



COPY

January 22, 2024

The Hon. Thomas Nixon  
Presiding Judge  
Alameda County Superior Court  
Department 1  
1225 Fallon Street  
Oakland, CA 94612

Judge Nixon:

This letter is being sent to you as the Presiding Judge of the Alameda County Superior Court, by the Johnson for Judge 2024 Judicial Campaign ("The Campaign").

The purpose of this letter is twofold: First, to file a formal written complaint and alert the Alameda County Superior Court of the unethical public misconduct, comments and actions committed by current Alameda County Superior Court Commissioner Mark Fickes (Fickes) from approximately November 2023 to date in his campaign for election as Superior Court Judge, Seat 12 in the March 5, 2024 Primary Election against his opponent Michael P. Johnson, Esq.; and, Second, to demand that the Alameda County Superior Court immediately conduct a prompt investigation into the matters contained within this complaint and take disciplinary action against Fickes for his public unethical misconduct as a sitting Alameda County Superior Court Commissioner as described below, and to make the written results of that investigation public.

**I. Fickes Has Violated Government Code Section 8314**

The Court is respectfully requested to take judicial notice that California Government Code, Section 8314 provides:

"(a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public



resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) “Campaign activity” means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. “Campaign activity” does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) “Public resources” means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

(4) “Use” means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c)(1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.



(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

The Campaign is informed, believes and herein alleges that as early as October 2023 and at all times mentioned herein, while physically on Alameda County Superior Court property, Fickes has intentionally and routinely used Alameda County Superior Court resources, during Alameda County Superior Court work hours, to contact multiple current sitting Alameda County Superior Court judges on their private Alameda County Superior Court judicial chamber phone lines in order to solicit political endorsements for his personal judicial campaign. Said misuse of Alameda County Superior Court resources by Fickes as describe above was not incidental or minimal. Rather it was intentional and is routine for Fickes.

Such conduct by Fickes is expressly prohibited by Government Code, Section 8314 as noted above. The Campaign is informed, believes, and herein alleges that Fickes is still engaged in that unlawful conduct.

**II. Fickes Has Intentionally and Continuously Violated Canons 1, 2 and 5 Of the Code of Judicial Ethics**

As the Court may be aware, in 2013 the Supreme Court of California adopted several revisions to the California Code of Judicial Ethics. One such addition was the requirement that at the beginning of their campaign, all candidates for judicial office, whether a judge, commissioner or a lawyer, must complete an online judicial campaign ethics course approved by the Supreme Court and then sign an affidavit attesting that, at all times during their judicial campaign, they will adhere strictly and completely with all of the provisions of the California Code of Judicial Ethics.

The Supreme Court adopted this requirement to promote and enhance public confidence in the integrity and impartiality of the judiciary and to provide guidance on the ethical obligations and responsibilities of those running for judicial office. All candidates for judicial office are required to take this course by Canon 5B(3) of the Code of Judicial Ethics, as promulgated by the California Supreme Court. That online course referenced above is located at: <https://www.2.courtinfo.ca.gov>.

The Court is respectfully requested to take judicial notice that Canon 1 of the Code of Judicial Ethics provides:

“A judge shall uphold the integrity and independence of the judiciary.”



The Court is respectfully requested to take judicial notice that Canon 2 of the Code of Judicial Ethics provides:

“A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.”

The Court is also respectfully requested to take judicial notice that Canon 5 of the California Code of Judicial Ethics provides:

“A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.”

Regardless of the foregoing, at the January 3, 2024 Alameda County Democratic Party Central Committee candidate endorsement forum, Fickes appeared at that forum live and in response to a question from the audience in attendance, publicly and with zeal he stated that he had voted for and supports the current Alameda County District Attorney Pamela Price who, as the Court may be aware, is currently embroiled in a very hotly contested and well publicized county-wide recall campaign. Hearing that declaration from Fickes, several people present in the audience applauded and one shouted out loudly, “Yes!”

As the direct result of Fickes’ declarations, Pamela Price then cast her vote for Fickes at the forum and he later secured the Central Committee’s endorsement of his judicial campaign. That forum event was recorded by the Central Committee on their Facebook page and is also on YouTube. See the clip of Fickes’ comments at the forum which can be found at: <https://youtu.be/IPWI1B5-7lg>.

Clearly, Fickes, by publicly indicating how he had voted in the District Attorney’s race, intended to reveal that he preferred a particular candidate in order to secure an endorsement, which resulted directly in what the Judicial Code of Judicial Ethics prohibits—appearance of impropriety and a lack of independency in the judicial system. The purpose of that rule is to uphold the “the integrity and independence of the judiciary” and to avoid precisely what happened here.

Fickes’ blatant breach of the California Code of Judicial Ethics has subsequently been reported on in the media on several occasions, which can be found at the following links:

<https://eastbayinsiders.substack.com/p/dems-gone-wild>

<https://www.ebar.com/story.php?ch=news&sc=news&id=330706>



<https://www.ebar.com/story.php?ch=opinion&sc=editorial&id=330805>

Then, at the January 13, 2024 Asian Pacific Democratic Caucus of Alameda candidate forum, when asked about judicial campaign ethics, Fickes (again on video) continued to breach Canons 1, 2 and 5 by standing by his prior comments regarding his voting and support of Pamela Price made on January 3, 2024. He further stated to the audience present at the event that his prior statements regarding DA Price were not violative of the California Code of Judicial Ethics and that he had consulted with “several judges” who informed him that his statements from the January 3, 2024 candidate forum “did not violate the canons of judicial ethics.” He did not, however, identify who those judges were if in fact they do exist.

For a copy of that forum video, please contact Serena Chen at [serenachen@gmail.com](mailto:serenachen@gmail.com).

At all times thereafter in this judicial election, Fickes has repeatedly and publicly declared that he has received the endorsement of Alameda County Democratic Party Central Committee and has stood by the aforementioned statements regarding voting for and supporting DA Pamela Price. This shows that he affirms his unethical conduct at that forum even though it is inconsistent with the independence, integrity, or impartiality of the judiciary as required under the California Code of Judicial Ethics.

Based on the foregoing, Fickes has therefore consistently and blatantly failed to uphold the integrity and independence of the judiciary; has failed to avoid impropriety and the appearance of impropriety; and has engaged in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary. His conduct has grossly violated the California Code of Judicial Ethics and he has appeared without any remorse or acknowledgment of his violations.

### **III. Fickes Has Intentionally and Continuously Violated Canon 5B Of the Code of Judicial Ethics**

The Court is respectfully requested to take judicial notice that California Code of Judicial Ethics, Canon 5B provides:

“A candidate for judicial office or an applicant seeking appointment to judicial office shall not ... (b) knowingly, or with reckless disregard for the truth, make false or misleading statements about the identity, qualifications, present position, or any other fact concerning himself or herself or his or her opponent or other applicants.”



The Court is also respectfully requested to take judicial notice that under California law, an Alameda County Superior Court Commissioner and an Alameda County Superior Court Judge Pro Tem or Temporary Judge are both identically classified as “Quasi-Judicial” Officers or “Subordinate” Judicial Officers and not as a “Judicial Officer” which only refer to appointed or elected Superior Court Judges which have no limit to the types of matters over which they may preside.

At all times mentioned herein, Fickes has made repeated false or misleading verbal comments about his opponent’s (Mr. Johnson’s) legal qualifications and experience for judicial office; made false or misleading public comments about his (Fickes’) present position and role with the Alameda County Superior Court; and, Fickes has made repeated false or misleading public comments about his legal qualifications and experience for judicial office over those of Mr. Johnson.

For example, at the January 3, 2024 Alameda County Democratic Party Central Committee candidate endorsement forum noted earlier in this letter, Fickes repeatedly and incorrectly described himself to the audience as a “judicial officer.” Even when challenged by Mr. Johnson who correctly commented that as a Commissioner, Fickes is a “quasi-judicial” officer just like Mr. Johnson who is an appointed Alameda County Superior Court Temporary Judge, Fickes doubled down and verbally disagreed with Mr. Johnson.

Fickes’ blatant misrepresentation about his qualifications and role with the Superior Court was clearly intentional, false, misleading, and geared to mislead the audience into believing that his qualifications are superior to Mr. Johnson’s when, in fact, they both hear the exact same matters in their capacities with the Court.

The video from that meeting may be viewed at this link: <https://fb.watch/pJG5Bg5-8I/>

At all times mentioned herein, Fickes has also made repeated false or misleading public written online social media posts and comments about his opponent’s (Mr. Johnson’s) legal qualifications and experience for judicial office; made false or misleading public written online comments about his present position and role with the Alameda County Superior Court; and, made false or misleading public written online comments about his legal qualifications and experience for judicial office over those of Mr. Johnson’s.

For example, on his campaign website and on Facebook, Fickes has posted that,

“Voters have a stark choice in this race. I am the only candidate in this race who has trial experience in criminal and civil litigation. I am the only candidate who serves as a judicial officer where I preside over hundreds of criminal infractions every single week.”



Again, this online post has clearly been made by Fickes knowingly, or with reckless disregard for the truth, is false, is misleading to the public and grossly exaggerates his qualifications over those of Mr. Johnson's in an obvious effort to secure votes and financial donations to his judicial campaign.

In fact, Mr. Johnson has practiced law 4+ years longer than Fickes, for a total of 33 years. In that time, Mr. Johnson has accumulated a vast history of legal experience in criminal trials and civil trials and has also managed outside litigation counsel for multimillion dollar matters in his capacity as in-house counsel for Fortune 500 companies. Although Mr. Johnson is not currently employed by the Alameda County Superior Court as a Commissioner, in his capacity as a Temporary Judge alone, he has presided over several hundred criminal infractions in Alameda County Superior Court. He has served Alameda County Superior Court as a Temporary Judge since 2019 and according to past Presiding Judge Charles Smiley, Mr. Johnson's work as a temporary judge, "...ranks among the finest in our county..."

Clearly, Fickes is not, "...the only candidate in this race who has trial experience in criminal and civil litigation." Nor is he a "judicial officer." This is not the only online post that Fickes has made misrepresenting his qualifications over those of Mr. Johnson's, but it is a clear example of his knowing and reckless disregard for the truth which is expressly prohibited by Canon 5B of the Code of Judicial Conduct. (A copy of one of Fickes' online posts is attached hereto, as **EXHIBIT "A"**).

The Campaign is also informed, believes, and herein alleges that Fickes has made several disparaging comments about Mr. Johnson's legal experience and ability to be a judicial officer to various elected officials, voters and to other candidates. One such comment in particular, was made by Fickes to an elected official at a Christmas holiday party in December 2023. Fickes (who had never met Mr. Johnson) described Mr. Johnson to this elected official as a "corporate hack" and indicated that Mr. Johnson didn't have the courtroom experience necessary to be a judge. The elected official was so taken aback by that comment that they contacted Mr. Johnson and expressed their repulsion at Fickes and the statement. If necessary, that elected official will provide further clarification to the Court on this matter.

Again, and at all times mentioned herein, this is yet another example of how Fickes knowingly, or with reckless disregard for the truth, willingly makes false or misleading statements about Mr. Johnson's legal experience and judicial qualifications in this judicial campaign. That conduct is expressly prohibited by Canon 5B of the California Code of Judicial Ethics.



Fickes has also stated publicly and online that The Hon. Evelio Grillo had personally contacted him, sought him out, and asked Fickes to run for his judicial seat (Set #12) in the upcoming March Primary Election, since he would be retiring. However, after entering into the race in November 2023, Mr. Johnson personally contacted Judge Grillo for an endorsement of his judicial campaign. Mr. Johnson informed Judge Grillo that Fickes had represented to the public that Judge Grillo had personally sought him out to run for his seat based on “his history representing people in civil litigation.”

Judge Grillo (whom Mr. Johnson knew from a matter in which then-attorney Grillo was Mr. Johnson’s opposing counsel and from several Alameda County bar events over the past 2 decades) was shocked at that report, and then shared with Mr. Johnson that Fickes had actually approached him in October 2023 after Fickes had learned that Judge Grillo would be retiring. Judge Grillo shared with Mr. Johnson that Fickes gave him the impression that Fickes would be unopposed in the election and then asked for his endorsement. But, having known Mr. Johnson as described above for several years, Judge Grillo agreed to later dual endorse both judicial candidates.

Fickes has also stated publicly that “the judges” meaning all Alameda County Superior Court judges, have decided that he alone had the requisite qualifications, experience and demeanor and hired him as a Commissioner. As the Court knows well, that statement is patently false. A Court hiring committee reviews applicants for Commissioner and makes a recommendation(s) which the Presiding Judge then reviews and selects the candidate. (Again, please see <https://fb.watch/pJG5Bg5-8I/>)

This too is yet another example of how Fickes, an Alameda County Superior Court Commissioner, knowingly, or with reckless disregard for the truth, makes unethical, false, or misleading statements in this judicial campaign.

**IV. Fickes’ Blatant and Willing Disregard for the Code of Judicial Conduct, Lack of Impartiality and Public Misrepresentations Has Greatly Damaged the Public Reputation of the Court**

Fickes has made public videotaped statements that commit him with respect to political issues, political candidates or issues that are likely to come before the Alameda County Superior Court. Several criminal defense attorneys and defendants’ rights advocates have shared with The Campaign that should Fickes prevail in the election and get a criminal assignment, given his stated alignment with the current DA, that they will immediately file blanket CCP Section 170.6 motions to have him immediately disqualified for bias or prejudice in all their matters.





Many civil attorneys as well have shared with The Campaign that Fickes' appearance of bias and partiality in this campaign has caused them to very seriously question Fickes' impartiality on several civil matters including landlord tenant matters, especially given the fact that Fickes is endorsed in his campaign by several tenants' rights organizations. So, that group of lawyers may potentially also be among various groups who file CCP Section 170.6 motions to have Fickes immediately disqualified for bias or prejudice in all their matters. Both of the aforementioned scenarios would then create a huge loggerhead in the Court's docket and an even larger delay in the adjudication of cases.

At the January 3, 2024 Alameda County Democratic Party Central Committee candidate endorsement forum discussed above. Fickes also told the audience that due to the upcoming retirement of 12-15 judges in Alameda County Superior Court, all from civil law assignments, the "criminal judges don't want to go over and handle this stuff." There was an audible gasp from the audience when he said this. And Fickes then followed that statement by inferring that he was selected by the Presiding Judge, Assistant Presiding Judge, and the incoming Presiding Judge to fill in that civil role. (Again, the video from that meeting may be viewed at this link: <https://fb.watch/pJG5Bq5-8l/>)

Now, in addition to the several articles that have already been published about Fickes' demonstrated lack of impartiality and hubris in this judicial campaign as well as the several online podcasts about Fickes' breach of the California Code of Judicial Ethics, The Campaign has received an opinion letter from the Oakland branch of the National Association for the Advancement of Colored People (NAACP) regarding Fickes' demonstrated lack of impartiality in this judicial campaign and his lack of fitness to serve as a judge. The Campaign is of the understanding that this letter has already been sent out to all media outlets and is being disseminated online as of the date of this complaint.

The NAACP letter states, in pertinent part, that ". . . Commissioner Fickes, apparently does not believe the canons of ethics or the Superior Court rules require judicial officers to respect the appearance of impropriety and impartiality." (A copy of the NAACP opinion letter is attached hereto, as **EXHIBIT "B"**).

It is the understanding of The Campaign that similar letters from various local NAACP chapters and perhaps from the State of California and beyond may soon be forthcoming.

Accordingly, Fickes' statements and actions in this judicial campaign as outlined in this complaint and the negative public attention that they have caused has cast a pall over Alameda County Superior Court which, given Fickes' behavior thus far, will only grow exponentially as this judicial campaign progresses.



## V. Conclusion

The fact that Fickes' actions as described in this complaint have occurred during a judicial campaign has no bearing whatsoever as to whether or not they are also ethical violations of the Code of Judicial Ethics made by Fickes while a sitting Alameda County Superior Court Commissioner. They are egregious ethical violations in both circumstances. As LaDoris Hazzard Cordell, a former Santa Clara County Superior Court Judge and noted judicial scholar stated regarding Fickes' public failure as a sitting Commissioner to adhere to judicial ethics, "Everybody who wears that robe is required to know those canons and to know the rules — there's no excuses." <https://www.ebar.com/story.php?ch=news&sc=news&id=330706>

The Court should be aware that this current judicial campaign is not a first for Fickes. He ran unsuccessfully in 2020 against Elena Condes, now The Hon. Elena Condes.

The fact that Fickes has been a previous judicial candidate is very important here because just like in this campaign, Fickes was required before to view the online judicial campaign ethics course approved by the California Supreme Court and then sign an affidavit attesting that, at all times during his judicial campaign, he will adhere strictly and completely with all of the provisions of the California Code of Judicial Ethics. The judicial ethical requirements are not new at all to him.

More importantly, in March 2023 when hired as an Alameda County Superior Court Commissioner, Fickes was required to complete judicial ethics training and sign an oath of office to adhere to the Code of Judicial Ethics. Regardless of that history, and as a sitting Alameda County Superior Court Commissioner, Fickes has consistently demonstrated his unwillingness to show impartiality, independence, and integrity. He has instead chosen to violate all 6 of the Judicial Canons within the California Code of Judicial Conduct. He knew his ethical duty in 2020 when he unsuccessfully ran for judge the first time, again when he swore an oath to be Commissioner in March 2023 and again in October 2023 when he started his current judicial campaign. Yet he intentionally chose to disregard his ethical duties as described in this complaint.

The Court is well aware that public opinion of the impartiality and integrity of the judiciary and the court system on the national level is at an all-time low and is under attack. Fickes' actions and intentional disregard for his ethical duty as a sitting Alameda County Superior Court Commissioner as described in this complaint serve to fuel public discord and mistrust in the impartiality and fairness of courts and judges in general and now, thanks to Fickes, the impartiality and fairness of the Alameda County Superior Court is being scrutinized.



The attached opinion letter from the NAACP saliently points out that, “Equal justice under law is the cornerstone of the judicial system of this state and our nation. Without a fundamental belief that judges will be fair and impartial in their decisions, our faith in the judiciary is destroyed.” Fickes’ conduct in this campaign leaves no doubt that he does not adhere to the rule that there shall be no campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary. As you can see from the attached articles, the NAACP letter and this complaint, Fickes is single handedly starting to erode the public’s faith in the judiciary. That is not acceptable conduct for any candidate for judicial office and certainly not acceptable conduct for any existing Alameda County Superior Court Commissioner. It really calls into question Fickes’ impartiality as whole currently as a Commissioner, and also should he be elected to serve as a judge.

It is therefore the allegation of The Campaign that the foregoing conduct by Fickes a sitting Alameda County Superior Court Commissioner constitutes multiple violations of the California Code of Judicial Ethics and its Canons as well as violating the requirements for appropriate judicial candidate conduct as set forth in the *Judicial Campaign Ethics* course required to be completed by all judicial candidates at the start of their campaign.

The Campaign therefore respectfully requests that the Court immediately investigate all of the allegations contained in this complaint and impose swift and appropriate disciplinary action against Fickes in his capacity as an existing Alameda County Superior Court Commissioner. If there are any questions or if the Court needs any further information regarding the claims made in this complaint, please do not hesitate to contact Mr. Shawn Wilson at (510)710-6248.

Respectfully,

Kathy Kimberlin  
The Johnson for Judge 2024 Campaign

Enclosures  
Cc: File

**EXHIBIT "A"**

7:52

Signal strength icon, Wi-Fi icon, 78% battery icon

Photo ▾

Done

## Activity

1,696 followers

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Comments

Images



**Mark Ficke.../him)** · 2nd

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Superior Court Commissioner

2w · 🌐

It's official! I will be on the ballot for the March 5, 2024 elections.

Voters will have a stark choice in this race. I am the only candidate in this race who has trial experience in criminal and civil litigation. I am the only candidate in this race who serves as a judicial officer where I preside over hundreds of criminal infractions every single week.

Ballots will be mailed in early-February and I need to get this message out before voters begin making their decision. For every \$1,000 raised, our campaign will reach thousands of voters. This is why I need to raise \$50,000 by January 15, 2024. Please help me reach the voters of Alameda County by donating here.

## Home

markfickesforjudge.com • 2 min read

After a twenty-eight year career as a practicing attorney, I was honored by the judges of the ...



**EXHIBIT "B"**



**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE  
OAKLAND BRANCH**

PO Box 1319  
Oakland, California 94604

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January 19, 2024

## **Canons of Ethics: Judicial Scrutiny of Judges**

by

Cynthia Adams, President, NAACP Oakland Branch

Bishop Bob Jackson, Senior Pastor, Acts Full Gospel Church

Robert L. Harris, Former President National Bar Association

Equal justice under law is the cornerstone of the judicial system of this state and our nation. Without a fundamental belief that judges will be fair and impartial in their decisions, our faith in the judiciary is destroyed. The judicial race between Michael Johnson and Mark Fickes for a seat on the Alameda County Superior Court has raised serious concerns about the judicial ethics required of all judges.

According to news reports, the Alameda County Democratic Party Central Committee (Committee) recently voted overwhelmingly to endorse the candidacy of Fickes, a current Alameda County Court Commissioner, after he publicly stated that he voted for the current Alameda County District Attorney. Moreover, the news report further indicated that after the statement was made, several people applauded and one shouted, "Yes!" While judges as well as commissioners have a right to participate in the electoral process, there are canons of judicial ethics that limit, for obvious reasons, their ability to reveal how they voted. The purpose of this rule is to uphold the "the integrity and independence of the judiciary" to avoid precisely what happened here. Clearly, Commissioner Fickes, by indicating how he voted in the District Attorney's race, intended to reveal that he preferred a particular candidate which directly contradicts what the canons of ethics prohibits—appearance of impropriety and a lack of independency in the judicial system.

We fully agree with LaDoris Hazzard Cordell, a former Santa Clara County Superior Court Judge and noted judicial scholar, who stated in the news article that "Everybody who wears in that robe is required to know those canons and to know the rules-there's no excuses." The canons of ethics apply, according to Judge Cordell, to both judges and commissioners. Therefore, Commissioner Fickes was acutely aware that by revealing that he voted for the current district attorney would win him favor with the Committee of which the District Attorney is a voting member. To be sure, an appearance of "impropriety" could not be more evident to anyone who believes a judge should be impartial. Commissioner Fickes pandered to the Committee and the District Attorney-- which annihilated the required appearance of impartiality and independence.

A quick review of the Alameda County Superior Court Rules (local rule 2.0) specifically states that: "it is the policy of the court to provide an environment free of all types of bias, prejudice, any kind of discrimination or unfair practice." Moreover, according to this rule: "All judges, commissioners, referees, court officers and court attachés, shall perform their duties in a manner calculated to prevent any such conduct, either by court personnel or by those appearing in court in any capacity." Here, Commissioner Fickes failed this basic test of the kind of honesty and fairness expected of a Commissioner or judicial candidate.



On the other hand, Michael Johnson adhered to the canons of ethics and the Alameda County Superior Court Rules when he was given the same opportunity to reveal who he voted for in the district attorney's race. Unlike Commissioner Fickes, Johnson refused to pander to the demand of the Committee because he knew that this inquiry was improper for a person, running to become a Superior Court Judge, to answer.

The voters of Alameda County have a clear choice of two candidates for the Alameda County Superior Court. One candidate, Commissioner Fickes, apparently does not believe the canons of ethics or the Superior Court rules require judicial officers to respect the appearance of impropriety and impartiality. The other candidate, Michael Johnson, apparently feels strongly that the canons of ethics do require impartiality and independence of the judiciary.

We, as residents of Alameda County, encourage the voters to scrutinize these two judicial candidates and select the one who adheres to the canons of ethics which, of course, is Michael Johnson. Nothing is more sacred than fairness, independence, and impartiality in our justice system.

Cynthia Adams

President, Oakland Branch of the NAACP

Bishop Robert L. Jackson, Sr. Pastor, Acts Full Gospel Church *can be reached at (510) 567-1300.*

Robert L. Harris, Former President, National Bar Association *can be reached at (415) 850-6432 or [rlh44@yahoo.com](mailto:rlh44@yahoo.com).*