Social Media & Judicial Independence

Judge Kathleen Pantle (ret.), Circuit Court of Cook County
Judge LaDoris Hazzard Cordell, (ret.), Superior Court of California
Judge Raymond McKoski (ret.), 19th Circuit Illinois
Rick Tulsky, Co-Director, Injustice Watch
Judge Aaron Persky Report

• December 19, 2016

• Commission on Judicial Performance Closes Investigation of Judge Aaron Persky
Big war chest to fight Persky

More than $1 million collected

BY ALLISON LEVITSKY
Daily Post Staff Writer

With a month to go before the June 5 election, the campaigns for and against the recall of Judge Aaron Persky have continued to pull in big money, including from some high-profile Silicon Valley donors. The recall campaign has raised more than $1 million, including $322,785.38 in 2016 and $365,159.78 last year. Between Jan. 1 and April 21 alone, the campaign had raised another $273,206.04 — but that was before some hefty contributions poured in. Karla Jurvetson, a psychiatrist who lives in Los Altos, gave the campaign $170,000 on Wednesday, according to campaign filings.

Jurvetson’s ex-husband, Steve Jurvetson, made headlines in November when he left the venture capital firm he co-founded, Draper Fisher Jurvetson, after sexual harassment allegations surfaced about him. The couple split up in 2015.

Last Saturday, Laure Woods, a [See PERSKY, page 54]
Judge Persky abused his discretion, disrespected a jury, failed a crime victim and broke trust with the public he serves. There is no judicial accountability if these failures don’t lead to his removal from office.

Palo Alto Weekly Editorial – MAY 11, 2018

Judge Aaron Persky sentenced Stanford University swimmer Brock Turner to only six months in jail for sexually assaulting an unconscious woman behind a dumpster outside a frat party. These charges carry a maximum of 14 years in prison – TURNER ONLY SERVED 90 DAYS.

We don’t forget. We recall on June 5th, vote yes to recall Judge Persky.
JUDGE AARON PERSKY SENTENCED
ROBERT CHAIN TO ONLY 4 DAYS IN JAIL
FOR FELONY CHILD PORNOGRAPHY
SAN FRANCISCO — A California judge facing a recall effort after sentencing former Stanford University swimmer Brock Turner to six months in jail for sexual assault has hired a political consultant who ran President Trump’s Arizona campaign.
VOTE YES TO

RECALL JUDGE PERSKY

Paid for by the Committee to Recall Judge Persky, FPPC# 1386601
GET THE FACTS
VOICES AGAINST RECALL.Org
DON'T RECALL A RESPECTED JUDGE WHO FOLLOWED THE LAW
PAID FOR BY RETAIN JUDGE PERSKY — NO RECALL
NO RECALL of Judge Persky

GET THE FACTS.
VOTE JUNE 5TH

www.NoRecall2018.org

Paid for by No Recall of Judge Persky, major funding by Elizabeth Siegelman, ID# 1403631
2200-B Douglas Blvd., Ste. 140, Roseville, CA 95661
District Attorney Jeff Rosen, Public Defender Molly O’Neal, and Retired Judge LaDoris Cordell, along with more than 100 law professors, hundreds of current and retired judges, sexual assault victims, feminists, and many more, say NO RECALL on June 5th.

We believe:
- in justice for sexual assault victims
- our judges must be independent
- special interests must not control our judiciary

We know:
- the problem was the law, not the judge, and now the law has been fixed
- recalls are for judges with a history of misconduct and bias
- Aaron Persky is a fair judge who has been proven to have no history of misconduct or bias
- this recall will hurt us all

DEFEND JUSTICE FOR ALL & KEEP JUDGES INDEPENDENT
JOIN THE VOICES AGAINST RECALL

"Voters in Santa Clara County are faced with the question of whether to recall Judge Aaron Persky. The answer is No... Even if disappointed or angry about a judge’s ruling, removing him or her from the bench because we disagree with a lawful sentence undercuts the independence of the courts."

—Dem. Congresswoman Anna Eshoo and Dem. Congresswoman Zoe Lofgren

READ THEIR ENTIRE STATEMENT AT: VOICESAGAINSTRECALL.ORG

Don’t recall a respected judge who follows the law.
Dauber’s Tweets
This is how things change. Fuck the patriarchy, unite as feminists, start the uncomfortable dialogues, and unseat Persky. www.recallaaronpersky.com with Michele Dauber #feminism #feminists #intersectionalfeminism #brooklyn @babysallright thank you for hosting us #grlsvlt photo by the amazing @jenacumbo

AUGUST 2, 2016
So this piece of shit eats at my work quite often he’s here now and I wish an angry mob would tear his ass apart.
I'm 80 percent positive this is judge persky at specialty's downtown someone come kick his ass
Warning Letter To Judge Cordell
From John Clune
Hutchinsobblack and Cook Law Firm in Boulder, Colorado
1 March 2018
Response to Warning Letter from Justin Berger
Cotchett, Pitre & McCarthy Law Firm,
Burlingame, Ca
March 5, 1028
City eyes weaker public land measure

BY ALLISON LEVITSKY
Daily Post Staff Writer

Los Altos City Council tonight will consider countering a citizens initiative to keep the city from selling public land without voter approval with a version that would only protect park land.

It would cost the city $50,000 to place each measure on the November ballot. Both measures would cost $100,000. The city’s ballot measure would also reclassify Hillview Park as park land in order to require voter approval for its sale.

The citizens initiative would keep the city from selling more than 7,500 square feet of public land without voter approval.

The group Pro Parks Los Altos has collected more than 2,900 signatures, though only 1,943 were required to put it on the ballot. Supporters say the city has tried to sell public land for years despite residents’ opposition, citing a proposed theater at Village Park and a school at Rosita Park.

Last year, 23andMe founder Anne Wojcicki’s development firm, Los Altos Community Investments, pulled its application to build an office building that encroached onto a city parking lot. That includes the Hillview Community Center, its parking lot, the baseball and soccer fields, the Bus Barn Theater and the History Museum and J. Gilbert Smith House.

Unlike the citizens initiative, other public land, including parking lots, could be sold with a City Council vote.

Council could also still decide whether to approve the citizens initiative without putting it on the ballot.

More than $3 million spent on Persky recall

BY ALLISON LEVITSKY
Daily Post Staff Writer

As voters cast their ballots for and against Judge Aaron Persky’s recall today, it bears noting that more than $3.3 million has been spent on the issue — including $1.1 million in taxpayer funds to put the measure on the ballot.

In February, Santa Clara County Registrar of Voters Shannon Bushey estimated that the recall would cost the county $86,703 for the question of whether to recall Persky and $552,789 for the election of a successor judge. The recall campaign turned in a petition with 94,539 signatures to place the recall measure on the ballot in January, exceeding the number required to qualify for the ballot, so the Santa Clara County Board of Supervisors voted unanimously to bring the measure to voters.

“We taxpayers are paying for the recall,” retired Palo Alto Judge LaDoris Cordell, a Persky backer, told the Post. The $1.1 million is on top of the $1.2 million raised by the recall campaign and the $1 million raised by the two committees supporting Persky, including $371,448.62 in legal services from the San Jose law firm McManis Faulkner.

THE UPDATE from page 1

including a prominent psychiatrist who testified against him years ago. The slayings also included two paralegals who worked for the law office that represented the suspect’s wife, a marriage-and-divorce counselor who was apparently killed in a case of mistaken identity and another man and woman who have not been identified.

MANAFORT ACCUSED: Special Counsel Robert
Dauber seeks fees from Persky

BY ALLISON LEVITSKY
Daily Post Staff Writer

Michele Dauber, the Stanford law professor who led the campaign that removed so-called "Brock Turner judge" Aileen Persky from the Santa Clara County bench, is now seeking more than $112,000 in attorney's fees and out-of-pocket costs from him, according to court documents. She incurred the legal expenses when Persky sued county Registrar of Voters Shannon Bushey along with Dauber and other petitioners over the recall effort in August, claiming that their notice of intent to circulate the recall petition had violated the state constitution.

Persky's lawyers argued that Persky was appointed a Superior Court judge by the governor, so he was a state officer, not a county officer. For this reason, the Secretary of State, rather than the county registrar, should have certified the petition, they claimed. A judge granted Persky a re-

[See DAUBER, page 18]
Persky Fundraising Letter
6-17-2019

Dear Florence & LaDoris,

Thank you both so much for your generous support of my fundraising effort, and for sticking with me through this entire process. I would not have made it through this without your help. Better things lie ahead. Have a great summer!

Best, Aaron
2007 ABA Model Code of Judicial Conduct-Rule 2.10
Judicial Statements on Pending Cases

Rule 2.10(E):

“Judge may respond directly or through a third party to allegations in media or elsewhere concerning the judge’s conduct in a matter.”

Provided: judge not violate Rule 2.10(A)
2007 ABA Model Code – Rule 2.10(A)

Rule 2.10(A):

No public statements that might reasonably be expected:

1. to affect outcome, or
2. to impair fairness

of a pending or impending matter.
ABA Model Rule 4.1: Political and Campaign Activities

Comment [9]:

Candidate permitted to respond directly to false, unfair, or misleading allegations...in a campaign.

- If response not affect outcome or impair fairness.

- Preferable for 3rd party to respond if attack concerns a pending case.
What if Your State’s Judicial Code Lacks a Self-Defense Provision?
Common Law Judicial Self Defense Doctrine

• *In re* Conard, 944 S.W.2d 191 (Mo. 1997); *In re* Miera, 426 N.W.2d 850 (Minn. 1988).

• First Amendment Political Speech
  Who ever heard of a political campaign where a candidate is prohibited from answering an attack.

• Duty to promote public confidence in judiciary.
In re Judge Potter (Nevada 2017)

- Judge running for election
- Critical newspaper article
- About a pending case
- Judge defends self
- Judge disciplined
Developing a Response

1. Serious enough to respond?
2. Third party response preferable? (ABA, *Rapid Response to Unfair and Unjust Criticism of Judges*).
3. Identify specific code provisions authorizing response.
4. Identify general code provisions supporting right to respond (e.g., duty to promote public confidence in judiciary).
5. Consider common law self-defense and First Amendment.
6. Have someone review proposed response (*In re Potter*).
7. Determine medium for response.