

THE NATIONAL COALITION FOR FAMILY JUSTICE

Santa Clara County Chapter

P. O. Box 2632, Saratoga, Ca. 95070

(800) 823-6700

Introduction

The purpose of this flyer is to provide information about our organization and our reasons for picketing in front of the courthouse today. Our goals are to do the following:

- 1) To promote public awareness and draw attention to the abuse of judicial authority exercised by Judge James W. Stewart in Dept. 119 of Superior Court (Family Division). These abuses include, but are not limited to: a) ex parte communications, b) gender bias, c) abdication of judicial responsibility and authority in favor of court appointed experts, d) violation of due process rights, and e) on-going demonstration of inappropriate and prejudicial courtroom behavior.
- 2) To begin to serve as a clearinghouse and resource center of information of relevant issues involving family court. We have begun to collect information and case histories, court transcripts, depositions, proof of ex-parte communications, and other relevant documents. We have also begun the process of disseminating such information back to the public and the legal community for purposes of assisting others with family law cases.
- 3) To promote positive and lasting changes within family court and to create an environment in which dialogue can begin to occur between family court staff and the public it serves.

Who We Are

The National Coalition For Family Justice, Inc. is a non-profit organization with the following stated goals:

****To help prevent the breakup of families through early education and by exploring resolutions to problems other than by protracted litigation and to support the healing of families whenever possible except in cases of abuse.**

****To develop public awareness of injustices to families interacting with the legal system and to promote attitudes which support justice in marital and family matters, to include public advocacy activities to support or defeat legislation and to communicate support for the appointment or election of candidates for public office to the membership.**

****To help acquaint persons with legal procedures, with their rights and with information about how these rights may be abridged.**

****To compile and disseminate information as to how and where the legal system falls short in protecting the safety and the legal and financial rights of disadvantaged parties.**

****To monitor individual cases and general legal tactics, within the present judicial system, to ascertain its responsiveness to family needs, and**

Please contact us if we can be of assistance to you or if you wish to join our efforts to improve the judicial system as it pertains to family law.

Again we go back to Judge Stewart's comments in the Post-Record article that he sees the recall as "an effort to intimidate the court" that undermines the independence of the judiciary.

Here is what the Code of Judicial Ethics states about the independence of the judiciary:

Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary.

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. ...

Advisory Committee Commentary: Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law and the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. ...

The basic function of an independent and honorable judiciary is to maintain the utmost integrity in decision making, and this Code should be read and interpreted with that function in mind.

It is truly ironic that Judge Stewart would rebuke the recall effort under the pretense that it threatens to "undermine the independence of the court" when, in fact, one of the Coalition's most harsh criticisms of Judge Stewart and one of the deciding factors behind the recall campaign is the utter lack of independence he displays in his courtroom. That this has been one of the Coalition's main focuses is evident from the August 1997 investigative report by Karen Winner, "Findings on Judge James Stewart and Court-Referrred Personnel at the Family Law Division of Superior Court in Santa Clara County," and in particular the first and third chapters of the report which are entitled "How the Stewart Court Makes Lucrative Profits For Favored Experts," and "Cronyism."

JUDGE STEWART, IF YOU ARE SO CONCERNED ABOUT THE INDEPENDENCE OF THE JUDICIARY, THEN HOW DO YOU EXPLAIN:

- Allowing **BRAD BAUGH**, your close personal friend, to appear before you without disclosing this relationship to the parties, even though you have recused yourself in several cases involving Baugh for that very reason after the relationship was exposed and a demand was made that you do so.
- Your practice of appointing experts and others on the basis of nepotism & favoritism, as opposed to merit.
- Ordering that an evaluation, or a bonding study, or supervised visitation, or therapy, be performed by a particular favored individual "only," to the exclusion of anyone else.
- Orchestrating a method whereby attorneys appointed by you to act as special masters were able to and did fraudulently bill the county for their special master fees.
- Your continued use of **TERRY JOHNSTON** and **MICHAEL JONES** to perform custody evaluations and to act as special masters in the face of objective, substantial evidence of their incompetence.
- Your refusal to take any steps to review cases in which Terry Johnston's recommendation played a significant part in your custody determination, in the face of overwhelming proof that her evaluations are and were erroneous.

In closing, we feel compelled to express our disgust at Judge Stewart's obvious attempt to ride on the coattails of Justice Anthony Kline of the First District Court of Appeal in the midst of the furor over judicial independence created by the Commission on Judicial Performance's investigation regarding Justice Kline's dissenting opinion in Morrow v. Hood. To even put Justice Kline's name in the same sentence with Judge Stewart's seems sacrilegious, as never were two judges further apart. In any event, clearly Judge Stewart's personalized notion of judicial independence runs far afield from that which many scholars are defending in the wake of the Kline investigation.