigation" and "pending", but nothing has been done by the CJP to protect Ms. Diop and the Marin community from Judge Wood's *ongoing* misconduct, and nothing has been done by either the CJP or Judicial Council to ensure that the Marin Presiding Judge and Marin Court Administration correct the order and register of actions backdated by former Judicial Council Member Kim Turner in the Diop case.

Although I was told by the CJP that I would get an "update" after the June 2016 CJP meeting, the only update was that the case remains "pending". I asked if the case was being deferred, and was told I could not have an answer because this was "confidential". I have heard nothing more from the CJP, although it has had two more meetings (August and October) and has taken action on other matters. There has been no explanation for the delay.

Meanwhile, over Ms. Diop's ongoing objections, for the last three years the Marin Court has continued to assign hearings in Ms. Diop's case to Judge Wood, and Judge Wood refuses to remove herself from the Diop case while continuing to engage in further misconduct in this and other cases, which I have reported to the CJP. This includes a complaint against Judge Wood that I made over two years ago in another case, after Wood engaged in prohibited ex parte communications while independently researching and obtaining information *over my objection*, and then made an order based on her out-of-court research without notice to or an opportunity to be heard by counsel for either party. That complaint is apparently still pending as well. Obviously nothing has been done to stop Wood, because this year after Wood argued with me about information that was not in the Diop case file, *Wood admitted on the record that she had undertaken her own research, and that this was a regular practice of hers*. The CJP has that transcript of Wood's in-court admission. Query in how many cases unsuspecting lawyers and litigants have appeared before Wood, without notice that she has engaged in ex parte communications and/or out-of-court information gathering, both of which are strictly forbidden by Canon 3B.(7) of the Code of Judicial Ethics.

**It is very disturbing that a judge has admitted on the record, memorialized in an official court transcript, that she violates the Code of Judicial Ethics on a regular basis, and yet, nothing has been done to stop her.**

Also meanwhile, two Marin Court presiding judges and two Marin Court executive officers, *without explanation*, have doggedly refused repeated requests for a Notice of Entry of Order correcting the present false order and register of actions in Ms. Diop's case. The Notice of Entry would allow us to move forward with our argument that Judge Wood's minute order denying her own CCP 170.3 challenge is void on its face because it was untimely entered. That would mean that she lost jurisdiction to act in this case over three years ago, and we could argue that every order she has made since then is subject to impeachment pursuant to CCP section 1916. As you will recall, the CCP 170.3 challenge was filed 10/3/13, and although the minute order and register of actions indicate the minute order denying the challenge was entered the same day (10/3/13), it was not. Two court clerks told me the minute order was entered on 10/28/13, and in September of 2014, then-Presiding Judge Faye D'Opal wrote me a letter admitting that the order was entered on 10/28/13. I immediately wrote her a letter pointing out that her correspondence was not an official court record, and demanding an official Notice of Entry of Order and correction of the register of actions. My September 22, 2014 demand letter to Judge D'Opal without exhibits is attached hereto as **Exhibit "B"** for your convenient reference. No Notice of Entry or correction of the register of actions was forthcoming.

In the past few months alone I have repeatedly requested a Notice of Entry of Order from both Marin Family Law Presiding Judge Verna Adams and Judge Wood (via formal court proceedings); Marin's Court Executive Officer James Kim (I have also repeatedly requested a meeting with him, but have gotten no response); Marin's Presiding Judge Kelly Simmons, and last but certainly not least, **the Judicial Council, which is well aware of the Marin Court's recordkeeping problems** (see the excerpt of a 2002 Judicial Council report on Marin attached hereto as **Exhibit "C"**). The Judicial Council referred the Diop complaint to the CJP in 2014.

Ms. Diop and I both went to a Judicial Council meeting this past July, told them the CJP had done nothing, and asked them to take corrective *administrative* action so we could get a Notice of Entry of Order. They did nothing, although as set forth in group **Exhibit "D"** hereto, Government Code 68150 requires the Judicial Council to create standards or guidelines that "*ensure that court records are created and maintained in a manner that ensures accuracy and preserves the integrity of the records*". Failing to correct the record and refusing to provide a Notice of Entry of Order are inconsistent with Rules of Court 10.854 (d) and 2.507 and the minimum standards set forth in the Judicial Council's own Trial Court Records Manual (which states that "*the provision of a complete, accurate and accessible record, created and available in a timely manner, fulfills one of the judiciary's basic roles*"); as well as the Code of Ethics for Court Employees in California ( which states that "*a major responsibility of all court employees is to provide accurate and timely information*").

The Judicial Council has failed to protect Ms. Diop and other families and children on multiple prior occasions, *so it would not surprise me at all if the Judicial Council has actually advised the Marin Court not to issue a Notice of Entry in the Diop case.* Over the years the Judicial Council has actively protected, whitewashed and even encouraged patently problematic behavior that is harmful to Marin's families and children. As one glaring example, in 2009 *the Judicial Council itself* approved Marin Court Executive Officer/Judicial Councilmember Kim Turner's and Marin Family Court Presiding Judge Verna Adams' mass destruction of valuable Marin Family Court working files *containing important child custody evidence* (including Diop files) while a state audit of the Marin Family Court was pending, and then had a Judicial Council non-lawyer employee write a report amounting to a pseudo-legal opinion purporting to excuse the document destruction. A copy of my letter to the current Chief Justice pointing out the problems with the report, and requesting that the Judicial Council refuse to adopt it and issue formal legal opinions on the issues, is attached hereto as **Exhibit "E"**. The Judicial Council nonetheless adopted the report, giving the green light for courts in other counties to destroy important child custody evidence contained in their Family Court working files.

**It is very important to note that Ms. Diop's case illustrates the need to immediately shoot down the "test balloon" defense floated by some (namely, former Judicial Council member Edith Matthai) suggesting a judge should not be disciplined if the AOC [Judicial Council] and other judges have been complicit in or supported the behavior of a judge against whom a CJP complaint is pending.** Matthai was a member of the Judicial Council from 2010-2013, and served on the powerful Executive and Planning and Technology Committees. The Judicial Council and local judges should not be able to insulate a wayward judge from discipline for his or her violation of the law and Code of Judicial Ethics via complicity with or support for a wayward judge. The only official oversight entity charged with determining discipline of judges is the CJP. The CJP's duties and mandate cannot be discharged by others, particularly those with unclean hands who themselves have been audited and criticized for not following laws and/or acceptable business practices.

The fact that the Commission chair (criminal defense attorney Anthony Capozzi) is apparently undergoing a criminal investigation raises the obvious question of whether the foxes are guarding the henhouse, and actually whether multiple CJP members have unclean hands or

conflicts of interest. I have no personal knowledge about Mr. Capozzi's problem with the Fresno County Sheriff. However, I do know that I (and others) have been reporting to the Judicial Council and CJP about Marin court misconduct for over 15 years, and *some might legitimately say that the CJP has become an arm of the Judicial Council* via appointment of Judicial Council alumni to the CJP. As set forth in group **Exhibit "F"** hereto, Mr. Capozzi was a member of the Judicial Council from 2005-2010, presently sits on the Judicial Council Court Facilities Advisory Committee, and has been on the CJP since 2010. Justice Ruvolo hears appellate cases from Marin, has been on multiple Judicial Council task forces and advisory committees, and has been on the CJP since 2013. Judge Thomas Maddock was on the Judicial Council from 2006 to 2009, has previously served and is presently serving on a Judicial Council advisory committee, and has been on the CJP since 2013. Judge Erica Yew was a member of the Judicial Council from 2009 to 2012, is serving on a Judicial Council Advisory Committee, and has been a member of the CJP since 2010. The two Marin Court Executive Officers who have refused to correct the record and issue a Notice of Entry in the Diop case include former Marin Court Executive Officer Kim Turner, who was a member of the Judicial Council from 2009-2012, served on numerous Judicial Council committees and task forces thereafter, and won the Judicial Council's Judicial Administration Award in 2013 (the same year the Diop register of actions and minute order were backdated by her and/or her staff); and James Kim, who is presently on the Judicial Council's "Court Executives Advisory Committee". All of these individuals have intimate knowledge of the Judicial Council Rules of Court and the Judicial Council Trial Court Records Manual requiring and emphasizing the importance of keeping accurate court records. They know exactly how *terribly wrong* the Marin Court has acted and is acting with respect to the Diop case, and they know that Marin Court misconduct is not confined to the Diop case.

And yet, both the Judicial Council and the CJP are failing to protect the public and the integrity of the judicial system by delaying taking remedial action regarding the Diop complaint. This is especially surprising given that the Governor, Attorney General and others specifically referred the Diop case to the Judicial Council and/or Commission on Judicial Performance, and Ms. Diop's case was presented this year to convince the legislature that the CJP desperately needs oversight and an overhaul. **There appears to be no logical reason for the Marin Superior Court to refuse to issue a Notice of Entry of Order in the Diop case except one: they know crimes were committed and fear incriminating themselves and perhaps others.** It could very well be that multiple individuals and entities *at all levels* have been involved in this *very messy* Diop matter, and have been desperately waiting until the Statute of Limitations runs on all kinds of laws related to record tampering and obstruction of justice such as (to name a few) Penal Code section 182, Government Code sections 6200 and 6203, Penal Code sections 92 et seq., 115, 132 et seq., copies of which are attached hereto as **Exhibit "G"**.

The Diop case also illustrates the reality that secrecy in CJP proceedings can lead to reasonable speculation and mistrust about conflicts of interest, divided loyalties, motivation for delay or determination of a complaint, and more. Transparency regarding CJP proceedings and voting records at all stages would be very helpful in assessing objectivity or the lack thereof in CJP proceedings, particularly in cases such as this one, where divided loyalties and conflicts of interest could and most likely do exist.

In any event, please consider this a request for a *substantive* written update regarding the Diop case within 7 days.

And, by copy of the original complaint with full exhibits, and this letter with full exhibits, to the FBI, the Governor, the Attorney General, the U.S. Attorney, and the Marin District Attorney and Sheriff's office, **I am notifying you that in 2014 we were referred by the Governor, Attorney General, and others to the Judicial Council and/or CJP to address the judicial and administrative misconduct raised in the June 9, 2014 Diop complaint, and the CJP and Judicial Council have done absolutely nothing to protect Ms. Diop or the public for over 28 months.** Therefore, I am putting this ball in all of your hands, for criminal prosecution and *any and all* other available remedial action available to you, individually and/or collectively, by law. That includes but is not limited to a request that this matter immediately be reviewed, and criminal *and all* other applicable remedial/disciplinary actions (state and federal) be commenced against *any and all* involved persons/entities (regardless of their position or stature), regarding *any and all* applicable crimes/misconduct (state and federal), **prior to the expiration of the Statute of Limitations regarding said crimes/misconduct.** I am requesting that you each individually take action, to the maximum extent possible, and do not rely on anyone else to do so. The Marin Court has indicated that the backdating occurred on or about October 28, 2013, but of course the Marin Court has been withholding an official Notice of Entry of Order, so we do not really know.

**Again, if no crimes had been committed, a Notice of Entry of Order would have been issued as a matter of course.** This is reflected in CCP 170.3. Instead, it appears that the Marin Court, which is expected to and is paid to serve the public, has been hunkering down and quietly and unofficially "taking the fifth" while collecting their hefty paychecks and compromising the integrity of the Marin Court on an ongoing basis. The refusal to provide a Notice of Entry involves AT LEAST FOUR MARIN JUDGES AND TWO MARIN COURT EXECUTIVE OFFICERS, with combined salaries of about \$1 million a year. I suspect this is just the tip of the iceberg, and a lot of other well-paid "public servants" will be implicated in this mess. Anyone involved in the commission of any crime should resign immediately, hire criminal lawyers on their own dime, and stop wasting the public's money.

Corruption in the Judicial Branch affects and/or contaminates each and every person/entity with which it has contact. The public has been complaining about corruption in the Marin Superior Court for over two decades, and no one has done anything to stop it. **The time has come for quick, decisive, remedial action.**

Sincerely,

  
BARBARA A. KAUFFMAN

Cc: Rama Diop