

NATIONAL COALITION FOR FAMILY JUSTICE, INC.
SANTA CLARA COUNTY CHAPTER
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A CHALLENGE TO KING JAMES STEWART--ADDRESS THE ACCUSATIONS

For almost two years, the National Coalition for Family Justice, Inc. has spoken openly about the unethical and unlawful practices of JUDGE JAMES STEWART. Since our organization was formed in early 1997, we have complained of, among other things: Judge Stewart's **ex-parte communications** with attorneys, evaluators, and special masters; his **violation of due process rights** by issuing orders without affording the parties notice or the right to be heard; his persistent and inexplicable **reliance on a handful of court-appointed charlatans** to provide him with "expert" testimony with regard to psychological evaluations and custody recommendations; and, **rulings that are clearly contrary to law**, such as his unconstitutional delegation of judicial authority by appointing special masters without the consent of the parties.

All along, Judge Stewart's pat response has been to dismiss these complaints by simply stating that they are being made by "disgruntled litigants." [More accurately, Judge Stewart has insisted until recently that the Coalition consists of "3 moms and their friends." However, after the notice of recall was served on him last Tuesday by a group of 10 Coalition members—including 4 men who have Judge Stewart as their all-purpose judge—he is now referring to the Coalition as a "small group of disgruntled litigants who did not have a meritorious case." (See 10/21/98 Post-Record article.)]

According to the 10/21/98 Post-Record, Judge Stewart sees the recall as "an effort to intimidate the court" that undermines the independence of the judiciary. He is also quoted as saying: "In totalitarian societies, the first attack is on the judiciary. If there is no independent judiciary, free from intimidation, it's difficult to have a democratic society."

WE ASK YOU, JUDGE STEWART, JUST HOW INDEPENDENT DO YOU THINK THE JUDICIARY SHOULD BE? AND JUST WHAT DO YOU THINK A DEMOCRACY IS? Do you contend that the judiciary should be so independent that it is free to ignore the laws that are made by the legislators who are representatives of the democracy you speak so highly of?

READ OUR LIPS, JUDGE STEWART:

Ex Parte Communication With Attorneys And Evaluators IS AGAINST THE LAW
Not Affording Parties Notice Or An Opportunity To Be Heard IS AGAINST THE LAW
Appointing Special Masters For Parenting Issues Without The Parties' Consent IS AGAINST THE LAW
Ordering Attorney Fees Without Determining Ability To Pay IS AGAINST THE LAW
Ordering Parents Into Therapy For An Open-Ended Period IS AGAINST THE LAW
Ordering Parents Into Therapy Without Determining Ability To Pay IS AGAINST THE LAW
Ordering Custody Evaluations Without Admonishing The Parties,
Etc. Of The Prohibition Re Ex Parte Communication IS AGAINST THE LAW
Passing Upon The Question Of Your Own Disqualification IS AGAINST THE LAW
Deciding Matters After You Have Recused Yourself From A Case IS AGAINST THE LAW

NONE of the above laws is within the court's discretion—and Judge Stewart has continued to flagrantly violate each and every one of these laws, in addition to many others. We find it particularly noteworthy that Judge Stewart has never denied our allegations specifically—one would assume that if he did not partake in unlawful ex parte communications, for instance, that he would state so, quickly and clearly.

WE CHALLENGE YOU, JUDGE STEWART, TO ADDRESS THE SPECIFIC ALLEGATIONS AGAINST YOU—YOU HAVE IGNORED THEM LONG ENOUGH

Furthermore, not once does Judge Stewart acknowledge that the recall effort is a procedural right given to the people under the democratic society that he gives lip-service to, but instead he refers to the procedure as "unfortunate," "an effort to intimidate the court," and, apparently, the precursor to a totalitarian society. Of course, this is not the first time Judge Stewart has chastised those who have attempted nothing more than to redress their grievances against him in a democratic manner. For instance, in July 1996 Stewart criticized a litigant for having exercised her right of appeal by stating, in a subsequent order: "*The contentious nature of this case can be seen by the fact that an interim order for support has been appealed. The Court sees an appeal from a temporary order for support perhaps once in every two years.*" In May 1997, on the other hand, a co-founder of the Coalition who had been picketing was berated by Stewart for not having filed an appeal: "*However, it is clear that [she] is unwilling to rely upon the remedy for judicial error that most litigants use: our Courts of Appeal. Rather, she attempts to correct the error and bias she perceives at the trial level by picketing the courthouse and attempting to bring political pressure to bear on the Court.*" Apparently, there is only one manner in which a litigant can appropriately respond to Judge Stewart's rulings, and that is to remain silent.