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A Law Corporation

December 16, 2020

**VIA CERTIFIED U.S. MAIL AND FAX**

**Commission on Judicial Performance**

455 Golden Gate Avenue, Suite 14400

San Francisco, CA 94120

Fax: (415) 557-1266

**Re: The Hon. David J. Cowan, Stanley Mosk Courthouse  
Los Angeles County Superior Court**

To Whom It May Concern:

This letter is written on behalf of Sherry Lund. You are also receiving a letter written on behalf of Bradford Lund and his counsel, Sandra Slaton, that has been joined in by Mrs. Lund, a copy of which is enclosed. In order to avoid repetition, this correspondence specifically addresses the violations of the Judicial Canons of Ethics by Judge David. J. Cowan in regard to his displays of evident bias against Sherry Lund individually.<sup>1</sup>

We specify that this deals with Sherry Lund *individually* because Judge Cowan improperly has shown palpable animosity to Mrs. Lund in a matter that she has only appeared in as a Co-Trustee of the Bradford Lund 1992 Trust. (LASC Case No. BP129814.) Possibly the most glaring example of this animosity is that Judge Cowan has now twice, if not more, portrayed Mrs. Lund in written rulings as some sort of “ringleader” behind the litigation involving the Lund Trust matters. In Judge Cowan’s rulings refusing to approve the original global settlement agreement that all of the parties had entered into, Judge Cowan falsely, willfully, and prejudicially stated:

- “Instead, the Settlement appears likely to explode at any moment unless the Court and parties do exactly as Sherry seems to be demanding.” (Exhibit 1 at 8:15-17.)

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<sup>1</sup> It must be noted that a previous complaint against Judge Cowan was lodged for *inter alia* Judge Cowan’s personal animus and bias against Ms. Slaton and counsel undersigned (on behalf of the Co-Trustees of the 1992 Trust). Judge Cowan had referred to Ms. Slaton as “emotional” and referred to Ms. Slaton and counsel undersigned with the sexist, chauvinistic, and misogynistic term of “coy” regarding their conduct.

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- “As the Court sees it, scorched earth litigation will follow if Sherry does not get what she wants in this case.” (Exhibit 2 at 19:12-14.)

These statements are absolutely false, along with other statements demonstrating hostility and bias detailed below, were made in a matter where Judge Cowan has **never held an evidentiary hearing** and where Mrs. Lund **has never testified**. There is nothing in the record to support Judge Cowan’s personal and biased statements against Mrs. Lund. In fact, Judge Cowan only cites one document as the basis for his statements about Mrs. Lund – an unverified, unsworn, and wholly unauthenticated Memorandum of Facts filed by the opposing party. However, even though Mr. Lund and Sherry Lund brought it to Judge Cowan’s attention,<sup>2</sup> he specifically ignored that the overwhelming majority of the unverified, unsworn, and wholly unauthenticated exhibits and statements in the hostile Trustees’ Memorandum of Facts were presented and rejected by both the California court in the 2013 trial, and the Arizona court in the 2016 trial. (*See generally* Exhibit 3 and 4.) No reasonable and neutral decision-maker would rely on unverified, unsworn, and unauthenticated exhibits when those same exhibits were previously rejected by, not one but, two courts on the same arguments. Indeed, it has been presented to Judge Cowan that such evidence had already been presented to the court and rejected in the 2013 trial. However, Judge Cowan ignored this and continued to repeat the hostile Trustees’ previously rejected claims.

Without providing Mrs. Lund with even a semblance of due process, Judge Cowan improperly decided that she was the villain in the Lund Trust matters, despite being Beneficiary Bradford Lund’s loving stepmother of over 20 years. There is not one shred of evidence which establishes that Sherry Lund is anything other than a supportive, caring, and loving family member to Mr. Lund. Indeed, this is what the Arizona court found in its 2016 Judgment that Mr. Lund, “properly relies and has relied upon the advice of his father, Sherry Lund, Rachel Schemitsch, Robert Rosepink, Douglas Wiley, and others as any reasonable person of substantial wealth would do in making important decisions involving his personal affairs, estates, and financial matters.” (Exhibit 3, p. 5 ¶ 12). Furthermore, Judge Beckloff specifically found that Mr. Lund was competent and not unduly influenced in exercising his Trustee Removal Power.” (Exhibit 4, p. 33).

Notably, the limited guardian ad litem, Margaret Lodise (“GAL”), a neutral third-party appointed by Judge Cowan, reported in writing to him that in neither of Mr. Lund’s two trials (California or Arizona) “[w]as there an actual finding of Sherry Lund taking advantage or exercising undue influence” and that “it is important to realize that these are family members who have been with Brad[ford Lund] for the last twenty years, the bulk of his adult life.” (Exhibit 5 at 12:4-5, 13:24-25.) Yet, once again, without any evidentiary

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<sup>2</sup> *See*, Reply In Support of Bradford D. Lund’s Response To Court’s OSC Re: Guardian ad Litem, p. 1:14-23 and Exhibit 1.

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hearing or taking the testimony of Mrs. Lund, Judge Cowan continued to reference undue influence by Sherry in factual findings about the matter as detailed further below. (Exhibit 2 at p. 25, fns. 18, 19, 27:1-3.)

Judge Cowan has been nothing but willfully biased and prejudicial against Sherry Lund. Judge Cowan's written conduct and actions have shown that he has conducted himself in an undignified, discourteous, and insulting manner toward Mrs. Lund. He failed to comply with his obligations as a judicial officer and should be removed from the bench for these failures and unethical conduct.

### **Judge Cowan Violated Canon 3 of the Code of Judicial Ethics**

Canon 3 of the Code of Judicial Ethics imposes upon judges the obligation to perform the duties of judicial office impartially and diligently. Among the specific prescriptions of Canon 3 are the requirement that a judge "perform judicial duties without bias or prejudice" (Canon 3B(5)) and that a judge "be patient, dignified, and courteous to litigants . . . , witnesses, lawyers and others with whom the judge deals in an official capacity." (Canon 3B(4).) Failure to comply with these obligations is misconduct. (*See Kloepfer v. Commission on Judicial Performance* (1989) 49 Cal.3d 825, 844-845.)

On November 12, 2020, Judge Cowan's Order to Show Cause ("OSC") further established that he has a personal animus and bias against Sherry Lund, who is only a party in the 1992 Trust case in her capacity as a Co-Trustee of that trust, not as an individual. Despite the fact that Sherry Lund has never appeared in the Lund Trust matters in her individual capacity, Judge Cowan has taken it upon himself to comment regarding Sherry Lund's conduct based upon no evidence or testimony. In issuing a *sua sponte* OSC against Bradford Lund's lead counsel, Sandra Slaton, Judge Cowan made the following willful, false, and prejudicial statement against Sherry Lund in his order:

- "The Court is concerned that the foregoing acts caused the GAL to become unwilling to opine on whether Sherry and Brad's counsel were conflicted, despite the Court's directions, out of concern she would likely be Slaton and or Sherry's next target." (Exhibit 6 at p. 5, fn.7.)

This statement is false. The limited GAL never opined that she had any fear that Sherry Lund, or Bradford Lund's attorney, would ever take any action against her. This is Judge Cowan's own "concern," which has not ever been alleged by the limited GAL herself. (*See* Exhibit 7; *see also* Exhibit 5). It is clearly misconduct for Judge Cowan to express concerns that are unobjective. (*Roberts v. Commission on Judicial Performance* (1983) 33 Cal. 3d 740, 748.) Furthermore, false statements are acts of judicial misconduct which warrant

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Judge Cowan's removal from office. (*Adams v. Commission on Judicial Performance* (1995) 10 Cal.4th 866, 914-15.)

Judge Cowan has made it a recurring practice to issue OSCs *sua sponte* in the Lund Cases, raising issues on no one's behest but his own, relying on disproved, unsupported allegations by only one side of the case, as if Judge Cowan himself were a party to the cases. Another Judge Cowan *sua sponte* OSC is discussed later in this letter. A court pursuing claims and substantive issues on its own is far from an objective, unbiased tribunal, especially when relying only upon one side's allegations in doing so. Our California Supreme Court has cautioned judges when calling its own witnesses at traffic infraction trials: ". . . that the trial court must not undertake the role of either prosecutor or defense counsel. . . . It is fundamental that the trial court in the conduct of infraction hearings must refrain from advocacy and remain circumspect in its comments on the evidence, treating litigants and witnesses with appropriate respect and without demonstration of partiality or bias." (*People v. Carlucci* (1979) 23 Cal. 3d 249, 258.)

Moreover, as will be illustrated throughout, Judge Cowan's willful and prejudicial conduct is shown here through the abuse of his power to issue orders to show cause and failure to remain objective, thereby warranting his removal from office. (*Kloepfer, supra*, , 49 Cal.3d at 854 (adopting the findings of the Commission finding that the judge engaged in willful and prejudicial misconduct for abusing the contempt and order to show cause powers).) By issuing his own substantive OSCs, Judge Cowan crossed the line into undertaking the role of a petitioner in a trust matter. Further, by issuing OSCs relying only on allegations from one side of the case, Judge Cowan also crossed the line into demonstrable partiality and bias

Judge Cowan voiced his own inappropriate personal concerns based upon Mr. Lund's filing a federal district court action against him for violation of Mr. Lund's constitutional rights and Judge Cowan's discrimination against Mr. Lund based upon a false perception. Judge Cowan's statement is nothing more than his personal animus toward Sherry Lund whom he apparently views as some type of "ringleader" based upon his false perception that Mr. Lund cannot direct and control his attorneys. Such action is clearly prejudicial misconduct which warrants Judge Cowan's removal from office. (*Kloepfer, supra*, 49 Cal.3d at 858-61; *Fletcher v. Commission on Judicial Performance* (1999) 19 Cal.4th 865, 911.) Moreover, Judge Cowan took issue with the fact that Mr. Lund, together with the Co-Trustees of the 1992 trust, moved for his disqualification for bias and prejudice. (*Furey v. Commission on Judicial Performance* (1987) 43 Cal.3d 1297, 1308.)

Judge Cowan willfully and prejudicially asserted that the limited GAL should be reappointed to investigate Sherry Lund's role in Mr. Lund's litigation, and the strategy used therein:

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- “If Ms. Slaton is discharged pursuant to the OSC, the Court believes it appropriate to issue a secondary OSC re: attorney’s fees and direct Brad’s GAL, Margaret Lodise to investigate: [...] (2) Sherry Lund’s involvement in that litigation strategy.” (Exhibit 6 at 1:22-2:4)

As context for the above statement, Judge Cowan is referring to his own view that the fees were incurred due to the “scorched earth” strategy that Ms. Slaton, Mr. Lund’s lead attorney, allegedly pursued in the litigation. Not only is this statement patently false, but Judge Cowan impermissibly inserted himself into the lawyer/client relationship involving “strategy” which is beyond his proper role. Judge Cowan’s actions to punish Ms. Slaton for doing her job defending her client go against everything our court system stands for and Sherry Lund should not be attacked by Judge Cowan to try to justify punishing Ms. Slaton.

Judge Cowan demonstrates his personal bias and prejudice towards Sherry Lund as an individual by bringing her into the Lund Trust Cases<sup>3</sup>, to which she is not even a party. (See *In re Henry C.* (1984) 161 Cal.App.3d 646, 653 (determining that disqualification was required for judge’s bias and prejudice towards a witness in the case).) Indeed, Sherry Lund is only involved in the 1992 Trust case as a co-trustee of the 1992 Trust, not as an individual. Furthermore, Judge Cowan is reaching and making assumptions that are not supported by the evidence. In fact, Sherry Lund issued a sworn affidavit which reads in pertinent part:

While Bradford does have a power of attorney that provides me with certain powers for litigation, I have never once acted under any such power of attorney for Bradford. He has always made his own decisions regarding the litigation involving the various trusts that he is a beneficiary of. I have only participated in this litigation as a currently serving trustee of the Bradford Disney Lund 1992 Trust and now as a proposed Co-Trustee of the Sharon D. Lund Residuary Trust fbo Bradford D. Lund and the Lillian B. Disney Trust.

(Exhibit 8 at 7:20-25). However, Judge Cowan refused to acknowledge this sworn statement by Sherry Lund herself. Instead, Judge Cowan made his own prejudgments of Sherry Lund and treated her with his personal animus. (*Kloepfer, supra*, 49 Cal.3d at 858-861 (misconduct included failure to remain objective, improper personal involvement, and distaste for a party that overrode judge’s objectivity); see also *Furey, supra*, 43 Cal.3d at

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<sup>3</sup> These cases include *In re Lillian B. Disney Trust fbo Bradford D. Lund* (Case no. BP 055495); *In re Sharon D. Lund Residuary Trust fbo Michelle A. Lund* (Case no. BP 119204); *In re Sharon D. Lund Residuary Trust fbo Bradford D. Lund* (Case no. BP 119205); *In re Bradford Disney Lund 1992 Trust* (Case no. BP 129814); *In re Sharon D. Lund 1986 Irrevocable Trust fbo Bradford D. Lund* (Case no. BP 129815).

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1311 (judge's in-court statement to defendants that judge would always believe testimony of a police officer found to be prejudicial misconduct); *Roberts, supra*, 33 Cal.3d at 748 (misconduct for judge to express legitimate concern in unacceptable, non-objective and non-neutral manner and to demonstrate unwarranted impatience, disbelief and hostility toward counsel, litigants and witnesses).)

Judge Cowan made the following willfully false and prejudicial statement against Mrs. Lund, concerning how he perceives her role in the case:

- Sherry “is a significant player in this case whose interests are not necessarily aligned with Brad’s on all matters.” (Exhibit 6 at 1:16-17).

This statement is false. As described above, Sherry Lund is not a party to any of Mr. Lund’s trust cases at all. She is only a party in the 1992 Trust matter in her capacity as a Trustee, but not in her *individual capacity*. Instead, Judge Cowan took it upon himself to falsely add Sherry Lund as a phantom party in Mr. Lund’s trust cases. Moreover, Judge Cowan has a personal animus against Sherry Lund, a loving mother who only offers advice to her son when he requests it. Indeed, the limited GAL specifically found in her report that Sherry Lund is Mr. Lund’s loving stepmother and there was nothing improper about him seeking advice from her. (Exhibit 5 at 13:18-14:5). Judge Cowan’s bias and prejudice are clear in every statement that Judge Cowan makes regarding Sherry Lund. (*Kloepfer, supra*, 49 Cal.3d at 858-61 (judge’s failure to remain objective and distaste for a third-party overrode the judge’s objectivity required removal from office); *Roberts, supra*, 33 Cal.3d at 748 (it is misconduct for judge to express personal non-objective concerns).)

Judge Cowan embroiled himself in the litigation by stating his unsupported claims regarding Sherry Lund demonstrating his personal animus towards her:

- “Brad’s interests appear to be ‘directly adverse’ to Sherry’s interests insofar as Brad has no way to protect himself as a person with seemingly some level of developmental disability while Sherry can both act for her own interests and act on Brad’s behalf as his attorney-in-fact.” (Exhibit 6 at 4:13-15).

This is a false statement unsupported by the record. Again, this statement conflicts with Judge Beckloff’s findings in the 2013 trial and with the 2016 Arizona judgment, which Judge Cowan ignored.

Judge Cowan injected himself and his beliefs into this litigation. Despite the requirement by the Canons of Judicial Ethics that judges remain impartial (Canon 3), Judge Cowan again made a representation of his own creation. Furthermore, there is no evidence in the

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record that Sherry Lund's interests are "directly adverse" to Mr. Lund's. Indeed, the record clearly establishes that Sherry Lund, as co-trustee of the 1992 Trust, has taken the exact same position as Mr. Lund: The attempt for Mr. Lund to gain his freedom from hostile Trustees who continually breach the fiduciary duties they owe to him. Sherry Lund is not a party to the case in her individual capacity, so her interests are not even relevant or considered in the Lund Trust cases. Judge Cowan's distaste for Sherry Lund completely destroyed his objectivity. In *Roberts* and *Kloepfer*, the California Supreme Court determined that this type of misconduct required removal of the judge from the bench. (*Roberts, supra*, 33 Cal.3d at 748; *Kloepfer, supra*, 49 Cal.3d at 858-61.)

Judge Cowan's statements also made him an improper adversary in the Lund Trust cases. (*Broadman v. Commission on Judicial Performance*, (1999) 18 Cal.4th 1079, 1092.) Indeed, Judge Cowan made himself adverse against not only Mr. Lund and his attorneys, but against Sherry Lund, a third-party.

Judge Cowan again embroiled himself and his own views in the litigation by stating his own determinations that Sherry Lund is a purported "ringleader":

- "Fourth, Sherry's counsel and Brad's counsel have consistently aligned in this litigation—which further indicates Sherry's influence with or without exercise of her litigation power of attorney." (Exhibit 6 at 8:12-14).

This statement directly contradicts the above statement where Judge Cowan accuses Sherry Lund's interests to be "directly adverse" with Mr. Lund's interests.

This statement by Judge Cowan is patently false. False statements such as these specifically illustrate Judge Cowan's personal animus and warrant his removal from the bench. (*Adams, supra*, 10 Cal.4th at 914-15.) Sherry Lund does not have a personal attorney appearing in the Lund Trust cases. The only attorney appearing on behalf of Sherry Lund is undersigned counsel, Lauriann Wright, who is the attorney for the co-trustees of the 1992 Trust. Again, Judge Cowan is making a false representation and basing "personal concerns" on them. (*Kloepfer, supra*, 49 Cal.3d at 858-61; *Fletcher, supra*, 19 Cal.4th at 911.) Therefore, Judge Cowan should be removed from office for his misconduct together with his personal bias toward Sherry Lund.

Judge Cowan demonstrated his willful and prejudicial bias and prejudice against Mrs. Lund through the following statement:

- "The Court is concerned by the extent of Sherry's impact on the positions taken by Brad in this litigation." (Exhibit 6 at 8:14-15).

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Not only is this statement false, but, again, Judge Cowan has no right to insert his personal concerns regarding what, if any, impact an individual has on Mr. Lund.

Judge Cowan's actions are nothing less than unprofessional misconduct which require his removal from office. (*Kloepfer, supra*, 49 Cal.3d at 858-61; *Fletcher, supra*, 19 Cal.4th at 911.) Sherry Lund has no impact on the positions taken by Mr. Lund in the Lund Trust cases. Moreover, Sherry Lund only wants Mr. Lund to have the freedom from the hostile Trustees, which Mr. Lund has been fighting for over the past decade. The hostile Trustees have refused, and still refuse, to give Mr. Lund his 35th, 40th, and 45th Birthday Distributions which are part of his inheritance from his mother, totaling more than \$100 million, even though they have already made these distributions to his twin sister as well as his late sister. The hostile trustees hired a public relations firm (with trust money) to put out libelous press against Mr. Lund and his family together with hiring private investigators to follow Mr. Lund and his family. The hostile Trustees' attorney accused Mr. Lund of incest and stories of this are still on the internet and available to the public, painting Mr. Lund in a false light. The hostile Trustees breached their fiduciary duties by making unauthorized payments to themselves, together with overspending on attorney and accounting fees. Judge Cowan ignored all of these allegations and continued on with his personal animus towards Sherry Lund and Mr. Lund (and their attorneys).

Judge Cowan willfully, falsely, and prejudicially, discriminated against Sherry Lund through the following statement:

- “The foregoing are merely examples of strategic deployment of wealth and pressure to intimidate those not acting as seemingly Sherry wishes—a significant pattern in this case.” (Exhibit 6 at 9:15-17).

This is a false statement not based on the record, but on Judge Cowan's own personal and biased opinion.

Judge Cowan made a prejudgment of the cases based upon his false perception that Mr. Lund suffers, on some level, from Down syndrome and that Sherry Lund is improperly influencing Mr. Lund. Judge Cowan refused to acknowledge the genetic testing that proves that Mr. Lund does not have Down syndrome. The above-quoted statement goes a step further and establishes that Judge Cowan is attempting to discriminate against Mrs. Lund as well as Mr. Lund because of Judge Cowan's improper perception of this wealth. Statements such as the above quote unquestionably establish that Judge Cowan is personally biased against Sherry Lund without any basis in the record or evidence. Judge Cowan held *zero* evidentiary hearings and relies solely on unsworn, unverified exhibits submitted by the hostile Trustees (all of which were presented to Judge Beckloff and rejected in the 2013 trial). Moreover, there has never been any finding in any court in the

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United States that Sherry Lund (or her husband, William Lund, deceased) were exerting any undue influence on Mr. Lund. In fact, the opposite was found. Judge Cowan not only ignores the findings previously entered by the Hon. Mitchell Beckloff after a full trial, but also the findings of the Hon. Robert Oberbillig entered after a full trial in Arizona.

Judge Cowan's statements demonstrate judicial misconduct and an unquestioned personal bias against Sherry Lund. Judge Cowan should be removed from office for such unprofessional misconduct. (*Kloepfer, supra*, 49 Cal.3d at 858-61; *Fletcher, supra*, 19 Cal.4th at 911; *Adams, supra*, 10 Cal.4th at 914-15.)

Judge Cowan has embroiled himself in the litigation by making false statements about the attorney-client relationship which he has no authority to make:

- "It is unclear whether Sherry's attorneys are also being paid from Brad's assets." (Exhibit 6 at p. 10, fn. 10).

Judge Cowan's concern is completely fabricated. Sherry Lund is not even a party in Mr. Lund's Trust matters and, therefore, by definition, has no attorney appearing for her in her individual capacity. In any event, Judge Cowan acted beyond his jurisdiction and improperly in his inquiry as to payments made to her attorneys. This personal bias, manifested in public Rulings filed by Judge Cowan, establishes the need for his removal from the bench.

The following is a lengthy, but not exhaustive, list of the prior statements Judge Cowan made about Sherry Lund in written rulings that were also issued without any evidentiary hearing:

- ". . . Sherry has or is exercising undue influence over Bradford[.]" (Exhibit 9 at 6:26-7:1.) This is contrary to two prior court rulings which did not find any undue influence by Mrs. Lund. (*See* Exhibits 3 and 4.) This is also contrary to the report written to Judge Cowan by the limited GAL. (Exhibit 5 at pp. 11-14.)
- "After the California birthday distribution litigation before Judge Beckloff ended unfavorably for Bradford and Sherry, Sherry sought to undermine the settlement." (Exhibit 1 at p. 11, fn. 9.). This is also contrary to the record. Sherry Lund was not even a party to the prior (2010) settlement agreement or the "California birthday distribution litigation before Judge Beckloff." The 2010 settlement agreement exists until this day.
- "Sherry has frequently directly and indirectly sought to have the bulk of Bradford's assets placed under her control with the intent of transferring those assets into the

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Nevada Trust.” (Exhibit 1 at 12:1-2.) This is contrary to the record in the case and false.

- “In light of the evidence described [referencing the unverified Memorandum of Facts mentioned above], the Court finds that at least at this point Bradford is incapable of independently directing counsel to defend his interests, whether due to this own capacity or the interference of Sherry.” (Exhibit 1 at 28:14-16.) These findings are based on old, stale and unverified allegations presented by the Trustees. These alleged facts have been shown to be false by two court decisions: (1) The Statement of Decision made by Judge Beckloff finding that Mr. Lund had capacity to choose his own replacement trustees and that he has not been under any undue influence; and (2) The Arizona decision which found Mr. Lund to be competent and have capacity, as unanimously affirmed by the Arizona Court of Appeals and made final by the Arizona Supreme Court which denied review.
- “Sherry has multiple powers of attorney from Bradford which empower her to control his finances, litigation, and living arrangements, and Sherry has frequently exercised that power to direct aggressive litigation in Bradford’s name.” (Exhibit 1 at 34:9-12.) This is a false statement and against the record. (*See* above paragraph.)
- Mention of “other *unrelated* litigation Sherry has initiated as against a multitude of persons who have allegedly stood in her way.” (Exhibit 9 at 8:20-24; Exhibit 1 at 35:12-23 (emphasis added).) Judge Cowan admits that he is referring to “unrelated litigation”, which, by definition, has nothing at all to do with Mr. Lund’s present Trust matters.
- Blaming Mrs. Lund for “[t]his war,” based on her “persistent refusal to accept the terms of the trust and the significance of Bradford’s declining cognitive ability, at least as far as the Court can determine based on the evidence presented by the [opposing party].” This is a false statement made by Judge Cowan. Judge Cowan ignored the 2014 Statement of Decision made after the 2013 California trial and the 2016 Arizona Judgment (unanimously affirmed by the Arizona Court of Appeals and made final after the Arizona Supreme Court denied review).
- “While the Court’s view is that [Bradford Lund]’s wishes are in many respects ill-informed, may be unduly influenced by Sherry’s own personal interests . . .” (Exhibit 2 at p. 25, fn. 18.) This is a false statement contrary to the record in this case.

Even if Judge Cowan believed that he was expressing legitimate concern about Mrs. Lund’s relationship with Bradford Lund, it is still in violation of Canon 3B(4) where it is

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done in an unacceptable, non-objective, and non-neutral manner. “Such conduct constitutes conduct prejudicial to the administration of justice, casting the judicial office into disrepute, and warranting . . . censure.” (*Roberts, supra*, 33 Cal.3d at 748.)

All of the statements made above were about an individual who is not even a party to the Lund Trust proceedings in their individual capacity; were not based on any evidentiary hearing; were made without any testimony from Mrs. Lund individually; and based on unverified, unsworn, and unauthenticated evidence presented by the opposing party. Judge Cowan has relied on all of the unverified statements and exhibits filed by Mr. Lund’s hostile Trustees which were rejected by Judge Beckloff in the 2013 trial.

Tellingly, even though Judge Cowan cited the opposing party’s allegations regarding Mrs. Lund extensively, by his own admission, he did not address the issues that Mr. Lund raised against the Trustees. (Exhibit 10 at 17:23-26.) For example, Mr. Lund has alleged numerous breaches of fiduciary duty by the hostile Trustees, such as *inter alia*: (1) Conspiracy in working with Mr. Lund’s estranged family members in an ultimately unsuccessful Arizona guardianship/conservatorship proceeding; (2) Treating Mr. Lund differently than his siblings by denying him his Birthday Distributions under the trust created by Mr. Lund’s Mother, Sharon Lund; (3) Hiring a public relations firm to publish libelous statements about Mr. Lund and his family, and falsely accusing him of incest, which are still available on the internet to this day; (4) Hiring private investigators to follow Mr. Lund and his family; (5) Making excessive payments to themselves, their attorneys, and accounting firms; (6) Engaging in self-dealing in the form of improper real estate fees; (7) and most recently, together with their lawyers, breaching their duty to Mr. Lund by holding secret meetings, without Mr. Lund’s knowledge, authorization, or approval in order to rewrite a settlement agreement where they would benefit by receiving a \$14.5 Million fee, but where Mr. Lund would receive virtually no benefit.

Even worse, Judge Cowan stated that he found Sherry Lund’s declaration, signed under penalty of perjury, that she never exercised her powers as Bradford Lund’s power of attorney to be “inconsistent” with the allegations in the opposing party’s unverified pleading. (Exhibit 1 at 35:6-8). No unbiased judicial officer would find allegations in an unverified pleading to be more truthful than statements signed under penalty of perjury. Of course, if Judge Cowan questioned Mrs. Lund’s truthfulness, he could have always held an evidentiary hearing, which he did not—despite repeated requests.

It was Judge Cowan who *sua sponte* brought up a conflict of interest regarding Sherry Lund in December 2018, when he issued an unprompted, meritless Order to Show Cause, on both the facts and the law, regarding removal of Sherry Lund (and James Dew) as co-trustees of the 1992 Trust because they were also trustees of Mr. Lund’s Nevada Trust. Both the 1992 Trust and Nevada Trust were self-settled by Mr. Lund and contain his own

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personal assets. Mr. Lund is the sole beneficiary of both trusts. Therefore, there can be no conflict of interest because in both roles the beneficiary is Mr. Lund and no one else. The limited GAL specifically stated the same exact thing in her written report to Judge Cowan: “It does not appear that there is justification for removal based solely upon the fact that they are trustees of both trusts, even if neither the court nor the GAL have information about the terms of the Nevada Trust other than that Brad is the sole beneficiary of that trust. Since he is also the sole beneficiary of the 1992 Trust, [it is] difficult, no matter what terms of the trust exist, to imagine a scenario where the trustee’s duties to the beneficiaries of the two trusts would be in conflict.” (Exhibit 7 at 5:1-6). Judge Cowan used his *sua sponte* Order to Show Cause against Sherry Lund, his other *sua sponte* OSC regarding whether Mr. Lund needed a GAL, and most recently his *sua sponte* OSC against Mr. Lund’s lead counsel seeking her disqualification, to ignore the substantive issues before him brought by Mr. Lund in his 5th Amended Petition, even though Mr. Lund has been insisting on a trial since the original petition was filed in 2015.

A judge who displays evident bias against one side of a case, or one who is so personally embroiled as to lose the ability to consider the matter in a neutral and objective manner violates the canons of judicial conduct. (*See generally* Rothman, California Judicial Conduct Handbook (2d ed. 1999) §§ 2.01, 2.03, 2.04, pp. 31-24; § 2.19, pp. 49-50; *see also* Furey, *supra*, 43 Cal.3d at 1310-11 (judge found to commit prejudicial misconduct after telling assembled defendants that if there was a discrepancy between their version of the facts and that of a police officer, he would always believe the latter).)

Judge Cowan’s statements about Sherry Lund speak for themselves. Before any kind of evidentiary hearing in this matter, Judge Cowan made a decision about who he considered the “good guys” and the “bad guys” and that the ultimate “bad guy” was Sherry Lund. He chose to believe the unsubstantiated allegations of the opposing party about Mrs. Lund’s involvement in the Lund Trust matters and not the declaration signed by Mrs. Lund under penalty of perjury or the fact that she only appeared in the matters as a Co-Trustee of the Bradford Lund 1992 Trust. He improperly and preemptively decided to paint Sherry Lund as the evil stepmother when she’s been a loving maternal figure to Bradford Lund for over two decades.

On a personal note, the undersigned has been a practicing California attorney for over 25 years, spending most of my time during those 25 years before the probate court in Los Angeles County. I love what I do, and I love my probate legal community. Gender bias was certainly prevalent when I first started to practice, but I have been proud to serve in a legal community who has fought back against bias in all of its forms and where more and more judicial officers are now women and people of color. There have certainly been times when I appear in probate court in larger, more complex matters where I may be the only female attorney in a courtroom full of attorneys.

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Until this case, I have never felt that my advocacy for my clients was not fairly considered because of my gender as their attorney. I have practiced before Judge Cowan for many years. He is a smart and articulate judicial officer, who uses his words carefully, especially when he becomes impassioned about a case, as I have witnessed many times over the years. For me, when he used gender-charged words not once, but twice – against me (“coy”) and against the only other female attorney on the case Sandra Slaton (“emotional”) – that spoke volumes to me about what biases were at play, unconscious though they may be for Judge Cowan himself. I cannot imagine a judge calling an argument by a male attorney “emotional” or “coy”. And it makes me concerned about how far that gender bias goes, when a judge who chooses his words carefully as Judge Cowan is able to say words like these on the record.<sup>4</sup>

It is not lost on me that my client Sherry Lund is a stepmother and that stepmothers are a female stereotype that are much-maligned in popular culture. Match that up with a judicial officer that calls argument by female attorneys on the case “emotional” and “coy” and then makes detrimental, negative findings about my client who is a stepmother, without ever holding an evidentiary hearing, and one has to question whether justice has been served. One has to further question whether this particular judicial officer is equipped to provide justice given his unconscious gender biases. The probate court is a court which, day-in and day-out, resolves complex and messy family disputes over family wealth. I am proud of the role I play in the probate court, advocating for my clients, and quite frankly, I am incredibly disheartened by what happened in this case. Bias of any kind in a court such as the probate court annihilates the justice the court is there to deliver to everyone who appears before it – even stepmothers.

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<sup>4</sup> Given this context, it is not a coincidence that Judge Cowan also dismissed the opinions of the only other female legal professionals in this matter – limited Guardian ad Litem Margaret Lodise and private mediator and retired judge Hon. Lesley C. Green. In addition to Judge Cowan’s dismissal of the limited GAL’s findings that Sherry Lund was not unduly influencing Bradford Lund, Judge Cowan went so far to say that he was “disappointed” in the limited GAL in one of his final rulings in this matter. (Exhibit 2 at 27:14-19.) Moreover, while Judge Cowan was more than willing to delegate his judicial functions to a GAL and Section 730 Expert, he refused to accept the Parties’ agreement to appoint Judge Green as arbitrator for final decisions involving the proposed global settlement in these matters. (Exhibit 1 at 17:12-17; Exhibit 10 at 4:22-5:4.)

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Judge Cowan's actions described above are not the actions of a judicial officer who promotes public confidence in the integrity and impartiality of the judiciary. (See Canon 2A, Code of Judicial Ethics.) These are the actions of a biased person who used his position of power to improperly promote a point of view that was not based on any verified, sworn, and/or authenticated evidence. Judge Cowan is not a suitable member of the judiciary and should be removed from his position as soon as possible.

Sincerely,



Lauriann Wright

This letter is also joined by Bradford Lund, together with his respective counsel.

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