

THE NATIONAL COALITION FOR FAMILY JUSTICE, INC.

Santa Clara County Chapter

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COVER UP IN THE COURTROOM

As mentioned in a previous flier put out by our organization, judges are governed by a Code of Judicial Conduct which they are **obligated** to follow in carrying out the functions of their judicial office. As such, the first two canons of this Code are of paramount importance as they cover critical aspects of a judge's duty to his or her office and to the public. The first two canons state the following:

1. **A Judge Should Uphold the Integrity and Independence of the Judiciary.** Among supporting statements, this canon goes on to say that "Judges should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved."
2. **A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.** Supporting statements regarding this canon go on to say that "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Additional commentary on this canon states that "A judge must avoid all impropriety and appearance of impropriety" and that "A judge should not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment".

This having been said, we believe that **Judge James Stewart** has acted in a manner contrary to the first two canons of the Code by covering up information he was aware of regarding Dr. Michael Jones' inability to function as a custody evaluator. Consider the following:

- 1) Judge Stewart became aware, at least as early as 1995, that there might be a problem with respect to Michael Jones' ability to effectively serve as an evaluator in child custody cases due to biases he was demonstrating in favor of fathers. In April of 1995, four respected family attorneys testified against Michael Jones in a hearing conducted in front of Judge Stewart regarding what was seen as inappropriate and biased custody decisions which were consistently being made by Dr. Jones in favor of fathers and to the detriment of mothers. Over the objections of one of the attorneys, Judge Stewart sealed the courtroom during this proceeding and directed the attorneys not to make the transcript in this matter available to anyone.
- 2) In September 1995, Judge Stewart told Laurie Williams (an L.M.F.C.C), who was acting as special master in a case, to do a custody evaluation on the case and he advised her not to use Dr. Jones' evaluations in deciding custody due to concerns about Dr. Jones' ability to make appropriate custody recommendations.
- 3) In June of 1996, the attorney for a child in a custody case stated in a letter to the attorney for the mother, "As you are aware, Judge Stewart has serious concerns about relying on the psychological evaluations performed by Michael Jones."
- 4) In September of 1996, Michael Jones in his divorce papers states, "I suffer from Tourette's Syndrome. Stress affects my ability to cope with this condition and the stress of this dissolution of marriage has had an effect on my ability to perform services for all of my clients." The judge who signed the moving papers in Dr. Jones' divorce petition was **Judge James Stewart** who one must assume read and understood the aforementioned statement made by Dr. Jones in his declaration attached to the divorce petition.
- 5) In a recent case, it was revealed during the custody trial that Dr. Jones had had

unethical and illegal ex parte communication with the father's attorney and the father's expert, Dr. Terry Johnston. Judge James Stewart, following the recommendations of Dr. Jones and Dr. Johnston (which, by the way, smacked of collusion), took physical and legal custody away from the mother. Judge Stewart, aware of the inappropriateness of the ex parte communication in the case, addressed the matter in his Statement of Reason for Decision and deemed it "unfortunate" yet he took no steps to reprimand the father's attorney, Dr. Jones, or Dr. Johnston for their illegal and unethical behavior. This appears to us to be a flagrant violation of the Code of Judicial Conduct as a judge is required to **enforce** high standards of conduct in judicial proceedings.

Now, taking all of the above information into consideration, we are perplexed as to how and why Judge Stewart, in full knowledge of the aforementioned facts, would continue to *allow Michael Jones* to make recommendations to the court regarding custodial arrangements and to **continue** to testify in child custody cases as an **expert witness**. We are astonished by Judge Stewart's failure to disclose to interested parties, knowledge he was in possession of regarding Michael Jones and his ability to effectively function in the capacity of a custody evaluator. We find his actions, or more appropriately, his inaction regarding Dr. Jones, as a serious breach of public trust and a violation of the aforementioned canons which require a judge to basically "do the right thing" in the courtroom. We also find it very interesting that Judge Stewart seems to be very defensive of Michael Jones and has apparently taken no action to admonish, censure, or remove Dr. Jones from family law cases until such a time as legitimate concerns about him are addressed and dealt with in a satisfactory manner. In addition, it is interesting to note that Dr. Jones lists Judge James Stewart on his resume as a reference.

So What's Up With Michael Jones and what is really going on with him? His consistently bizarre recommendations with respect to custody evaluations would undoubtedly shock the general public were it to become aware of his decisions and recommendations. Here are but a few *examples of typical* complaints we hear about Dr. Jones:

1) In a current case, Michael Jones denies acting in multiple roles and yet there is evidence that at different times he has acted as special master, evaluator, and therapist for father, children, father's girlfriend, and father's girlfriend's child. A review of Dr. Jones' billing statement in this case reveals that the mother was billed for a) "Clinical interview with Ms. _____" (this was the mother), b) "Family therapy with Mr. _____ (the father), his girlfriend, and her daughter, and the children (from the marriage)" It is interesting to note that Dr. Jones billed the mother for 1/2 of the father's sessions that included his girlfriend and her children with Dr. Jones.

2) In another child custody case in which Dr. Jones recommended primary custody be given to the father over the mother (seems to be a standard recommendation with him), Dr. Jones did not recall having seen the mother even though she had had a session with him, and even though he did not recall having met with the mother, he proceeded to make a recommendation to place custody of the children with the father. We would ask the question, how can a psychologist make an appropriate assessment of custody if he doesn't even recall having met with the mother?

3) Numerous complaints against Dr. Jones have been brought to our attention by women stating that they lost custody of their children due to recommendations made by Dr. Jones to the court to change custody in favor of the father. In almost all of the cases we have been contacted about, there have been allegations of domestic violence or child abuse made against the father and yet Dr. Jones consistently recommends that the father get custody of the children. Bizarre. Dr. Jones stated in a recent custody case, that 80% of his business comes from referrals from the court. At what point does the court stop making referrals to a psychologist like Dr. Jones who obviously is incapable of carrying out the function assigned to him? We are disturbed by the court's willingness to abdicate its judicial responsibility to render decisions "in the best interests of the child" to a psychologist who is thereby placed in the position of ultimate authority within the court system with no accountability to anyone. **IS ANYONE OUT THERE LISTENING?**