



City Attorney's Office · 555 Santa Clara Street · Vallejo · CA · 94590 · 707.648.4545

March 21, 2019

Honorable John B. Ellis
Judge of the Superior Court
Department 23, Room 306
Hall Of Justice
600 Union Avenue
Fairfield, CA 94533

RE: Illegal Dumping Proclamation

Dear Judge Ellis:

On behalf of the Mayor, Vice Mayor, and City Council of the City of Vallejo, it is my honor and privilege to share with you a recent proclamation concerning the City of Vallejo's ("City") recent efforts to deter and enforce illegal dumping in Vallejo. The proclamation serves to articulate the community's strong interest in cleaning up Vallejo, and our strong desire to ensure that Vallejo becomes and is seen as a beautiful, scenic community that is cherished and cared for by its residents. To the extent persons reject that vision by unlawfully dumping significant amounts of refuse in the city's streets, parks and common areas, the city has pledged to discourage and address such behavior in a number of ways.

As you know, my office has recently begun filing criminal complaints against those persons who illegally dump in Vallejo, in violation of Vallejo Municipal Code section 7.44.100. The City Council has also allocated funds to speed cleanup costs, provide community dumpsters, and educate residents. Additional positions have also been recently created to help in the effort.

I share this information with our community partners, and ask for your support in our endeavor to help us address this issue seriously and efficiently. While I am cognizant that there are a multitude of priorities vying for your attention, please be aware that creating and maintaining a city that its residents are proud to call "home" is a priority for us. Thus, I am enclosing this proclamation, ratified on February 26, 2019, by the Vallejo City Council, which sets forth the severity of the illegal dumping problem in Vallejo, the amount of resources that the City expends

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on illegal dumping, as well as requesting your assistance in holding those found responsible accountable. The enclosed proclamation and the City's recent efforts demonstrates the City Council's resolve in dealing with illegal dumping within the city. We hope you join us in recognizing the importance of addressing this problem so that we can create and cultivate community pride in the place our residents call home.

Sincerely,



CLAUDIA QUINTANA
City Attorney

Enclosure

cc: **Honorable Mayor and Members of Vallejo City Council**
Honorable Judges and Commissioners of Solano County Superior Court
Kenny Park, Lieutenant, VPD, CSS/Code Enforcement Divisions
Terrance Davis, Public Works Director
Gabriel Lanusse, General Manager, Greater Vallejo Recreation District (GVRD)
Tom Phillips, General Manager, Recology Vallejo



PROCLAMATION RECOGNIZING ILLEGAL DUMPING PROBLEM IN THE CITY OF VALLEJO

WHEREAS, illegal dumping is a blight which negatively impacts the City of Vallejo and other surrounding communities; and

WHEREAS, the City of Vallejo's Maintenance Department responds to more than 2,300 calls of illegal dumping a year; and

WHEREAS, the City of Vallejo's Maintenance Department disposes of nearly 900,000 pounds of illegally dumped items a year; and

WHEREAS, the City of Vallejo pays more than \$700,000 dollars annually to clean up and dispose of illegally dumped items; and

WHEREAS, the City of Vallejo's resources could be utilized in a more productive manner to beautify the City of Vallejo; and

WHEREAS, Illegal dumping is a violation of Vallejo Municipal Code section 7.44.100 which can be punished as a misdemeanor with a penalty of a \$1,000 fine and/or 6 months in jail.

NOW, THEREFORE, BE IT PROCLAIMED, that I, Bob Sampayan, Mayor, and the Vallejo City Council, do hereby recognize the illegal dumping problem in the City of Vallejo and request the partnership of the Solano County judicial bench in ensuring that persons who are responsible for the crime receive just punishment.

Dated: February 26, 2019


BOB SAMPAYAN, Mayor

Vice Mayor Pippin Dew-Costa
Councilmember Hakeem Brown
Councilmember Robert H. McConnell
Councilmember Katy Miessner
Councilmember Hermie R. Sunga
Councilmember Rozzana Verder-Aliga, EdD





Superior Court of California
County of Solano

Chambers of
JOHN B. ELLIS, Presiding Judge
Department Twenty-Three

Hall of Justice
600 Union Avenue
Fairfield, CA 94533
(707) 207-7323
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April 2, 2019

RECEIVED

APR - 8 2019

Claudia Quintana, Esq
Vallejo City Attorney
555 Santa Clara Street
Vallejo, CA 94590

CITY ATTORNEY'S OFFICE
CITY OF VALLEJO

Re: **Letter of March 21, 2019**

Dear Ms. Quintana:

I am in receipt of your letter dated March 21, 2019 regarding "Illegal Dumping Prosecution" and the attached Proclamation of Mayor Bob Sampayan. I feel I must remind you of California State Bar Rule of Professional Conduct 3.5 (b) which states:

Unless permitted to do so by law, an applicable code of judicial ethics or code of judicial conduct, a rule or ruling of a tribunal, or a court order, a lawyer shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before the judge or judicial officer, except:

- (1) in open court;
- (2) with the consent of all other counsel and any unrepresented parties in the matter;
- (3) in the presence of all other counsel and any unrepresented parties in the matter;
- (4) in writing with a copy thereof furnished to all other counsel and any unrepresented parties in the matter; or
- (5) in ex parte matters.

As your office has been prosecuting dumping cases in the Vallejo Court over the last two months, it was improper to unilaterally request the Court to "address this issue seriously and efficiently" and to hold "those found accountable responsible". Although you did not address any one particular case, the only conclusion that can be drawn from this letter is that you are attempting to influence the Court in how these cases are handled.

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Claudia Quintana, Esq.

Re: **Letter of March 21, 2019**

April 2, 2019

Also, California Code of Judicial Ethics Canon 3B(7)(d) states:

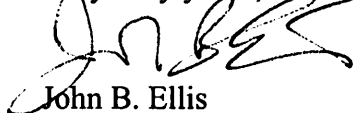
[I]f a judge receives and unauthorized ex parte communication, the judge shall make provisions promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

Therefore, I am forwarding a copy of this letter and your letter to the Interim Public Defender as her office represents defendants who are being prosecuted by your office for illegal dumping. Given that you have sent a copy of this letter to every judicial officer of this Court, I suggest you instruct your attorneys to disclose this letter to any defendant, and opposing counsel, in any future dumping case that your office pursues in this Court.

I also must decline Mayor Sampayan's invitation that the Court enter into a partnership with the City of Vallejo as requested in his Proclamation. The Court cannot enter into a partnership with another branch of government. Furthermore, it is the role of the Court to provide a forum for the fair resolution of disputes. It is not the role of the Court to advocate for a particular outcome on a particular issue.

Please understand this Court will attempt to treat all cases and litigants with seriousness, efficiency, and fairness. In the future, if your office intends to prosecute any criminal cases, please remember that all communications with the Court must be done in the appropriate manner.

Very truly yours,



John B. Ellis
Presiding Judge, Department 23
Superior Court of California
County of Solano

JBM/djr

cc: Interim Solano County Public Defender Elena D'Augustino
Vallejo Mayor Bob Sampayan
Judges and Commissioners of the Solano Superior Court



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April 9, 2019

Honorable John B. Ellis
Judge of the Superior Court
Department 23, Room 306
Hall Of Justice
600 Union Avenue
Fairfield, CA 94533

RE: Response to letter dated April 2, 2019

Dear Judge Ellis:

Regarding your letter of April 2, 2019, it was not my intent to attempt to influence the Court in an ex-parte communication. Frankly, I am surprised that you drew that conclusion.

I did ask, on behalf of the City of Vallejo, that the Courts address unlawful dumping "seriously" and "efficiently." It did not occur to me that this would be controversial, as I believe all citizens expect nothing less when it comes to addressing crimes in the Court system. I did not ask, nor do I expect, that the Court find in favor of the City without due process of law and a finding of guilt beyond a reasonable doubt.

Likewise, I think most people's expectation of the role of the Court is that the Court would hold a person that is found to be "responsible" for particular actions "accountable" in a general sense.

Rather, my intent was to convey to the Courts a general value statement of the importance of these efforts to the citizens of Vallejo. Based upon recent experience, we have the impression that illegal dumping cases are not as important to the Court as other cases. I felt that an articulation of the City's value statement concerning illegal dumping might generally educate or remind judicial officers, who are not residents of Vallejo, that Vallejo has a new program that is important to Vallejo's citizens and elected officials. It is my belief that all branches of government have a role in ensuring that government serves the public interest.

I apologize if my letter came across as asking for specific actions in specific cases, or that I purposely meant to leave the Public Defender out or somehow prejudice a defendant. That

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definitely was not my intent. In my view, all parties deserve a fair and impartial tribunal and I did not seek to convey otherwise.

You suggest that I disclose your letter to all future illegal dumping defendants. I decline to do as you suggest because the content of your letter stops just short of accusing me of wrongdoing, and I believe that the content and tone of your letter is unfairly prejudicial.

Again, I am sorry that my letter was not received in the spirit with which it was sent.

Sincerely,



CLAUDIA QUINTANA
City Attorney

cc: Honorable Mayor Bob Sampayan and Members of the City Council
Honorable Judges and Commissioners of the Superior Court of Solano County
Elena D'Agustino, Interim Solano County Public Defender



Chambers of
JOHN B. ELLIS, Presiding Judge
Department Twenty-Three

Superior Court of California County of Solano

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April 17, 2019

Claudia Quintana, Esq
Vallejo City Attorney
555 Santa Clara Street
Vallejo, CA 94590

Re: Letter of April 9, 2019

Dear Ms. Quintana:

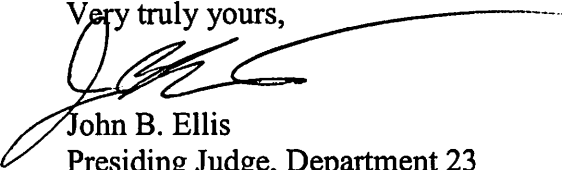
I received your response to my letter, and I feel I need to correct two issues. First, I do not believe you intended to do anything improper when you sent your initial letter. The last thing I want to do is send a letter to a lawyer regarding an ex parte communication, especially one I have known for a long time. However, I received calls from several of our judges who were concerned about the ex parte nature of the initial communication. Given the clear language of California State Bar Rule of Professional Conduct 3.5 (b), the fact there were six pending dumping cases when you sent the letter, and the aggressive stance the Commission on Judicial Performance has taken with ex parte communications, it was necessary for me to respond with a clear statement of the law.

I do not believe there would have been a problem had you not copied all of the judges with your initial letter. There also would not have been a problem if you had copied the lawyers for the dumping defendants with your initial letter. The letter was ex parte because it was not sent to the other litigants, not because you were trying to convey a need for seriousness when it comes to illegal dumping.

Also, I did not mean to suggest that you send my last letter to any future dumping defendants. I was suggesting that you send your initial letter to any future dumping defendants and their attorneys. I was making this suggestion only to cure the ex parte problem. I apologize if I was confusing on this point.

I am sorry if you found my letter accusatory; that was not my intention. However, the Court must avoid the appearance of being political or one sided. Sending a response was the only way I believed would insure the litigants and the public were not left with that impression.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JBE', with a long, sweeping horizontal line extending to the right.

John B. Ellis
Presiding Judge, Department 23
Superior Court of California
County of Solano

JBE/CP