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(ENDORSED)
FILED
JAN 12 2017

Clifford A. ...
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

7 Attorney for, SUSAN H. BASSI

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA CLARA

10 In re the Marriage of:

11 ROBERT ALAN BASSI,

12 Petitioner,

13 vs.

14 SUSAN HAZLETT BASSI,

15 Respondent.

Case No.: 20126FL009065

WRITTEN VERIFIED STATEMENT OF
DISQUALIFICATION
[CCP §170.3(c)(1)]

APJ: James E. Towery
Dept.: 77

16 I, Susan H. Bassi, Respondent herein, make this Written Verified
17 Statement of Disqualification of Judge James E. Towery on the basis that he
18 has repeatedly engaged in conduct that disqualifies him from continuing to
19 act as the All Purpose Judge herein, in that he has regularly demonstrated
20 the absence of probity, fairness, honesty, uprightness and soundness of
21 character in violation of Canon 1 of the California Code of Judicial Ethics.
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Written Verified Statement of Disqualification

MARRIAGE OF BASSI

Case No. 6-12-FL-009065

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1 Hereinafter all references to Canons are to the Canons contained in the
2 California Code of Judicial Ethics. Judge Towery has repeatedly failed to
3 avoid impropriety, and the appearance of impropriety by engaging in conduct
4 that a person aware of the facts would reasonably entertain a doubt that he
5 would be able to act with integrity, impartiality, and competence in violation
6 of Canon 2. Over and over again he has consistently failed to perform the
7 duties of his judicial office impartially, competently and diligently, has
8 regularly engaged in bias and prejudice both in favor of Petitioner and
9 against Respondent, and has often failed to maintain an open mind in
10 considering issues that have been presented to him herein, in violation of
11 Canon 3, all of the above being violations of Canon 5.

12 The Petitioner herein, Robert Bassi, will hereinafter be referred to as
13 Husband, his attorney of record, Bradford Baugh, will hereinafter be referred
14 to as Baugh, Respondent herein, Susan Bassi, will hereinafter be referred to
15 as Wife, and her attorney of record, Robert J. Tennant, will hereinafter be
16 referred to as Tennant.

17 Counts that allege the specific Canons Judge Towery has violated, his
18 conduct that violated each Canon, and the evidence that proves those
19 violations is as follows:
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Count One

On or about October 5, 2016 Judge Towery committed a violation of Canon 3D(2) by failing, after he had personal knowledge of the perjury committed by Baugh before Judge Grilli on September 9, 2014, willfully failed to, after being fully advised of his mandatory judicial duty to do so, report the misconduct and/or violation of the Rules of Professional Conduct of Baugh to the State Bar.

If Judge Towery did not report Baugh to the State Bar for violation of the Rules of Professional Conduct as he was mandatorily required to do by his disciplinary responsibilities contained in Canon 3 D(2), after he obtained on October 5, 2016 personal knowledge of the motion filed by Wife on July 22, 2014, the transcript of the hearing before Judge Grilli of that motion on September 9, 2014, the bank records of CS, Inc., and the Judge Grilli Order filed after the September 9, 2014 hearing, all of which conclusively prove the perjury of Baugh at the hearing before Judge Grilli on September 9, 2014, (all, with the exception of the bank records of CS, Inc., are attached hereto, collectively marked Exhibit A, and incorporated herein by reference) he would have clearly demonstrated his bias and prejudice and his violation of Canon 3 D(2) and provided all the evidence necessary to compel his disqualification.

1 On the other hand, if Judge Towery reported Baugh to the State Bar
2 subsequent to October 5, 2016, that would eliminate this issue as a basis for
3 his disqualification.
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5 The reason why this accusation is being pleaded in the alternative is
6 the same reason why Tennant's accusation to the Commission on Judicial
7 Performance was pleaded in the alternative regarding whether Judge
8 Towery, after he had personal knowledge on October 5, 2016 of Baugh's
9 perjury before Judge Grilli on September 9, 2014, reported Baugh to the
10 State Bar. That reason is because both the Commission on Judicial
11 Performance and the State Bar take the position that if any person's
12 complaint is being investigated, by the Commission on Judicial Performance
13 concerning a Judge or if any person's complaint is being investigated by the
14 State Bar concerning an attorney, everything about that investigation is
15 confidential, and so no way currently exists for Wife to prove either Judge
16 Towery reported Baugh to the State Bar after October 5, 2016 or he violated
17 Canon 3D(2) by not reporting Baugh to the State Bar after October 5, 2016.
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25 Count Two

26 On or about October 24, 2016 Judge Towery committed violations
27 of Canon 2 by failing to avoid impropriety and the appearance of
28 impropriety and Canon 3 by failing to perform the duties of his judicial

1 office impartially, competently, and diligently by denying in its entirety
2 Wife's motion filed August 24, 2016.

3
4 Husband filed his Petition herein in September of 2012, and since then
5 has paid himself \$540,000 more in bonuses from the parties' 100%
6 community owned farming business CSP, Inc. than he has paid Wife, out of
7 which he has had no problem paying multiple hundreds of thousands of
8 dollars in fees to his attorney and multiple accountants and for other costs of
9 this litigation.
10

11
12 Those multiple hundreds of thousands of dollars of community funds
13 bought a consistently successful effort that has deprived Wife of access to all
14 of the books and records of both CSP, Inc. and CS, Inc. (another farming
15 business 50% owned by the community) that has been her unconditional
16 statutory right for three years pursuant to Family Code Section 721(1) and
17 1100(e). They also directly and proximately caused a clear and unequivocal
18 impairment of Wife's undivided one-half interest in CSP, Inc., which directly
19 caused a detrimental impact on Wife's undivided one-half interest in that
20 community asset, which constituted a breach of fiduciary duty of Husband
21 pursuant to Family Code §1101(a) and exposed Husband to sanctions
22 pursuant to Family Code §1101(g) of one-half of the \$540,000 and sanctions
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1 pursuant to Family Code §2107(c) in an amount sufficient to deter repetition
2 of the conduct or comparable conduct..
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4 Not particularly surprisingly, Wife decided to take a new approach to
5 the long term problem of the Husband's unimpeded ability to impair Wife's
6 interest in CSP, Inc., the long term problem of Husband's continuing ability to
7 convince 4 separate courts that neither SP, Inc. or CS, Inc. could afford to
8 advance any funds for Wife's attorney fees, and the long term problem of
9 Husband's unimpeded ability to pay himself bonuses out of CSP, Inc.,
10 anytime, anyplace, anywhere and in any amount of bonus his heart desired.
11 On August 24, 2016 Wife filed a motion which took an approach not taken
12 previously by seeking sanctions for the 4 years Husband had been impairing
13 her interest in CSP, Inc. by paying himself \$540,000 in bonuses, by seeking
14 sanctions for the over three years Husband had been assuring and
15 convincing 4 separate judges that both CSP, Inc. and CS, Inc. could not
16 possibly afford to advance any funds to Wife for attorney fees and by
17 seeking an order that the Court set at least some limits on Husband's then
18 unlimited ability to continue to pay himself, out of CSP, Inc., anytime,
19 anyplace, anywhere, any amount of bonus his heart desires. A copy of that
20 motion is attached hereto, marked Exhibit B, and incorporated herein by
21 reference.
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1 Harboring high hopes for her motion filed August 24, 2016 and its new
2 and as yet untried approach to forcing Husband to comply with Family Code
3 §§721(1) and 1100(e), Judge Towery commenced hearing that motion on
4 October 5, 2016.
5

6 It took Judge Towery no more than 23 or 24 minutes to interrupt the
7 proceedings and indicate he had heard enough to know that his tentative
8 decision should be to deny Wife's motion in its entirety.
9

10 Having become somewhat acclimated in the prior six months to
11 multiple displays by Judge Towery of drawing, on other motions of Wife,
12 similarly unbelievably premature and wrong legal conclusions prior to having
13 the benefit of any evidence on the subject, Wife, although disappointed by
14 the tentative, could not say that she was particularly surprised.
15

16 Before Wife had any opportunity to provide any evidence regarding
17 Husband's four years of sanctionable impairment of Wife's undivided one-
18 half interest in CSP, Inc., and before Wife had any opportunity to provide any
19 evidence regarding Husband's and Baugh's three years of sanctionable
20 efforts providing multiple courts with the disinformation that neither CSP, Inc.
21 nor CS, Inc., could afford to advance to Wife any money for attorney fees,
22 and before Wife had any opportunity to provide any evidence regarding the
23 need to limit Husband's unlimited ability to pay himself bonuses, Judge
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1 Towery concluded that he did not need to hear any of Wife's evidence in
2 support of her three requested orders before divining that all three of Wife's
3 requests for orders should be denied because apparently Judge Towery was
4 more than willing to pompously take the position that no matter what
5 evidence of Wife remained to be produced it could not possibly support even
6 one of her three requested orders.
7

8
9 Because of the fact that Wife had never previously asked that even
10 one of the three orders requested in her motion be granted she had never
11 before presented the evidence that supported her three requested orders so
12 for Judge Towery to have been correct in denying all 3 of the orders, he
13 would have had to have been clairvoyant, and although Judge Towery
14 possesses multiple talents, clairvoyance isn't one of them.
15

16
17 Wanting the record to at least reflect the evidence that Judge Towery
18 refused to hear before denying Wife's motion in its entirety, Wife requested
19 an opportunity to present an Offer of Proof (that Offer of Proof is attached
20 hereto, marked Exhibit C, and incorporated herein by reference), that
21 request was granted, Wife's Offer of Proof was submitted, and Judge Towery
22 made his tentative decision permanent on October 24, 2016, stating that he
23 agreed with Baugh's argument that Wife's motion filed August 24, 2016 was
24 barred by the principle of res judicata, and with regard to Wife's Offer of
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1 Proof Judge Towery sarcastically maligned it as he has most of her legal
2 efforts in the last 7 months as follows:

3
4 I have to say, quite frankly, that I was very confused in reading
5 Respondent's Officer of Proof. It appeared to me to be non-
6 responsive to the tentative, and a series of cut and paste from
7 previous filings. (Exhibit C, page 7, lines 6-9)

8 Although Judge Towery accepted without question Baugh's res
9 judicata argument regarding Wife's motion hook, line, and sinker pretty much
10 the same way that he has accepted Baugh arguments for seven months and
11 much the same way Judge Grilli accepted Baugh arguments in *Marriage of*
12 *Cheriton* that got her repeatedly reversed, his failure to at least ask Baugh to
13 confirm just one previous occasion in which either party ever asked for a
14 determination of even one of the three requested orders contained in Wife's
15 motion, let alone his failure to ask Baugh to confirm just one prior order
16 denying such a requested order, unequivocally demonstrated Judge
17 Towery's violation of Canon 3 by failing to perform the duties of judicial office
18 impartially, competently, and diligently. In addition a person, aware of the
19 facts of Judge Towery's reliance on the principle of res judicata to deny
20 Wife's motion in its entirety, in the absence of Judge Towery asking Baugh to
21 confirm just one previous occasion in which either party asked for a
22 determination of even one of the three requested orders contained in Wife's
23 motion, let alone the absence of Judge Towery's asking Baugh to confirm
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just one prior order denying such a requested order, would reasonably entertain a doubt that the Judge would be able to act with integrity, impartiality, and competence that is the test for the appearance of impropriety that is conduct that violates Canon 3 and provides all the evidence necessary to compel his disqualification.

Judge Towery and the Court that will ultimately sit in judgment of him will undertake a fool's errand if either one ever takes the time to hunt for any motion that has ever been previously filed herein by either party that contains even one of the three requested orders contained in Wife's motion, let alone an order previously adjudicating either one of the three requested orders, the presence of both being mandatory, as everyone in the world knows, except apparently Judge Towery, before a Court can even appropriately contemplate application of the principle of res judicata.

Count Three

On or about October 5, 2016 Judge Towery committed violations of Canon 2 by failing to avoid impropriety and the appearance of impropriety and Canon 3 by failing to perform the duties of his judicial office impartially, competently, and diligently by sustaining Baugh's objection to evidence offered by Wife based on the attorney-client privilege that is made specifically admissible by decisional law and Evidence Code §962.

1 Pages 48, line 7, through page 52, line 6, of the transcript of the
2 October 24, 2016 hearing, attached hereto, marked Exhibit D, and
3 incorporated herein by reference, cover how Judge Towery incompetently
4 grappled with a relatively simple and straight forward evidentiary issue of
5 attorney-client privilege.
6

7
8 Wife presented testimony on October 5, 1026 that both Wife and
9 Husband mutually sought the advice of John Keseker, a King City attorney,
10 regarding the problems they were having with their partner in CS, Inc., Gene
11 Agnew.
12

13 Baugh objected on the basis of the attorney-client privilege as to any
14 discussions Wife or Husband had with the attorney when both parties were
15 present, which everyone except Judge Towery knows that has ever taken a
16 law school evidence course is baseless.
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18
19 By sustaining the Baugh objection, Judge Towery demonstrated either
20 his bias and prejudice against Wife or his total inability to perform the duties
21 of judicial office competently in violation of Canon 3, and either scenario
22 provides all the evidence necessary to compel his disqualification.
23

24 It is a fundamental rule of evidence that the attorney-client privilege is
25 not available to a client regarding whatever the client tells the lawyer or
26 whatever the lawyer tells the client in the presence of a third person,
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1 because under those circumstances that client has no reason to believe the
2 communication is confidential.

3
4 Baugh's objection and Judge Towery sustaining it, are rendered even
5 more baseless by the specific language of the Evidence Code that indicates
6 that where 2 or more clients have retained or consulted a lawyer upon a
7 matter of common interest (which defines to a "T" what Wife and Husband
8 did with Mr. Keseker) none of them may claim the attorney-client privilege as
9 to a communication made in the course of that relationship when such
10 communication is offered in a civil proceeding between one of such clients
11 and another of such clients. Evidence Code §962.
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15 16 **Count Four**

17
18 **From the day of filing of Wife's most recently filed Motion for**
19 **Access to the books and records of CSP, Inc. and CS, Inc. on June 20,**
20 **2016 to the present, Judge Towery has violated Canon 2 by failing to**
21 **avoid impropriety and the appearance of impropriety and Canon 3 by**
22 **failing to perform the duties of his judicial office impartially,**
23 **competently, and diligently by engaging in a mind bending magnitude**
24 **of pomposity and ineptitude in his calendar mismanagement of that**
25 **Motion.**

26 Even before the commencement of Judge Towery's mismanagement
27 of Wife's Access Motion in the last six months, his predecessor APJ Judge
28 Grilli had mismanaged the same motion for five months before that.

1 By the time Judge Chiarello determined Wife's Access Motion was not
2 even before him on June 1, 2016 the motion had been pending for six
3 months, and solely as a result of Judge Grilli's judicial ineptitude, by June 1,
4 2016, it was no longer even on calendar.

5
6 Tennant hoped that at least one of the Judge's then supervising Judge
7 Towery in this case would take it upon herself to, sua sponte, provide Judge
8 Chiarello the authority to rule on Wife's Access Motion and thus rectify the
9 Judge Grilli caused unreasonable delay in hearing it in the shortest possible
10 time consistent with their administrative responsibilities contained in Canon
11 3C(4).
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15 Canon 3C(4) reads as follows:

16 (4) A judge with supervisory authority for the judicial performance
17 of other judges shall take reasonable measures to insure the
18 prompt disposition of matters before them and the proper
19 performance of their other judicial responsibilities.

20 As a result of that hope Tennant sent the letter he sent dated June 9,
21 2016 with attachments to 4 separate judges, 2 of which were then
22 supervisors of Judge Towery, that is attached hereto, marked Exhibit E, and
23 incorporated herein by reference.
24
25

26 Tennant's hope was short lived when he received a copy of Judge
27 Towery's order filed June 14, 2016 in which Judge Towery set the tone he
28

1 has maintained ever since by sarcastically maligning the Tennant letter
2 dated June 9, 2016 suggesting Supervisory Judge intervention as "litigation
3 by letter."
4

5 Also in that Order Judge Towery, again sarcastically, lectured Tennant
6 that, "If counsel has a matter that he requests the court to rule upon, counsel
7 must use the proper procedure to bring that matter before the court," clearly
8 inferring some degree of impropriety in Tennant's letter of June 9, 2016
9 which, given the contents of Canon 3C(4), contained no impropriety. Judge
10 Towery's bias and prejudice against Wife, at the very outset of his
11 assignment, was beginning to seep out.
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15 A copy of Judge Towery's Order filed June 14, 2016 is attached hereto,
16 marked Exhibit F, and incorporated herein by reference.
17

18 Pursuant to Judge Towery's order filed June 14, 2016, six days later
19 Tennant refiled Wife's Access Motion, that should never have had to have
20 been refiled, and a copy of it is attached hereto, marked Exhibit G, and
21 incorporated herein by reference.
22

23 Wife's refiled Access Motion was initially heard by Judge Towery on
24 July 15, 2016, two months after the former APJ, Judge Grilli, resigned,
25 apparently out of total exhaustion.
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1 On July 15, 2016 Judge Towery announced at the outset his
2 awareness that the case had been declared a complex case, that the Court's
3 file by then had grown to forty volumes, that the case clearly was out of
4 control and in need of management, and he provided to all present
5 unconditional assurance that he was just the Judge that was going to provide
6 that needed management. Wife was skeptical of his ability to do what he
7 boasted he could do from the outset and his repeated memory lapses, wrong
8 factual and legal conclusions, and the bias and prejudice he has incessantly
9 demonstrated against Wife ever since vindicates her initial skepticism.
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13 On July 15, 2016 Judge Towery asked Tennant to estimate how long
14 Wife's Access Motion would take to hear, Tennant answered 3 days, and no
15 objection at that time was heard from Baugh.
16

17 In response, Judge Towery, in what was more of a testosterone laced
18 boast than a judiciously analyzed opinion, claimed he could try it in a day,
19 and set it down for a 1 day hearing in his department on October 3, 2016.
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21

22 By July 15, 2016 Judge Towery had expended a few hours on the
23 case, and Tennant had expended over 1,496 hours. No reasonable basis
24 then existed for Judge Towery to conclude he could more accurately make a
25 time estimate for Wife's Access Motion than Tennant, and the fact that he
26 baselessly thought he could as clearly as anything else demonstrates the
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1 magnitude of his sense of superiority and the extent of the incompetence he
2 has demonstrated that has consistently violated Canon 3 and characterized
3 his whole tenure as APJ.
4

5 By the time Wife's Access Motion was called on October 3, 2016
6 Judge Towery had so mismanaged his calendar that a half-day had been
7 taken away from the one day initially assigned Wife's Access Motion on July
8 15, 2016, then leaving only a half-day to hear it on October 3, 2016.
9

10 Also on October 3, 2016 although Baugh was in court on July 15, 2016
11 when Judge Towery clearly set Wife's Access Motion for October 3, 2016, he
12 successfully convinced Judge Towery, over Tennant's vociferous objections,
13 that he had no notice of the October 3, 2016 hearing of Wife's Access
14 Motion, so Judge Towery baselessly continued it for hearing to October 24,
15 2016, knowing full well that on that day he already had another case set for
16 trial.
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20 As the result of Judge Towery's continuing mismanagement of his
21 calendar on October 24, 2016, he was only able to provide the Bassi case
22 with 2 hours and 29 minutes of court time, and after his lengthy harangue
23 regarding what he characterized as Wife's "scorched earth policy" and the
24 arguments he induced and encouraged between counsel and with counsel
25 and the court on a wide range of issues, none of which involved Wife's
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1 Access Motion, he was actually able to provide only 23 minutes and 51
2 seconds of court time on Wife's Access Motion, which was barely enough
3 time to get started, before he adjourned for the day without even providing
4 Wife's Motion with a date to continue hearing it, which he has repeatedly
5 done with Wife's motions for 7 months.
6
7

8 On October 24, 2016 Judge Towery's calendar management had
9 resulted in 2 cases being set. He spent a total of 1 hour and 16 minutes on
10 the other case and 2 hours and 29 minutes on the Bassi case. He started at
11 9:12 AM, and could have started with the other case at that time because the
12 other side was then ready to proceed, and Wife was not present. Continuing
13 to evidence his bias and prejudice and even contempt of Wife, he started
14 with the Bassi case in the absence of the Wife. She did not appear until the
15 Bassi case had been proceeding for 5 minutes. (Exhibit D, page 3, line 8,
16 and page 5, line 26)
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20 Additional evidence of Judge Towery's negligent management of his
21 calendar is the fact that prior to 2 separate hearings during the first six
22 months of his tenure as APJ, he had continued and lost track of so many
23 motions that he asked both counsel, prior to those 2 separate hearings, to
24 tell him what motions actually were set for those 2 hearings and what
25 motions he had inadvertently let go off calendar. No competent judge does
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1 that and the fact that he had to do it twice within six months, after he had
2 observed at the outset that the case needed management and the he was
3 just the one that could provide that management, provides even more
4 evidence of his incompetence that violates Canon 3 and provides all the
5 evidence necessary to compel his disqualification.
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10 **Count Five**

11 **Between July 15, 2016 to the present Judge Towery has violated**
12 **Canon 2 by failing to avoid impropriety and the appearance of**
13 **impropriety and Canon 3 by failing to perform the duties of his judicial**
14 **office impartially, competently, and diligently by engaging in an**
15 **incessant, injudicious, vituperative, baseless, and indefensible**
16 **character assassination of Wife, based solely upon claims, the validity**
17 **of which he has neither confirmed in any personal investigation he has**
18 **undertaken nor confirmed in any hearing in which he has taken**
19 **evidence nor confirmed in any incident in which he has inadvertently**
20 **obtained information.**

21 Judge Towery's repeated character assassination of Wife based solely
22 on claims that were either baseless, or claims for which he has no personal
23 knowledge, indicates the depth and intensity of his bias and prejudice
24 against Wife and would lead a person aware of the facts to reasonably
25 entertain a doubt that he would be able to act with integrity, impartiality, and
26 competence, all in violation of Canon 2, and would lead a reasonable person
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to determine Judge Towery incapable of performing the duties of his judicial office impartially, competently, and diligently in violation of Canon 3.

Evidence of such character assassination is the following:

- In court on October 24, 2016 Judge Towery said he was distressed, in particular, about what he interpreted as a "scorched earth" policy of Wife, (Exhibit D, page 4, lines 5-7) and he attempted to prove that policy by citing what he claimed were examples of it.

Towery purported Example of Wife's "scorched earth policy"

#1: "Wife is continually filing asking for hearings and issues that have been heard by multiple judges previously." (Exhibit D, page 4, lines 10-12)

Wife's Response: The only such motion Judge Towery has taken evidence on and has any personal knowledge of is Wife's multiple unsuccessful motions for attorney fees and every single one of them was statutorily authorized by Family Code §2030 and the decisional law that decisions on interim (pendente lite) fees and costs do not prejudice a party's right to a subsequent fees and costs award at a later date, either before judgment, in connection with the judgment, or in post judgment proceedings.

Marriage of Hobdy (2004) 123 Cal.App.4th 36.

1 Given Family Code §2030, the *Hobdy* case and the fact
2 that an interim (pendente lite) fees and costs order may be
3 "without prejudice" to its later chargeability against the other
4 spouse or the estate. *Marriage of Schnabel* (1994) 30 Cal.4th
5 747, although they apparently appall Judge Towery, Wife's
6 multiple unsuccessful requests for attorney fees are violative of
7
8 nothing.

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10
11 The existence of the above law precludes any application
12 of the principle of res judicata to Wife's multiple attorney fee
13 requests and renders Baugh and Judge Towery's incessant
14 claims that they have violated the principle of res judicata
15 baseless and provides the background that establishes the
16 incompetence of Judge Towery that has continually prejudiced
17 Wife in this case and demonstrates how the only way to
18 terminate it is to provide Judge Towery with the disqualification
19 he so richly deserves.

20
21 All one needs to understand the incompetence of Judge
22 Towery that easily justifies his disqualification for violation of
23 Canon 3 is to read Exhibit D from page 7, line 15, to page 18,
24 line 4.

1 Judge Towery said that, "The [attorney] fee issue has been
2 conclusively determined, it is res judicata" (Exhibit D, page 7,
3 lines 24-25) and told Tennant that "The Court is not going to
4 entertain any further requests for 2030 fees based on the
5 corporations' ability to pay those fees, unless and until Mr.
6 Tennant can explain a change of circumstances from the prior
7 ruling, which I do not believe exists" (Exhibit D, page 7, line 26, to
8 page 8, line 2) he established a level of incompetence as a
9 Family Law judge that both violates his judicial duty set forth in
10 Canon 3 and provides all the evidence necessary to compel his
11 disqualification.
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17 **Towery purported Example of Wife's "scorched earth policy"**

18 **#2:** "Mrs. Bassi has apparently decided that the appropriate
19 tactic is for her to seek to intimidate everybody connected with
20 the case, making threats against Mr. Butera, who has resigned,
21 the Special Master Nat Hales, who has resigned, complaining to
22 "the State Bar" regarding Baugh ". . . and he ended the list of
23 people purportedly intimidated by describing an incident he
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1 personally characterized as an "attempted intimidation of the
2 Court." (Exhibit D, page 4, line 13, to page 5, line 13)

3 **Wife's Response:** Judge Towery's in open court accusation of
4 Wife that she had intimidated Jim Butera by threatening him, in
5 the absence of him having gleaned any personal knowledge of
6 such communication between Wife and Jim Butera as a result of
7 any independent investigation of the facts he engaged in out of
8 the presence of Wife (which Wife will assume because if had
9 engaged in any such independent investigation he would have
10 violated Canon 3B(7), and in the absence of him having taken
11 any evidence regarding any communication between Wife and
12 Jim Butera, and in the absence of him inadvertently learning
13 anything about such communication between Wife and Jim
14 Butera (which Wife will assume did not happen because if it
15 happened Judge Towery's failure to "make provision promptly to
16 notify the parties of the substance of the communication" would
17 constitute a violation by him of Canon 3B(7), constitutes a
18 baseless and indefensible character assassination, reeking of
19 bias and prejudice, by Judge Towery regarding a party in
20 litigation he is responsible for as an APJ and as such constitutes
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1 a violation of Canons 1, 2, 3 and 5 that in and of itself provides all
2 the evidence necessary to compel his disqualification.

3
4 **Wife's Response:** Judge Towery's in open court accusation of
5 Wife that she had intimidated Nat Hales by threatening him, in
6 the absence of him having gleaned any knowledge of such
7 communication between Wife and Nat Hales as a result of any
8 independent investigation of the facts he engaged in out of the
9 presence of Wife (which Wife will assume because if had
10 engaged in any such independent investigation he would have
11 violated Canon 3B(7), and in the absence of him having taken
12 any evidence regarding any communication between Wife and
13 Nat Hales, and in the absence of him inadvertently learning
14 anything about such communication between Wife and Nat Hales
15 (which Wife will assume did not happen because if it happened
16 Judge Towery's failure to "make provision promptly to notify the
17 parties of the substance of the communication" would constitute
18 a violation by him of Canon 3B(7), constitutes a baseless and
19 indefensible character assassination, reeking of bias and
20 prejudice, by Judge Towery regarding a party in litigation he is
21 responsible for as an APJ and as such constitutes a violation of
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1 Canons 1, 2, 3 and 5 that in and of itself provides all the
2 evidence necessary to compel his disqualification.

3
4 **Wife's Response:** Judge Towery's in open court accusation of
5 Wife that she had intimidated Baugh by threatening him, in the
6 absence of him having gleaned any knowledge of such
7 communication between Wife and Baugh as a result of any
8 independent investigation of the facts he engaged in out of the
9 presence of Wife (which Wife will assume because if had
10 engaged in any such independent investigation he would have
11 violated Canon 3B(7), and in the absence of him having taken
12 any evidence regarding any communication between Wife and
13 Baugh, and in the absence of him inadvertently learning anything
14 about such communication between Wife and Baugh (which Wife
15 will assume did not happen because if it happened Judge
16 Towery's failure to "make provision promptly to notify the parties
17 of the substance of the communication" would constitute a
18 violation by him of Canon 3B(7), constitutes a baseless and
19 indefensible character assassination, reeking of bias and
20 prejudice, by Judge Towery regarding a party in litigation he is
21 responsible for as an APJ and as such constitutes a violation of
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1 Canons 1, 2, 3 and 5 that in and of itself provides all the
2 evidence necessary to compel his disqualification.

3
4 **Wife's Response:** Judge Towery in open court on October 24,
5 2016 accused Wife as having engaged in an "attempted
6 intimidation of the court" (Exhibit D, page 4, line 25, to page 5,
7 line 5). Days afterward when Tennant readdressed the event
8 that Judge Towery had characterized as an "attempted
9 intimidation of the court" and asked the Court why he doesn't just
10 recuse himself if he honestly feels that Wife attempted to
11 intimidate him when someone else took his picture and someone
12 else cussed him out and the Court's reply was "That's just what
13 she wants." This is uncontroverted and uncontradicted evidence
14 that demonstrates Judge Towery continued to rule against Wife
15 in this case harboring a deep seated bias and prejudice against
16 her the magnitude of which constitutes a clear violation of Canon
17 3 and provides all the evidence necessary to compel his
18 disqualification.
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25 26 **Count Six**

27 **On or about October 24, 2016 Judge Towery violated Canon 3 by**
28 **failing to perform the duties of his judicial office impartially,**

1 competently, and diligently by demonstrating both a defective memory
2 and paranoia.

3
4 In the transcript of October 24, 2016 (Exhibit D, page 5, lines 14-20)

5 Judge Towery said to Tennant:

6 I WILL SAY, MR. TENNANT, FOR YOUR INFORMATION, JUST AS
7 WHEN YOU SAID -- I BELIEVE IT WAS AT THE OCTOBER 5TH HEARING -
8 - THAT YOU WOULD GO TO THE C.J.P. IF I STOOD ON MY TENTATIVE
9 RULING, WHICH OF COURSE IS YOUR ABSOLUTE RIGHT TO DO, I SAID
10 THAT I WAS GOING TO IGNORE YOUR THREAT AND CONTINUE TO HANDLE
THIS CASE IN MAKING DECISIONS ACCORDING TO THE LAW AND FACTS,
AS BEST I COULD.

11 **Wife's Response:** This is simply another example of Judge
12 Towery's often repeated inclination from the bench to lecture
13 Wife or Tennant regarding prior matters about which he knows
14 nothing or about which he has a defective memory.
15

16
17 Tennant never threatened Judge Towery, as Judge Towery
18 claims, at the October 5, 2016 hearing that he "would go to the
19 Commission on Judicial Performance if (Judge Towery) stood on
20 (his) tentative ruling."
21

22 What Tennant said to Judge Towery on October 5, 2016,
23 long before Judge Towery articulated his ill thought out and
24 baseless tentative decision, was that if Judge Towery did not
25 report to the State Bar Baugh's perjury before Judge Grilli on
26 September 9, 2016, he would feel compelled to report Judge
27
28

1 Towery to the Commission on Judicial Performance, for the
2 obvious reason that if Judge Towery failed to report the perjury of
3 Baugh on September 9, 2014 to the State Bar, Judge Towery
4 would himself have violated Canon 3D(2), and immediately
5 thereafter Tennant begged Judge Towery not to require him to
6 do that.
7

8
9 Judge Towery's demonstration of his defective memory and
10 paranoia provides all the evidence necessary to compel his
11 disqualification.
12

13 14 **Count Seven**

15 **On or about October 24, 2016 Judge Towery violated Canon 3 by**
16 **failing to perform the duties of his judicial office impartially,**
17 **competently, and diligently by claiming he was concerned that Wife**
18 **had explicitly indicated her "intent to not be bound" by the protective**
19 **order.**

20 In Exhibit D, at page 12, lines 4-6, Judge Towery declared:
21

22 THE COURT IS VERY CONCERNED THAT MS. BASSI HAS -- AS I
23 INTERPRET IT -- EXPLICITLY INDICATED HER INTENT NOT TO BE
24 BOUND BY THE PROTECTIVE ORDER. THAT IS OF CONCERN TO THE
25 COURT.

26 **Wife's Response:** Judge Pierce heard evidence that Wife had
27 indicated her intent not to be bound by the protective order and
28



1 apparently considered that statement and other conduct of Wife
 2 when she was unrepresented in imposing a \$120,000 attorney
 3 fee sanction award pursuant to Family Code §271. Judge
 4 Chiarello heard additional evidence that led him to conclude Wife
 5 Chiarello heard additional evidence that led him to conclude Wife
 6 had violated the protective order but he didn't impose further
 7 sanctions.
 8

9 If Judge Towery was referring to statements of Wife
 10 subsequent to the Pierce and Chiarello hearings that she had
 11 indicated an "intent not to be bound by the protective order,"
 12 Judge Towery's conclusion of such indication, in the absence of
 13 him having gleaned any knowledge of such communication of
 14 Wife as a result of any independent investigation he engaged in
 15 out of the presence of Wife (which Wife will assume because if
 16 had engaged in any such independent investigation he would
 17 have violated Canon 3B(7), and in the absence of him having
 18 taken any evidence regarding statements of Wife indicating her
 19 intent not to be bound by the protective order, and in the absence
 20 of him inadvertently learning anything about such statements of
 21 Wife (which Wife will assume did not happen because if it
 22 happened Judge Towery's failure to "make provision promptly to
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1 notify the parties of the substance of such statements "would
2 constitute a violation by him of Canon 3B(7), constitutes a
3 baseless, injudicious and indefensible character assassination
4 reeking of bias and prejudice by Judge Towery regarding a party
5 in litigation he is responsible for as an APJ and as such
6 constitutes a violation of Canons 1, 2, 3 and 5 and in and of itself,
7 provides all the evidence necessary to compel his
8 disqualification.
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13 Count Eight

14
15 On or about October 24, 2016 Judge Towery violated Canon 2 by
16 failing to avoid impropriety and the appearance of impropriety and
17 Canon 3 by failing to perform the duties of his judicial office impartially,
18 competently, and diligently by starting a hearing on Wife's Access
19 Motion only moments after he admitted his prejudice by confirming he
20 retained his interpretation, apparently unpersuaded by all of Tennant's
21 arguments to the contrary, that Judge Chiarello had previously ruled
22 on Wife's Access Motion, and presumably denied it, otherwise Wife
23 would not have had any reason for Judge Towery to rule on it.

24 Without question before commencing to hear Wife's Access Motion on
25 October 24, 2016, the transcript of that hearing proves that Judge Towery
26 repeatedly confirmed his baseless and erroneous prejudicial opinion that
27 Judge Chiarello had previously ruled on Wife's Access Motion and
28

1 presumably denied it, otherwise Wife would not have had any reason for
2 Judge Towery on it.

3
4 a. Exhibit D, page 37, lines 7 through 10, proves it and reads as
5 follows:

6 I AM TROUBLED BY YOUR REQUEST, BECAUSE I THINK YOU,
7 AGAIN, ARE REPLACING OLD GROUND. ANY YOU ALREADY WENT
8 THROUGH THIS WITH JUDGE CHIARELLO WHEN JUDGE CHIARELLO
9 HAD THE HEARING ON WHETHER OR NOT THERE WAS GOING TO BE
10 ACCESS.

11 b. Exhibit D, page 38, lines 6 through 20, proves it and reads as
12 follows:

13 THE COURT: MR. TENNANT, I UNDERSTAND THIS IS YOUR
14 ARGUMENT. YOU'VE MADE IT REPEATEDLY. AND I'M LOOKING AT THE
15 PLAIN WORDS OF JUDGE CHIARELLO'S OPINION OF AUGUST 31. AND IN
16 THAT HE SAID: THE PETITIONER CAME FORWARD AND ASKED FOR FEES
AND A -- THAT A BOND BE POSTED BEFORE ANY FURTHER ACCESS WAS
GOING TO BE PROVIDED TO MS. BASSI.

17 AND HE DENIED THE FEES ON THE GROUNDS THAT JUDGE PIERCE
18 HAD HEARD THAT AND HE WENT AHEAD AND SAID THAT HE WAS NOT
GOING
19 TO REQUIRE A BOND.

20 I DON'T KNOW HOW TO INTERPRET THAT SECTION OF JUDGE
21 CHIARELLO'S ORDERS, OTHER THAN THE FACT THAT HE DEALT WITH THE
ACCESS ISSUE AND GAVE IT -- HE MADE A FINDING THAT MS. BASSI
22 HAD
VIOLATED THE CONFIDENTIALITY OF THE PROTECTIVE ORDER WITH HER
NOVEMBER 2015 LETTER.

23 THIS OBVIOUSLY WAS AN ISSUE BEFORE HIM.

24
25 c. Exhibit D, page 39, lines 4 through 6, proves that all of
26 Tennant's arguments that Judge Chiarello did not hear Wife's Access Motion
27
28

1 were having no effect on Judge Towery because of the following question

2 Judge Towery asked Tennant:

3
4 THE COURT: WHY DON'T YOU TELL ME WHERE IN JUDGE
5 CHIARELLO'S ORDER HE SAID: THE ACCESS ISSUE IS NOT BEFORE
6 ME IN HIS ORDER.

7 d. And finally, after Tennant's multiple arguments that Judge Chiarello
8 had not ruled on Wife's Access Motion finally ended, it was clear that just
9 moments before commencing to take evidence on Wife's Access Motion on
10 October 24, 2016 Judge Towery remained unconvinced by Tennant's
11 arguments and continued to believe his interpretation that Judge Chiarello, in
12 Judge Towery's words, has "dealt with the access" and that is proven in
13 Exhibit D, page 40, lines 2 through 4, as follows:

14
15
16 I HAVE MY INTERPRETATION OF JUDGE CHIARELLO'S ORDER.
17 I MAY BE WRONG. IF YOU WANT A HEARING ON YOUR ACCESS
18 MOTION, THAT STARTS RIGHT NOW. YOU MAY PRESENT EVIDENCE.

19
20 1. The start of Wife's Access Motion occurred in the transcript of
21 October 24, 2016 5 lines later;

22 2. If Judge Towery understood anything about the principle of
23 res judicata and honestly believed his interpretation that Judge Chiarello had
24 held a hearing on Wife Access Motion as he claimed, and presumably
25 denied it, he would have known better than to have started hearing Wife's
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1 Access Motion because a hearing on it would have been barred by the
2 principle of res judicata;

3
4 3. When Judge Towery commenced taking evidence on Wife's
5 Access Motion his belief that Judge Chiarello had previously ruled on it was
6 baseless, erroneous, indefensible and the most clear and convincing
7 evidence yet of the magnitude of his bias and prejudice against Wife and the
8 magnitude of his incompetence in performing his judicial duty, and further
9 proof of that, again, is the following:
10

11
12 a. Exhibit E is a copy of a letter dated June 9, 2016 written by
13 Tennant to a number of Judges including Judge Towery in
14 an attempt to get a quick resolution of the defective long
15 cause referral filled out by Judge Grilli that led Judge
16 Chiarello to conclude Wife's Access Motion was not before
17 him on June 1, 2016;

18
19
20 b. Exhibit F is a copy of Judge Towery's Order in response to
21 Tennant's letter dated June 9, 2016 requiring Wife's Motion
22 Judge Chiarello said was not before him to be refiled;

23
24 c. Exhibit G is a copy of Wife's refiled Access Motion required
25 by Judge Towery because Judge Chiarello had said Wife's
26 original Access Motion was not before him;
27
28

- 1 d. On July 15, 2016 Judge Towery set Wife's motion (Exhibit
2 G) for a one day hearing on October 3, 2016 required
3 because Judge Chiarello felt it was not properly before him
4 on June 1, 2016;
5
6 e. Judge Towery continued the hearing on October 3, 2016 of
7 Wife's Access Motion required by Judge Chiarello when he
8 concluded it was not before him to October 24, 2016;
9
10 f. At least at one time Judge Towery had personal knowledge
11 of everything in sub-paragraphs 3a, 3b, 3c, 3d, and 3e,
12 above;
13
14 g. On October 24, 2016, all of a sudden, out of the blue,
15 Judge Towery's memory totally fails him regarding
16 everything in sub-paragraphs 3a, 3b, 3c, 3d, and 3e above,
17 and Judge Towery starts ranting about Wife's Access
18 Motion having already been ruled on by Judge Chiarello,
19 which provides all the evidence necessary to compel his
20 disqualification.
21
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26 **Count Nine**

27 **On or about December 21, 2016 Judge Towery committed**
28 **violations of Canon 2 by failing to avoid impropriety and the**

1 appearance of impropriety and Canon 3 by failing to perform the duties
2 of his judicial office impartially, competently, and diligently by ruling
3 that the dividend of \$67,988 that Husband paid himself out of CSP, Inc.
4 in 2014 was not income available for support.

5 Proof of Count Nine: Family Code §4058(a)(1) reads as follows:

6 § 4058. Annual gross income of each parent

7 (a) The annual gross income of each parent means income
8 from whatever source derived, except as specified in subdivision
9 (c) and includes, but is not limited to, the following:

10 (1) Income such as commissions, salaries, royalties, wages,
11 bonuses, rents, dividends, pensions, interest, trust income,
12 annuities, workers' compensation benefits, unemployment
13 insurance benefits, disability insurance benefits, social security
14 benefits, and spousal support actually received from a person not a
15 party to the proceeding to establish a child support order under this
16 article.

17 Count Ten

18 On or about October 5, 2016 Judge Towery committed violations
19 of Canon 2 by failing to avoid impropriety and the appearance of
20 impropriety and Canon 3 by failing to perform the duties of his judicial
21 office impartially, competently, and diligently by both mistakenly
22 thinking Wife's Access Motion contained her request to modify the
23 protective order so she could use documents subject to the protective
24 order, in reporting Judge Towery to the Commission on Judicial
25 Performance and in reporting Baugh to the State Bar, and by
26 voluntarily assuring Wife in open court that he would "absolutely"
27 (Judge Towery's word not Wife's) deny her request for order to modify
28 the protective order that was contained in another one of her motions
then pending before Judge Towery before he had ever heard any of
Wife's evidence in support of that requested order.

1. Proof of Count Ten can be found in Exhibit D at page 67, line 11,
through page 68, line 1, which reads as follows:

Written Verified Statement of Disqualification

MARRIAGE OF BASSI

Case No. 6-12-FL-009065

Page 34 of 57

1 LET ME SAY: THERE ARE A LOT OF OTHER THINGS THAT I SAW
2 IN THE ACCESS MOTION. I SAW THAT -- THAT MS. BASSI WANTED TO
3 REMOVE THE RESTRICTION THAT SHE COULD NOT COPY THE DOCUMENTS,
4 BECAUSE SHE WANTED TO COPY THE DOCUMENTS AND PROVIDE THEM, AS
5 SHE SAW FIT, TO LICENSING AGENCIES AND SO FORTH.

6 MR. TENNANT: LAW ENFORCEMENT AGENCIES AND SO FORTH.

7 THE COURT: OKAY. DO ME A FAVOR, MR. TENNANT. ALLOW
8 ME TO HAVE MY PIECE. I TRIED NOT TO INTERRUPT YOU UNDULY.

9 MR. TENNANT: I KNOW. BUT, JUDGE --

10 THE COURT: MR. TENNANT, I'M GOING TO ASK YOU TO JUST
11 BE PATIENT. I KNOW THAT'S DIFFICULT FOR YOU, BUT KINDLY BE
12 PATIENT. I'D LIKE TO FINISH THIS.

13 MR. TENNANT: YES.

14 THE COURT: I AM ABSOLUTELY NOT INCLINED TO GRANT THAT
15 REQUEST, THAT MS. BASSI BE ABLE TO COPY DOCUMENTS AND SEND
16 THEM OUT, BECAUSE THERE ARE OVER 50 VOLUMES OF COURT
17 DOCUMENTS.

18 THERE ARE TRANSCRIPTS. THERE IS VOLUMINOUS INFORMATION
19 THAT IS CURRENTLY AVAILABLE FOR MS. BASSI TO PURSUE WHATEVER
20 COMPLAINT SHE WISHES WITHOUT THE FINANCIAL INFORMATION.

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2. Given the above portion of the October 24, 2016 transcript, Wife
would have to say that to her it seems extremely likely that a person aware of
the above comment of Judge Towery confirmed in the above referenced
transcript would reasonably entertain a doubt that Judge Towery would be able
to act with integrity, impartiality, and competence, when he eventually hears
her request for order to modify the protective order so she could use
documents subject to the protective order in reporting Judge Towery to the
Commission on Judicial Performance and Baugh to the State Bar.

Count Eleven

Since the 1st of October, 2016 Judge Towery has committed violations of Canon 2 by failing to avoid impropriety and the appearance of impropriety and Canon 3 by failing to perform the duties of his judicial office impartially, competently, and diligently by wrongfully accusing Tennant and Wife of multiple indiscretions in an effort to cover up his own mismanagement of this case.

1. An example of a Judge Towery wrongful accusation of Tennant is contained in Exhibit D at page 74, line 15, through page 75, line 8, as follows:

MR. TENNANT: EQUAL TIME, PLEASE.

THE COURT: MR. TENNANT, LET ME ASK YOU A QUESTION FIRST -- NEVER MIND.

MR. TENNANT: YOU ALWAYS LET HIM RESPOND. ALL HE'S GOT TO SAY IS JUST GIVE ME A CHANCE TO RESPOND TO MR. TENNANT AND POW. YOU GIVE IT TO HIM EVERY TIME.

I'VE GOT TO FIGHT FOR IT EVERY TIME YOU GIVE IT TO ME. THAT'S A FACT, JUDGE.

THE COURT: IT'S NOT A FACT, BUT GO RIGHT AHEAD. YOU HAVE THE FLOOR, SIR.

MR. TENNANT: FIRST OF ALL, WHY ARE YOU LETTING HIM TALK TO YOU AND TAKE UP TIME THAT YOU COULD BE ADDRESSING MOTIONS THAT ARE PENDING BEFORE YOU TALKING ABOUT THIS --

THE COURT: AND LET ME ANSWER THAT QUESTION. BECAUSE WHEN WE CAME BACK FROM LUNCH I ASKED YOU FOR A TIME ESTIMATE. AND WHAT I GOT WAS A CHAPTER'S WORTH WITHOUT A RESPONSIVE ANSWER.

SO GO AHEAD.

THAT'S WHY WE'RE HAVING THIS DISCUSSION AFTER 30 MINUTES, BECAUSE YOU LED US DOWN THIS ROAD.

SO GO RIGHT AHEAD, SIR.

MR. TENNANT: I THINK THAT'S A BUM RAP.

2. Proof that Tennant was correct and that the accusation of Judge Towery was a bum rap is found in Exhibit D at page 57, lines 1 through 27,

where Tennant repeated his three day time estimate he had made over 3 months before just 17 transcript lines after Judge Towery asked him for it on October 24, 2016 is as follows:

AFTERNOON SESSION

THE COURT: WE'RE BACK ON THE RECORD ON BASSI. RECORD REFLECT BOTH PARTIES ARE PRESENT. BOTH COUNSEL ARE PRESENT.

MR. TENNANT, YOU MAY RESUME.

MR. TENNANT: YOU SAID YOU WANTED SOMETHING FROM ME TO START WITH. DO YOU REMEMBER THAT ONE, JUDGE?

THE COURT: YES, I DO REMEMBER IT.

DO YOU HAVE A TIME ESTIMATE?

MR. TENNANT: JUDGE, I WANT TO REMIND YOU THAT WHEN YOU FIRST STARTED DECIDING WHETHER YOU WERE GOING TO SEND THIS DOWNTOWN AS A CONTESTED MATTER FOR TOO LONG, OR NOT, YOU ASKED ME TO ESTIMATE THE TIME.

YOU WON'T REMEMBER THIS, BUT I SAID: THREE DAYS -- THREE DAYS.

YOU ASKED ME TO RECONSIDER.

I CHECKED WITH MY CLIENT. WE COULDN'T. WE GAVE YOU AN HONEST ESTIMATE OF THREE DAYS. IT'S GOT TO GO DOWNTOWN.

YOUR REPLY WAS: NO. I'M GOING TO SET IT BEFORE ME. I'M GOING TO GIVE YOU A DAY AND WE'RE GOING TO GET IT TRIED IN A DAY.

THAT'S AS CLOSE TO AN EXACT QUOTE OF THE PROCEEDINGS SIX MONTHS AGO THAT I CAN RECALL.

THE COURT: DO YOU REMEMBER THE QUESTION, MR. TENNANT?

MR. TENNANT: YEAH, I DO, AND I'M TRYING TO ANSWER IT.

AND THE ANSWER IS: MY TIME ESTIMATE'S NO DIFFERENT THAN IT WAS THE FIRST DAY YOU ASKED ME ABOUT IT. YOU WERE THE ONE THAT SET IT FOR A DAY. I SAID "THREE."

3. When Judge Towery wrongfully accused Tennant of something he did not do in an effort to justify the Court's own calendar mismanagement it certainly would cause a person aware of those facts to reasonably entertain a doubt that the Judge would be able to act with integrity, impartiality and competence, and, again, we know that is the test for the appearance of

impropriety and provides all the evidence necessary to compel his disqualification.

Count Twelve

On or about October 24, 2016 Judge Towery committed violations of Canon 2 by failing to avoid impropriety and the appearance of impropriety and Canon 3 by failing to perform the duties of his judicial office impartially, competently, and diligently by demonstrating multiple memory lapses and by continually drawing multiple wrong legal and factual conclusions in just one hearing that lasted only 2 hours and 24 minutes.

1. Judge Towery at Exhibit D, page 5, line 14, through line 20, makes the following statement regarding his memory:

I WILL SAY, MR. TENNANT, FOR YOUR INFORMATION, JUST AS WHEN YOU SAID -- I BELIEVE IT WAS AT THE OCTOBER 5TH HEARING -- THAT YOU WOULD GO TO THE C.J.P. IF I STOOD ON MY TENTATIVE RULING, WHICH OF COURSE IS YOUR ABSOLUTE RIGHT TO DO, I SAID THAT I WAS GOING TO IGNORE YOUR THREAT AND CONTINUE TO HANDLE THIS CASE IN MAKING DECISIONS ACCORDING TO THE LAW AND FACTS, AS BEST I COULD.

Wife's Response: When Wife gains possession of the transcript of the October 5, 2016 hearing that she has had ordered for some time it will prove that Tennant never told Judge Towery on October 5, 2016 that he would "go to the CJP if (Judge Towery) stood on (his) tentative decision."

1 2. Judge Towery at Exhibit D, page 6, line 15, through line 24, made
2 the following claim:
3

4 NOW, THERE ARE THREE MATTERS THAT ARE ON CALENDAR ON
5 THIS CASE TODAY. LET ME BRIEFLY GO DOWN THOSE THREE AND GIVE
6 THE PARTIES SOME GUIDANCE AND SOME TENTATIVES.

7 THE FIRST IS WITH RESPECT TO RESPONDENT'S REQUEST FOR
8 2030 ATTORNEYS' FEES.

9 I MADE A TENTATIVE RULING ON OCTOBER 5TH THAT THIS
10 MATTER HAD BEEN PREVIOUSLY ADJUDICATED, AND THE COURT WAS NOT
11 GOING TO RELITIGATE IT.

12 MR. TENNANT, AS I INDICATED, OBJECTED TO THE COURT'S
13 RULING ON THAT.

14 **Wife's Response:** When Wife gains possession of the transcript
15 of the October 5, 2016 hearing that she has had ordered for
16 some time it will prove that Judge Towery made no such
17 tentative ruling regarding attorney fees on October 5, 2016 as he
18 claims, and Tennant did not on October 5, 2016 object to such a
19 tentative ruling regarding attorney fees.
20

21 3. At Exhibit D, page 14, line 25, through page 15, line 2, Judge
22 Towery castigated Tennant for having inappropriately advocated when he
23 submitted to Judge Towery his proposed order after the November 17, 2016
24 hearing, as follows:
25

26 AND, MR. TENNANT, GOING FORWARD LET'S BE PLAIN: FOR
27 SOMEBODY WHO IS PREPARING A FINDINGS-AND-ORDER-AFTER-HEARING,
28 IT IS NOT AN ADVOCACY OPPORTUNITY. IT IS SIMPLY A MATTER OF

1 GETTING DOWN WHAT THE COURT ORDERED. THE TRANSCRIPT WILL
2 DETERMINE -- WILL BE THE ULTIMATE TEST IF THERE'S A
3 DISAGREEMENT BETWEEN COUNSEL.

4 At Exhibit D, page 23, lines 5 through 15, Tennant denied Judge
5 Towery's accusation of such advocacy.

6
7 AND I WASN'T TRYING TO ADVOCATE A POSITION THAT I
8 DIDN'T THINK THE COURT TOOK. I WAS TRYING TO INDICATE, IN AN
9 ORDER, WHAT MY IMPRESSION OF WHAT THE COURT SAID IT WANTED TO
10 ACCOMPLISH, TO HEAD DOWN TWO TRACKS, AND WHATEVER HAPPENED
11 HAPPENED. IT WASN'T AN EFFORT TO GIVE YOU A CLOSING ARGUMENT
12 THAT I'VE ALREADY LOST IN COURT WHEN I DRAFTED THAT PROPOSED
13 ORDE.

14 SO, YOUR COMMENT ABOUT MY ADVOCATING SOMETHING IS -- IS
15 JUST NOT MERITED, BECAUSE I WASN'T TRYING TO ARGUE ANYTHING
16 OTHER THAN WHAT I THOUGHT WAS THE COURT'S INTENTION. AND
17 THAT'S NOT ADVOCACY. IT ISN'T EVEN CLOSE TO ADVOCACY.

18 At Exhibit D, page 28, line 22, through page 29, line 17, Judge Towery
19 apologizes to Tennant for his advocacy allegation.

20 THE COURT: ALL RIGHT. SO, LET ME BACK UP TO THE FIRST
21 POINT THAT YOU RAISE, MR. TENNANT, ABOUT THE FORM OF ORDER
22 COMING OUT OF OUR OCTOBER 14TH HEARING.

23 IT IS TRUE THAT I SAID DURING THE HEARING I FELT NO
24 ALTERNATIVE BUT TO GO DOWN BOTH ROADS, THE ROAD OF SELLING THE
25 HOUSE AND THE ROAD OF TRYING TO CURE THE DEFAULT.

26 WHEN I WALKED OUT OF THE HEARING -- BECAUSE WE HAD
27 FINISHED THE TIME THAT WE HAD AVAILABLE AT NOONTIME -- I WILL
28 TELL YOU, I THOUGHT TO MYSELF: THERE IS PROBABLY AN AMBIGUITY
THERE ABOUT WHAT HAPPENS IF THE LOAN -- IF THE DEFAULT IS SET
ASIDE BECAUSE THE BANK ACCEPTS THE -- THE TENDER OF THE
DELINQUENT FEE.

AND I THOUGHT TO MYSELF -- AND I THINK APPROPRIATELY --
IF SOMEBODY WANTS TO COME BACK AND STOP THE SALE, THEY CAN
FILE A REQUEST-FOR-ORDER AND I'LL DEAL WITH THAT ISSUE. I
STILL THOUGHT THAT THE SALE WAS APPROPRIATE, REGARDLESS.

AND THE DOOR IS OPEN. THE DOOR TO THE COURTHOUSE IS
OPEN IF YOU WANT TO TRY TO CHANGE THAT ORDER, BUT THE COURT
MADE AN ORDER FOR THE SALE OF LOS GATOS.

1 I THINK THAT THAT ORDER WAS APPROPRIATE. AND I THINK
2 THAT THE FORECLOSURE WAS ONLY ONE FACTOR SUPPORTING THAT.

3 SO, THE FACT REMAINS, I WILL -- I WILL AGREE WITH YOU
4 IN PART, THAT IT WAS PROBABLY UNFAIR FOR ME TO STATE THAT YOU
5 WERE PRACTICING ADVOCACY.

6 **Wife's Response:** Judge Towery's apology for his erroneous
7 conclusion regarding Tennant's advocacy simply apologizes for
8 one erroneous factual conclusion. He has made many more
9 erroneous factual and legal conclusions for which he has not
10 apologized.

11
12
13 4. At Exhibit D, page 30, line 10 through line 13, Judge Towery offers
14 a conclusion as follows:

15
16 IT SOUNDS TO ME LIKE WHAT MR. BAUGH SAID WAS AN OPINION
17 AND NOT A FACT THAT THE COMPANY NEEDED THAT AND IT WAS A
18 PERFECTLY DEFENSIBLE OPINION, GIVEN THE TESTIMONY OF MR. GLEN
19 BEFORE JUDGE PIERCE, SUBSEQUENTLY.

20 **Wife's Response:** Wife's attached Exhibit A demonstrates how
21 Baugh unconditionally and willfully lied about a material fact while
22 under oath, and that constitutes every element necessary to
23 prove perjury, and if Judge Towery thinks that his view that
24 Baugh was "just" stating an opinion is going to alter the fact that
25 Baugh committed perjury on September 9, 2014, he's got
26 another think coming.
27
28

1 As to Judge Towery's line that "it was a perfectly defensible
2 opinion, given the testimony of Mr. Glen before Judge Pierce,
3 subsequently" there is so much wrong with that line that
4 discussing it makes being kind impossible.
5

6 In short, Baugh's perjury occurred on September 9, 2014,
7 and Mr. Glen's testimony before Judge Pierce occurred during
8 the first week in March 2016. Given those two facts it is patently
9 impossible to make sense out of what Judge Towery said and a
10 person aware of what Judge Towery said and the facts, would
11 reasonably entertain a doubt that Judge Towery would be able to
12 act with integrity, impartiality and competence.
13
14
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18 5. At Exhibit D, page 30, line 21 through line 25, Judge Towery says:

19 THE COURT: THE PREMISE. YOU KEEP ASSUMING THAT
20 THERE'S MONEY IN THE COMPANY THAT CAN PAY FEES. THAT HAS BEEN
21 CHALLENGED BY MR. BAUGH AT EVERY TURN, IN 2014, IN 2016. AND
22 EVERY JUDGE HAS DISAGREED WITH YOUR PREMISE.

23 AND MY STATEMENT TODAY IS: WE'RE CLOSING THAT DOOR.

24 **Wife's Response:** Wife's attached Exhibit A demonstrates how
25 Judge Towery's conclusion above would lead a person aware of
26 both that conclusion and the evidence contained in Wife's Exhibit
27
28

1 A to reasonably entertain a doubt that Judge Towery would be
2 able to act with integrity, impartiality and competence.
3
4

5 6. At Exhibit D, page 37, line 7, through page 40, line 4, is contained
6 the following exchanges:
7

8 I AM TROUBLED BY YOUR REQUEST, BECAUSE I THINK YOU,
9 AGAIN, ARE REPLACING OLD GROUND. AND YOU ALREADY WENT THROUGH
10 THIS WITH JUDGE CHIARELLO WHEN JUDGE CHIARELLO HAD THE HEARING
11 ON WHETHER OR NOT THERE WAS GOING TO BE ACCESS.

12 MR. TENNANT: WELL, PLEASE -- PLEASE LET ME JUST SPEAK
13 TO THAT ONE, BECAUSE YOU'RE DEAD WRONG ON THAT AGAIN.

14 THE COURT: GO AHEAD.

15 MR. TENNANT: YOU'RE DEAD WRONG.

16 IT'S THE OPPOSITE OF WHAT YOU CONCLUDED WITH JUDGE
17 CHIARELLO IN THIS ACCESS MOTION.

18 JUDGE CHIARELLO DIDN'T RULE ON IT. HE RULED THAT IT
19 WASN'T PROPERLY BEFORE HIM. HE HAD MADE NO RULING ON IT.

20 AND SO WE, THEN, SENT THAT LETTER TO YOU ORIGINALLY
21 SAYING -- TO YOUR SUPERVISORS -- THE TWO JUDGE SUPERVISORS --
22 SAYING: HEY, THIS IS A TOTAL SCREW-UP. JUDGE GRILLI JUST
23 DIDN'T PROPERLY FILL OUT THE LONG-CAUSE -- LONG-CAUSE REFERRAL
24 SHEET. AND SO YOU REALLY OUGHT TO GIVE THIS GAL A QUICK
25 HEARING.

26 ROUTINE. COMES BACK TO YOU. FILE YOUR MOTION. I FILE
27 THE MOTION. YOU ROUTINELY SET IT. MADE NO SPECIAL ALLOWANCES
28 AT ALL FOR THE SCREW-UP OF THE JUDICIARY BY THAT TIME FOR SIX
MONTHS.

AND YOU SET IT AGAIN FOR SIX MONTHS -- OR ALMOST SIX
MONTHS -- IN ADVANCE.

AND THEN WHEN WE GOT THERE, YOU SAID: OH, THERE'S A
PROBLEM. MR. BAUGH HAS SOME NOTICE PROBLEM WITH MR. BAUGH, SO
IT GOT CONTINUED TO TODAY.

THE COURT: MR. TENNANT, I UNDERSTAND THIS IS YOUR
ARGUMENT. YOU'VE MADE IT REPEATEDLY. AND I'M LOOKING AT THE
PLAIN WORDS OF JUDGE CHIARELLO'S OPINION OF AUGUST 31. AND IN
THAT HE SAID: THE PETITIONER CAME FORWARD AND ASKED FOR FEES
AND A -- THAT A BOND BE POSTED BEFORE ANY FURTHER ACCESS WAS
GOING TO BE PROVIDED TO MS. BASSI.

AND HE DENIED THE FEES ON THE GROUNDS THAT JUDGE PIERCE

1 HAD HEARD THAT AND HE WENT AHEAD AND SAID THAT HE WAS NOT
2 GOING TO REQUIRE A BOND.

3 I DON'T KNOW HOW TO INTERPRET THAT SECTION OF JUDGE
4 CHIARELLO'S ORDERS, OTHER THAN THE FACT THAT HE DEALT WITH THE
5 ACCESS ISSUE AND GAVE IT -- HE MADE A FINDING THAT MS. BASSI
6 HAD VIOLATED THE CONFIDENTIALITY OF THE PROTECTIVE ORDER WITH
7 HER NOVEMBER 2015 LETTER.

8 THIS OBVIOUSLY WAS AN ISSUE BEFORE HIM.

9 BUT YOU WANTED TO PRESENT EVIDENCE. I'M GIVING YOU THE
10 OPPORTUNITY TO PRESENT IT.

11 MY SUGGESTION IS: WHY DON'T YOU STOP ARGUING WITH ME
12 AND PRESENT YOUR EVIDENCE.

13 MR. TENNANT: THAT'S A VALID QUESTION.

14 BUT -- BUT I GUESS I'M NOT -- I'M NOT PREPARED TO -- TO
15 START MY EVIDENCE ON THE ACCESS MOTION WITH THIS COURT STILL
16 BELIEVING THAT JUDGE CHIARELLO SOMEHOW RULED ON THAT ISSUE. HE
17 DIDN'T. THE ONE RULING THAT HE MADE WAS: IT'S NOT BEFORE ME.
18 THAT'S WHY I CAME BACK TO YOU AND I EXPLAINED ALL THAT IN THE
19 LETTER THAT YOU --

20 THE COURT: WHY DON'T YOU TELL ME WHERE IN JUDGE
21 CHIARELLO'S ORDER HE SAID: THE ACCESS ISSUE IS NOT BEFORE ME
22 IN HIS ORDER.

23 MR. TENNANT: LOOK, I'M AN OFFICER OF THE COURT.

24 I -- I HAVE BEEN TRYING TO BRING THIS MOTION FOR -- FOR
25 SIX OR EIGHT MONTHS BY THE TIME WE GOT IN FRONT OF JUDGE
26 CHIARELLO.

27 I WAS PREPARED TO PRESENT MY ACCESS MOTION THAT DAY.
28 AND, FINALLY, AT THE END OF THE HEARING HE SAYS: I'M
SORRY, BUT HERE IS THE BASIS WHY I CAN'T RULE ON YOUR MOTION.
THEN HE GOES BACK TO THE MINUTE ORDER OF JUDGE ARAND
THAT SENT THE CASE TO HIM. HE WENT BACK TO THE LONG-CAUSE
REFERRAL ORDER THAT JUDGE GRILLI FILLED OUT. IT DID SAY
"ACCESS." BUT THERE WAS AN AMBIGUITY THAT HE FELT EXISTED.

AND SO WHEN ARAND SENT IT TO HIM -- ACCESS -- HE
THOUGHT IT WAS MR. BAUGH'S MOTION FOR ACCESS, NOT MINE. IT
JUST GOT LOST. IT JUST BUREAUCRATICALLY GOT LOST.

BUT JUDGE CHIARELLO NEVER, EVER, EVER WOULD TOUCH IT.
I WAS THERE, SO WAS BRAD BAUGH. HE SAID: I CAN'T RULE ON THIS
MOTION.

AND I SENT THAT LETTER AND I SENT THAT MOTION TO YOU
EXPLAINING ALL OF THAT, THAT JUDGE GRILLI HAD SCREWED UP.

THE COURT: MR. TENNANT, THERE'S NO NEED FOR YOU TO
RAISE YOUR VOICE. I CAN HEAR YOU PERFECTLY WELL.

BUT LET ME BE PLAIN: I AM NOT RESTRICTING YOUR ABILITY TO
PRESENT EVIDENCE ON THIS IN ANY WAY, SHAPE OR FORM.

I HAVE MY INTERPRETATION OF JUDGE CHIARELLO'S ORDER. I

1 MAY BE WRONG. IF YOU WANT A HEARING ON YOUR ACCESS MOTION,
2 THAT STARTS RIGHT NOW. YOU MAY PRESENT EVIDENCE.

3 **Wife's Response:** Judge Chiarello's Order After Hearing filed
4 August 31, 2016, attached hereto, marked Exhibit H, and
5 incorporated herein by reference, demonstrates how Judge
6 Towery's interpretation of that order would lead a person aware
7 of both Judge Towery's interpretation and the evidence contained
8 in Wife's Exhibit H that proves Judge Towery's interpretation is
9 dead wrong, to reasonably entertain a doubt that Judge Towery
10 would be able to act with integrity, impartiality and competence.
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16 7. Exhibit D, page 48, line 7, through page 52, line 6, contains the
17 previously discussed erroneous attorney-client privilege issue.
18

19 Q DID YOU DISCUSS THAT PROBLEM WITH A LAWYER WHO ULTIMATELY
20 ADVISED YOU AND THEN ULTIMATELY, AFTER THAT, ASSISTED YOU AND
21 MR. BASSI IN THE INCORPORATION OF C.S.P., INC?
22 A YES.

23 MR. BAUGH: OBJECTION. THE OBJECTION WOULD BE -- I
24 WOULD LIKE TO -- IMPROPER FOUNDATION THAT SHE -- WHETHER OR
25 NOT SHE SAW HIM SOLELY, OR WITH MR. BASSI. IF IT WAS WITH
26 MR. BASSI, THEN OF COURSE THE PRIVILEGE IS CLAIMED.

27 THE COURT: THEN OF COURSE?

28 MR. BAUGH: THE PRIVILEGE IS CLAIMED.

THE COURT: I'M GOING TO ASK THAT YOU LAY A FOUNDATION
AS TO WHETHER MR. BASSI WAS INVOLVED.

Q (BY MR. TENNANT) WELL, DESCRIBE -- FIRST OF ALL, WHO'S THE
LAWYER IN QUESTION?

A WE ACTUALLY DISCUSSED IT WITH TWO LAWYERS, JOHN KESECKER AND
ETTE ANASTASIO.

MR. BAUGH: OBJECT TO THE ANSWER. ATTORNEY-CLIENT

1 PRIVILEGE ASSERTED.

2 THE WITNESS: I MOST --

3 MR. TENNANT: STOP.

4 THE COURT: WHY DON'T YOU LAY A FURTHER FOUNDATION.

5 MR. TENNANT: VERY WELL.

6 Q (BY MR. TENNANT) WHO ULTIMATELY -- WHAT LAWYER ULTIMATELY
7 INCORPORATED C.S.P., INC?

8 A JOHN KESECKER.

9 Q DID YOU CONSULT WITH HIM REGARDING -- DID YOU AND MR. BASSI
10 CONSULT WITH HIM REGARDING THE PROBLEM OF YOUR
11 THEN-OTHER-PARTNER, GENE AGNEW?

12 A MR. KESECKER WAS THE LAWYER FOR AGRICOAT AND I WORKED WITH
13 HIM EXCLUSIVELY ON A NUMBER OF OCCASIONS. SO MR. BASSI AND I
14 WOULD DISCUSS THINGS WITH HIM SEPARATELY AND TOGETHER, AND WE
15 DISCUSSED THE ISSUES RELATED TO C.S.I. --

16 MR. BAUGH: OBJECTION AS TO THE SUBSTANCE --

17 THE WITNESS: -- TOGETHER --

18 THE COURT: YOUR RESPONSE, MR. TENNANT?

19 MR. TENNANT: UM, I -- HE'S GOT A -- MY REQUEST -- I'M
20 TRYING TO LAY THE FOUNDATION, BUT HE'S GOT AN OBJECTION IN
21 FRONT OF YOU.

22 THE COURT: AND I'M ASKING YOU FOR YOUR RESPONSE TO THE
23 OBJECTION.

24 SHE HAS SAID THAT MR. BASSI WAS INVOLVED.

25 MR. TENNANT: YES. THEY ARE BOTH -- THERE IS NO
26 PRIVILEGE INVOLVED WHEN A HUSBAND AND A WIFE ARE CONSULTING
27 WITH A LAWYER TO INCORPORATE A COMMUNITY BUSINESS.

28 WHERE'S THE PRIVILEGE ISSUE? WHERE IS IT?

THEY WERE BOTH CONSULTING HIM AND TAKING HIS ADVICE AND
FOLLOWED HIS ADVICE AND LET HIM INCORPORATE THEM BASED ON HIS
ADVICE. WHERE IS THE PRIVILEGE ISSUE?

THE COURT: MR. BAUGH?

MR. BAUGH: THE PRIVILEGE IS HELD BY BOTH PARTIES AND MUST
REQUIRE THE WAIVER OF BOTH PARTIES.

IT'S VERY SIMILAR TO THE THERAPIST PRIVILEGE. WHEN A
COUPLE GO TO MARITAL COUNSELING AND WANT TO TALK ABOUT WHAT
WAS SAID IN MARITAL COUNSELING -- WHICH YOU MAY DO, IF BOTH
SIDES WAIVE THE PRIVILEGE -- BUT YOU MAY NOT DO SO IF THE
PRIVILEGE IS EXTENDED TO TWO AND ONE SAYS NO.

THE COURT: OKAY.

MR. TENNANT: THE PRIVILEGE WOULD NOT APPLY IF IT'S
WITH REGARD TO CONVERSATIONS THAT ARE HELD IN THE PRESENCE OF
BOTH WITH THEIR JOINT ATTORNEY. THE PRIVILEGE COULD NOT APPLY
THERE AT ALL, EVER.

THE COURT: I HAVE A DIFFERENT UNDERSTANDING OF THE
PRIVILEGE.

MR. TENNANT: VERY WELL.

1 THE COURT: SO I'M GOING TO SUSTAIN MR. BAUGH'S
2 OBJECTION INSOFAR AS HE'S OBJECTING TO MS. BASSI TESTIFYING TO
3 ANY COMMUNICATIONS WITH COUNSEL AT WHICH MR. BASSI WAS
4 PRESENT.

5 MR. TENNANT: YOU'RE EXCLUDING HER ABILITY TO TESTIFY
6 TO WHAT MR. BASSI SAID IN THE PRESENCE OF THE LAWYER?

7 THE COURT: NO. I'M EXCLUDING ATTORNEY-CLIENT
8 COMMUNICATIONS AT WHICH MR. BASSI WAS PRESENT.

9 MR. TENNANT: AND -- IN WHICH SHE WAS PRESENT, AS WELL?

10 THE COURT: THAT'S CORRECT.

11 MR. TENNANT: JUDGE, THE PRIVILEGE IS WAIVED IF
12 SOMEBODY ELSE --

13 THE COURT: MR. TENNANT --

14 MR. TENNANT: -- IF SOMEBODY IS A WITNESS TO AN ATTORNEY-
15 CLIENT RELATIONSHIP --

16 THE COURT: MR. BASSI, (SIC) I MAY BE RIGHT, I MAY BE
17 WRONG. I'VE MADE MY RULING. LET'S GO ON.

18 MR. TENNANT: VERY WELL.

19 Q (BY MR. TENNANT) DID MR. KESECKER ADVISE BOTH OF YOU AS TO
20 A NUMBER OF SCENARIOS THAT YOU COULD UNDERTAKE TO DEAL WITH
21 THE PROBLEM THAT YOU -- YOU SHARED WITH HIM ABOUT THE PARTNER?

22 MR. BAUGH: OBJECTION. PRIVILEGE.

23 THE COURT: I'M GOING TO ASK, MR. TENNANT, THAT YOU
24 REFRAME YOUR QUESTIONS TO MAKE SURE THAT THEY ARE
25 ATTORNEY-CLIENT COMMUNICATIONS AT WHICH MR. BASSI WAS NOT
26 PRESENT. IF HE WASN'T PRESENT, I'M GOING TO SUSTAIN THE
27 PRIVILEGE OBJECTION.

28 Q (BY MR. TENNANT) DID MR. KESECKER WRITE A LETTER TO YOU AND
MR. BASSI BOTH LAYING OUT THE -- THE ALTERNATIVES THAT YOU HAD
PRIOR TO HIS INCORPORATION OF C.S.P., INC?

MR. BAUGH: OBJECTION. PRIVILEGE. AND I WOULD LIKE TO
EXPAND ON IT.

I THINK IF THE ATTORNEY WAS ENGAGED FOR A JOINT
PURPOSE, HE MAY GET A PHONE CALL FROM ONE OR TWO PEOPLE, BUT
THE PURPOSE IS CLEARLY JOINT.

THE COURT: WELL, I'M GOING TO LIMIT THE CLAIM OF
PRIVILEGE THAT COMMUNICATIONS INVOLVE MR. BASSI.

SO, IF THERE'S A COMMUNICATION IN WHICH MR. BASSI WAS
NOT INVOLVED, I DON'T THINK THERE'S A PRIVILEGE THAT ATTACHES.

Q (BY MR. TENNANT) BUT THE QUESTION CALLS FOR: WAS THERE A
LETTER FROM THE LAWYER WRITTEN TO BOTH OF YOU AS TO HIS ADVICE
AS TO THE SCENARIOS AVAILABLE TO YOU TO DEAL WITH A PROBLEM
PARTNER?

THE COURT: NOW I'M GOING TO SUSTAIN THE PRIVILEGE
OBJECTION AS TO THAT.

MR. TENNANT: SUSTAINING IT?

THE COURT: YES.

1 MR. TENNANT: VERY GOOD.

2
3 **Wife's Response:** Judge Towery's ruling, given his experience
4 as both a lawyer and a jurist, compels Wife to believe he was not
5 just innocently mistaken.
6
7

8
9 8. At Exhibit D, page 74, line 25, through page 75, line 8, Judge
10 Towery falsely accuses Tennant of not responding to the Court's question at
11 the start of the afternoon session asking for Mr. Tennant's time estimate
12 which Tennant characterized at the time as a "bad rap" as follows:
13

14
15 MR. TENNANT: FIRST OF ALL, WHY ARE YOU LETTING HIM
16 TALK TO YOU AND TAKE UP TIME THAT YOU COULD BE ADDRESSING
17 MOTIONS THAT ARE PENDING BEFORE YOU TALKING ABOUT THIS --

18 THE COURT: AND LET ME ANSWER THAT QUESTION. BECAUSE
19 WHEN WE CAME BACK FROM LUNCH I ASKED YOU FOR A TIME ESTIMATE.
20 AND WHAT I GOT WAS A CHAPTER'S WORTH WITHOUT A RESPONSIVE
21 ANSWER.

22 SO GO AHEAD.

23 THAT'S WHY WE'RE HAVING THIS DISCUSSION AFTER 30
24 MINUTES, BECAUSE YOU LED US DOWN THIS ROAD.

25 SO GO RIGHT AHEAD, SIR.

26 MR. TENNANT: I THINK THAT'S A BUM RAP.
27

28
29 Proof that Judge Towery's accusation was in fact a bum rap is located at
30 Exhibit D, page 57, lines 1 through 27, as follows:

31
32 AFTERNOON SESSION

33 THE COURT: WE'RE BACK ON THE RECORD ON BASSI. RECORD
34 REFLECT BOTH PARTIES ARE PRESENT. BOTH COUNSEL ARE PRESENT.

1 MR. TENNANT, YOU MAY RESUME.
2 MR. TENNANT: YOU SAID YOU WANTED SOMETHING FROM ME TO
3 START WITH. DO YOU REMEMBER THAT ONE, JUDGE?
4 THE COURT: YES, I DO REMEMBER IT.
5 DO YOU HAVE A TIME ESTIMATE?
6 MR. TENNANT: JUDGE, I WANT TO REMIND YOU THAT WHEN YOU
7 FIRST STARTED DECIDING WHETHER YOU WERE GOING TO SEND THIS
8 DOWNTOWN AS A CONTESTED MATTER FOR TOO LONG, OR NOT, YOU ASKED
9 ME TO ESTIMATE THE TIME.
10 YOU WON'T REMEMBER THIS, BUT I SAID: THREE DAYS --
11 THREE DAYS.
12 YOU ASKED ME TO RECONSIDER.
13 I CHECKED WITH MY CLIENT. WE COULDN'T. WE GAVE YOU AN
14 HONEST ESTIMATE OF THREE DAYS. IT'S GOT TO GO DOWNTOWN.
15 YOUR REPLY WAS: NO. I'M GOING TO SET IT BEFORE ME.
16 I'M GOING TO GIVE YOU A DAY AND WE'RE GOING TO GET IT TRIED IN
17 A DAY.
18 THAT'S AS CLOSE TO AN EXACT QUOTE OF THE PROCEEDINGS
19 SIX MONTHS AGO THAT I CAN RECALL.
20 THE COURT: DO YOU REMEMBER THE QUESTION, MR. TENNANT?
21 MR. TENNANT: YEAH, I DO, AND I'M TRYING TO ANSWER IT.
22 AND THE ANSWER IS: MY TIME ESTIMATE'S NO DIFFERENT
23 THAN IT WAS THE FIRST DAY YOU ASKED ME ABOUT IT. YOU WERE THE
24 ONE THAT SET IT FOR A DAY. I SAID "THREE."

25
26 **Wife's Response:** The transcript that reflects Tennant
27 answering Judge Towery's request for a time estimate at the start
28 of the afternoon session and Judge Towery's erroneous
accusation that Tennant did not do that which the transcript
confirms he did would lead a person aware of both that
accusation and the transcript that proves it to be false to
reasonably entertain a doubt that Judge Towery would be able to
act with integrity, impartiality and competence.

1 9. At Exhibit D, page 76, line 22, through page 77, line 19, the
2 transcript reads as follows:
3

4 THE COURT: OKAY. SO LET ME BE PLAIN:

5 YOU SAY THAT THE CORE ISSUE IS THE FACT THAT MS. BASSI
6 HAS NOT BEEN GIVEN A MEANS TO PAY FOR ATTORNEYS' FEES, PAY FOR
7 EXPERTS, PROSECUTE THIS DISSOLUTION.

8 MR. TENNANT: YES, I DO.

9 THE COURT: THERE ARE TWO POSSIBLE SOURCES OF MONEY FROM
10 MR. BASSI OR FROM THE COMMUNITY BUSINESSES.

11 NUMEROUS JUDGES HAVE RULED THAT MR. BASSI DOESN'T HAVE
12 IT. AND NUMEROUS JUDGES HAVE RULED THAT THE COMPANY DOES NOT
13 HAVE SUFFICIENT FUNDS WITHOUT HARMING ITS OPERATION TO PAY
14 EITHER SIDE OF THE LITIGATION.

15 YOU HAVE A SERIES OF CONTENTIONS ABOUT WHAT HAPPENED AT
16 THE BEGINNING OF THE CASE. THAT'S BEEN LITIGATED OVER AN OVER
17 AGAIN. I'M NOT GOING TO GO THERE AGAIN.

18 YOU HAVE A CONTENTION ABOUT THE BONUS THAT HE GETS AT
19 THE END OF THE YEAR. IF I'M NOT MISTAKEN, THE PURPOSE OF THAT
20 WAS TO ALLOW HIM TO PAY AN EXTRA CHILD SUPPORT AWARD.

21 IF SHE DOESN'T WANT HIM TO HAVE THE BONUS, SHE CAN PAY
22 BACK OR FOREGO THE CHILD SUPPORT.

23 THE POINT IS: FROM MY PERSPECTIVE, YOU ARE MAKING A
24 SERIES OF ARGUMENTS OVER AND OVER AGAIN THAT YOU'VE BEEN
25 MAKING SINCE 2013. AND I AM SAYING: ENOUGH. WE ARE GOING TO
26 STOP LITIGATING THE SAME ISSUES OVER AND OVER AGAIN.

27 AND, TO THE EXTENT THAT YOU WANT TO KEEP FILING
28 R.F.O.'S ON THE SAME ISSUES AGAIN, IT'S GOING TO RAISE 271
ISSUES IN MY MIND.

29
30 **Wife's Response:** Basically Judge Towery told Tennant that
31
32 "We are going to stop litigating the same issues (he is only
33 referring to attorney fees) and he warned Tennant that if he kept
34 filing Requests for Orders on the same issues (he is only
35 referring to attorney fees) "its going to raise 271 issues in (his)
36 mind."
37
38

1 Judge Towery's conclusion that we are going to in fact stop
2 litigating attorney fees and his warning that if Tennant doesn't
3 stop it was going to raise issues of 271 in the Court's mind and
4 the contents of Exhibit A that proved how Baugh lied previously
5 to the Court about the ability of CS, Inc. to advance to Wife
6 attorney fees above would lead a person aware of both Judge
7 Towery's conclusion and the evidence contained in Wife's Exhibit
8 A to reasonably entertain a doubt that Judge Towery would be
9 able to act with integrity, impartiality and competence.
10
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15 10. Exhibit D, page 67, line 11 through line 26, indicates both Judge
16 Towery's defective memory of the contents of Wife's Access Motion and a
17 distinct prejudice against another Request For Order of Wife that is pending
18 in a motion before him on which he has yet to take any evidence and is as
19 follows:
20
21

22 LET ME SAY: THERE ARE A LOT OF OTHER THINGS THAT I SAW
23 IN THE ACCESS MOTION. I SAW THAT -- THAT MS. BASSI WANTED TO
24 REMOVE THE RESTRICTION THAT SHE COULD NOT COPY THE DOCUMENTS,
BECAUSE SHE WANTED TO COPY THE DOCUMENTS AND PROVIDE THEM, AS
SHE SAW FIT, TO LICENSING AGENCIES AND SO FORTH.

25 MR. TENNANT: LAW ENFORCEMENT AGENCIES AND SO FORTH.

26 THE COURT: OKAY. DO ME A FAVOR, MR. TENNANT. ALLOW
ME TO HAVE MY PIECE. I TRIED NOT TO INTERRUPT YOU UNDULY.

27 MR. TENNANT: I KNOW. BUT, JUDGE --

28 THE COURT: MR. TENNANT, I'M GOING TO ASK YOU TO JUST
BE PATIENT. I KNOW THAT'S DIFFICULT FOR YOU, BUT KINDLY BE
PATIENT. I'D LIKE TO FINISH THIS.

1 MR. TENNANT: YES.

2 THE COURT: I AM ABSOLUTELY NOT INCLINED TO GRANT THAT
3 REQUEST, THAT MS. BASSI BE ABLE TO COPY DOCUMENTS AND SEND
4 THEM OUT, BECAUSE THERE ARE OVER 50 VOLUMES OF COURT
5 DOCUMENTS.

6 **Wife's Response:** As has been previously indicated, Judge
7 Towery is wrong about Wife's Access Motion containing a
8 request for order to modify the protective order so that she can
9 use protected documents to report to both the Commission on
10 Judicial Performance and the State Bar if necessary. As has
11 also been previously indicated, such a requested order is
12 currently pending before Judge Towery and he has yet to hear it.
13 As a result, his indication that he is, quote, "Absolutely not
14 inclined to grant that request" before he has ever given Wife the
15 opportunity to provide him the evidence she has in support of
16 that request is still another example in a long list of Judge
17 Towery statements that prove the magnitude of his bias and
18 prejudice against Wife.
19

20 A person aware of Judge Towery's prejudice that makes
21 him disinclined to grant Wife's request for modification of the
22 protective order before he ever starts taking any evidence why it
23 should be modified, would lead a person aware of the facts to
24
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1 reasonably entertain a doubt that Judge Towery would be able to
2 act at the hearing on Wife's Motion to modify the Protective Order
3 with integrity, impartiality and competence.
4

5
6 11. At Exhibit D, page 69, line 6 through line 13, Tennant addresses
7 with Judge Towery what he believes is an erroneous conclusion of Judge
8 Towery that on the issue of attorney fees there is no problem of lack of
9 parity:
10
11

12 AND YOU -- YOU TALK ABOUT THERE BEING NO PROBLEM WITH
13 PARITY.

14 HOW CAN ONE PARTY TAKE \$540,000 MORE OUT OF THE 100
15 PERCENT COMMUNITY COMPANY AND USE IT TO PAY FOR HIS LITIGATION
16 EXPENSES, WHILE MY CLIENT HAS TO GO UNREPRESENTED FOR 16
17 MONTHS, BECAUSE SHE DIDN'T HAVE ACCESS TO THE SAME POT OF GOLD
18 THAT HE WRITES HIMSELF A CHECK FOR OF 145' OR \$150,000 AT THE
19 END OF EVERY YEAR THAT HE HAS FOR THE LAST FOUR YEARS?

20 **Wife's Response:** Given the conclusion of Judge Towery that
21 on the issue of attorney fees there is no problem of lack of parity
22 between the parties and the fact that Husband at the start of last
23 year had paid himself \$540,000 in community property funded
24 bonuses more than he paid Wife, a person aware of both Judge
25 Towery's conclusion and Husband's payments to himself of
26 \$540,000 more in bonuses than he has paid Wife would
27
28

1 reasonably entertain a doubt of Judge Towery's ability to act with
2 integrity, impartiality and competence.
3

4
5 12. At Exhibit D, page 81, line 13 through line 15, Judge Towery
6 makes the following observation:
7

8 THE COURT: LET ME TELL YOU: I'VE BEEN DOING MY BEST
9 TO MANAGE THIS CASE. I'VE GOT TO SAY: THE CASE PRESENTS SOME
10 DAUNTING CHALLENGES.

11
12 **Wife's Response:** Judge Towery has had over 7 months. What
13 has he done except order 2 houses sold? What has he done to
14 perform his boast at the outset that "This case is in need of
15 management and I am just the one to provide that
16 management?"
17

18
19 Wife would simply observe that the incompetence of Judge
20 Grilli's calendar mismanagement has been superseded by Judge
21 Towery. At least Judge Grilli held 2 full hearings and issued 2
22 orders granting access to Wife to the books and records of CSP,
23 Inc. within a little over 4 months. Judge Towery has had over 5
24 months to rule on just one such motion of Wife for access to the
25
26
27
28

1 same books and records and so far he has only been able to
2 provide 23 minutes and 51 seconds to it.

3
4 Baugh's comments of Judge Towery's calendar
5 management, at the risk of killing the goose that has been
6 constantly laying for him golden eggs, are at Exhibit D, page 83,
7 line 17, through page 84, line 7, where he says the following:
8
9

10
11 MR. BAUGH: BUT I WOULD LIKE TO ADD SIMPLY, BECAUSE
12 IT'S -- THERE'S SO MANY MOTIONS PENDING -- AND WE'VE HAD A
13 LIST -- THAT IF THERE'S ANY TIME REMAINING OR AT THE
14 LAW-AND-MOTION CALENDAR, I WANT TO KNOW WHICH BOXES I BRING.

15 BECAUSE ONE OF THE THINGS THAT HAS DEVOLVED -- I THINK
16 DEVOLVED IS PROBABLY THE BEST -- THE CORRECT DESCRIPTION -- IS
17 THAT I NEVER KNOW -- WELL, TODAY I, SORT OF, KNEW WHAT I WAS
18 COMING HERE ON, BECAUSE THE COURT WAS VERY CLEAR.

19 BUT ON THE OTHERS, I DON'T KNOW WHAT'S COMING UP.
20 LIKE, AGAIN, I HAVE A MOTION FROM JUNE 10TH ABOUT MS. BASSI
21 AND MR. TENNANT AND SOME STATEMENTS THEY MADE.

22 I HAVE ALREADY FILED A 128.7 FOR NOVEMBER SUBSEQUENTLY,
23 DUE TO THE REPETITIVE NATURE.

24 AND I JUST NEED TO KNOW WHAT TO BRING TO COURT ON THAT
25 DAY, WHAT MOTIONS ARE WE HERE -- AND, FRANKLY, THE ORIGINAL
26 PLAN, I THINK, WAS TO HEAR THEM ALL IN ONE DAY.

27 AND IT -- IT WENT SIDEWAYS. I CAN'T EVEN REMEMBER WHY.

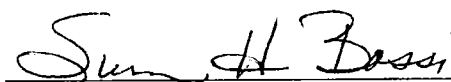
28 BUT IT WENT SIDEWAYS. I JUST NEED TO KNOW WHAT, WHERE AND
WHEN.

29
30 Wife has obtained the cost estimates for the transcripts of the hearings
31 on July 15, 2016, October 3, 2016 and October 5, 2016 and she has
32 requested the cost estimate for the transcript of the hearing on December
33 21, 2016.

1 Because of an unavailability of cash she has not been able to obtain
2 those transcripts.

3
4 She reserves the right to present evidence from the above4 hearings if
5 a hearing is necessitated by this Statement of Disqualification.

6
7
8 I declare under penalty of perjury under the laws of the State of
9 California that all of the foregoing is true and correct to my personal
10 knowledge, executed this 11th day of January, 2017, at Campbell, California.

11
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13 

14 Susan H. Bassi,
15 Respondent
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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I have read the following WRITTEN VERIFIED STATEMENT OF
DISQUALIFICATION [CCP §170.3(c)(1)] and know its contents.

I am attorney of record for Susan Bassi, a party to this action, and I
make this verification for and on behalf of that party. I am informed and
believe and on that ground allege that the matters stated in the foregoing
document are true.

Executed on January 11th, 2017 at Campbell, California. I declare
under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

SUSAN H. BASSI

