

Dianne Feinstein  
United States Senator for California  
One Post Street, Suite 2450  
San Francisco, CA 94104-

August 5, 2016

Dear Senator Feinstein,

Should a Judge be a Judge who knowingly and deliberately uses a double standard in his/her decisions and rulings; who violates Federal Rules of Civil Procedure; who suppresses and conceals evidence in his/her chambers from the Court Clerk, the public and the parties in cases that the Judge is presiding over; who makes false statements in his/her decisions and rulings and who issues decisions and rulings that are contradicted by existing Supreme Court precedents?

- Should a judge be a judge who believes that the Constitution gives the government the right to arrest its citizens for violating non-existent laws?
- Should a judge be a judge who believes that the Constitution gives the government the right to destroy evidence that would exonerate citizens accused of crimes?
- Should a judge be a judge who believes that the Constitution gives the government the right to use falsified evidence including falsified audio/video recordings to incriminate its citizens of crimes?

If the answer is no than you need to vote NO on Judge Lucy H. Koh's nomination/confirmation to the 9<sup>th</sup> Circuit Court of Appeals for Judge Koh believes in doing and has actually perpetrated all of the above.

I pointed out Judge Koh's unethical and illegal conduct to you back in 2011 and at that time you stated that there was nothing you could do due to the separation of powers. You are supposed to be a check on the Judicial and Executive branches of government. This is the proper time for you to use that check on the President's nomination of a judge.

I see that you have extolled Judge Lucy Koh for her accomplishments during the July 13, 2016 Nomination Hearing. Donald Trump also has numerous accomplishments that he is praised for but I know that you do not believe he is qualified to be President of the United States due to his inability to submit to the Rule of Law, to uphold the Constitution and to treat people fairly and equally. Mr. Trump adamantly and publicly asserts just the opposite yet your conclusion is not based upon what Mr. Trump asserts but is based upon the evidence of his actions and his statements that contradict what he says to appease the electorate. If you can come to this conclusion about Donald Trump based upon historical facts and evidence than you should be able to come to the same conclusion about Judge Lucy Koh should the historical facts and evidence prove the allegations listed above.

**Senator Grassley asked Judge Lucy H. Koh the following two questions during the Judicial Nominations Hearing on July 13, 2016:**

*"Judge Koh please describe your approach to statutory interpretation specifically I would like to have you identify what sources of \_\_\_\_\_ you would consult in interpreting statute."*

And

*"Would you describe your approach to Constitutional Interpretation?"*

Judge Lucy H. Koh stated to the Senate Judiciary Committee that she would follow Supreme Court precedent faithfully to resolve questions and inquiries regarding Constitutional and statute law in response to those questions posed to her by Senator Grassley.

However, Judge Koh was presented with a case in 2010/2011 in which she ruled contrary to Supreme Court precedent. In a case that involved **"Search and seizure, vehicles"**, *Ciampi v. City of Palo Alto et al*, (Case 5:09-cv-02655-LHK), Ciampi presented to Judge Koh Supreme Court precedent case ***Rios v. United States***. Rather than faithfully follow Supreme Court Case precedent, Judge Koh ruled completely opposite to that of the Supreme Court's decision creating her own law from her own biased ideas in the process. *Rios v. United States* encompasses *Carroll v. United States*; *Brinegar v. United States*; *Henry v. United States*; *United States v. Di Re*; *Johnson v. United States* and *Henry v. United States*. Judge Koh was provided ***Boyd v. United States*** and ***Terry v. Ohio*** among several others in addition to *Rios v. United States*. Not only did Judge Koh rule the exact opposite to the findings of the Supreme Court in ***Rios v. United States*** but **Judge Koh FALSELY stated in her ruling that the plaintiff, me, did not provide her with any relevant case law and used this lie and deception as a means to dismiss the case.** I provided Judge Koh with Supreme Court precedents in addition to numerous relevant citations of case law some of which were cited and established by another judge involved in this case, Judge Thang Barrett, who ruled that the officers did in fact violate the law and the Constitution in 2008 when they stated that I was violating a non-existent ordinance as means to arrest me, (false imprisonment), and illegally search me. Judge Barrett relied upon ***People v. Reeves*** and ***People v. Reyes*** both of which were also provided to Judge Koh. Judge Koh over-ruled Judge Barrett even though Barrett was and is a much more accomplished jurist than Koh having served on the bench for 14 years to judge Koh's 2 years prior to Koh issuing her ruling in my case.

Judge Koh acknowledged this finding and concluded that the officers violated the Constitution but in the very next sentence she contradicts herself when she states that the law regarding vehicle contacts was not clearly established on March 15, 2008 and therefore uses this as justification and a rationale to dismiss the violation committed by the officers. The fact is the law was clearly established in 1886, 1960, 1964, 1968 and 2000. **See Court Document 155**

**In 2010 Judge Lucy Koh stated in part to the Senate Judiciary Committee that:**

***"Litigants, parties, counsel, are entitled to objectivity and I think our very rule of law would simply break down if everyone were to just insert their own personal biases. Our system of justice and this great country exists because there is a rule of law which we all respect and I can assure you Senator Sessions that in what I have done as an officer of the court as a corporate litigator, in what I have done as an assistant United States Attorney, as a Department of Justice Attorney and as a Judge I have faithfully followed the rule of law and I would not use bias or prejudice in anyway influence my decisions."*** Judge Lucy Koh

Shortly after being confirmed by the Senate to the Federal Bench Judge Lucy Koh commandeered a federal case from Judge Jeremy Fogel in violation of CANON 3A(2) AND CANON 3C(1) Guide to Judiciary Policy, Ethics and Judicial Conduct. Judge Koh worked with former U.S. Attorney Michael Gennaco who was at that time and still is the Defendants' police auditor. Judge Koh had a clear and convincing conflict of interest. **See Court Document 53.**

This case was, *Ciampi v. City of Palo Alto et al*, (Case 5:09-cv-02655-LHK), which involved unlawful search and seizure, vehicle, excessive force, false arrest and destroying and falsifying evidence that included the destruction of taser probes used upon a citizen and the falsification of audio/video recordings.

**Six years after being confirmed to the federal bench and 5 years after issuing her ruling in the Ciampi case Judge Koh stated on July 13, 2016 to the Senate Judiciary Committee:**

*"Our Rule of Law requires fairness and impartiality and that's how I have conducted myself since I was on the Superior Court starting in January of 2008. And if you look at all the work I have done as a Superior Court Judge and as a District Court Judge; I have been extremely; done my extreme best to be fair and impartial. And I view myself the same way I view jurors. When jurors come in I instruct them on the duty of the jury pool and the jury instructions and it says, 'You must decide the case solely on the facts and follow the law. And you cannot let any likes, or dislikes, opinions, prejudices, sympathy influence your decision.' That's how I instruct the jury and that's how I conduct myself."* Judge Lucy Koh

The evidence presented below verifies that:

Judge Koh does not faithfully follow Supreme Court precedent;

Judge Koh does not uphold the 'Rule of Law';

Judge Koh does not believe that all citizens are equal under the law;

Judge Koh is not fair and is not impartial;

Judge Koh does not decide the case on the facts nor the law;

Judge Koh does display a disguise of objectivity to conceal her use of bias and prejudice in her decisions.

**ONE: Judge Koh used a double standard in applying Federal Rules of Civil Procedure:**

Judge Koh denied a motion submitted by me, the plaintiff, because the motion was untimely, deficient and procedurally improper; yet Judge Koh accepted a motion from the defendants even though it was pointed out to her that the motion was untimely, deficient and procedurally improper. **See Court Documents 184 and 164.**

The due date for dispositive motions was February 10, 2010. For a motion to be accepted it must be accompanied with an affidavit or a declaration, Civ. Local Rule 7-2(d) and Civil L.R. 7-5. The defendants filed a Motion for Summary Judgment on February 10, 2010 however the motion was not accompanied with an affidavit or a declaration. A declaration was filed on February 14, 2010 four days late however the exhibits of the declaration were not submitted to the Court Clerk along with the declaration. In fact 6 months after the procedurally late and deficient declaration had been filed the exhibits still had not been filed with the Court Clerk a violation of F.R. Civ. P. 5(d)(2)(A)(B) and Civ. L.R. 5-1(a).

Why had the exhibits not been filed; they had not been filed because they were being suppressed by Judge Lucy Koh in violation of Federal Rules of Civil Procedure.

**TWO: Judge Koh knowingly and deliberately violated Federal Rules of Civil Procedure:**

During an April, 21, 2011 Hearing and then again during a June 30, 2011 Sanctions Hearing the defendants' attorney, Steven Sherman, asserted to the court, Judge Lucy Koh, that he had provided the Court a MAV recording created by the Santa Clara County District Attorney's Crime Lab as a part of his Motion for Summary Judgment. The Lab combined the audio from one MAV recording to the video of another MAV recording. This synched/combined version of two MAV videos was never cited in the exhibit list that accompanied Mr. Sherman's Declaration for Motion for Summary Judgment even though Mr. Sherman asserted that he had in fact submitted the DA's version on two separate occasions in Court.

In order to clarify what videos had been submitted to the Court I went to the Court Clerk on July 1, 2011 to view the exhibits. It was at this time I informed by the Court Clerk that Officer Temores' MAV recording, (Exhibit 14 of Sherman's Declaration, Court Document 125), had not been filed with the Court Clerk. I was informed that only one set of exhibits were provided to Judge Koh directly and that she had not submitted them to the Court Clerk.

Judge Koh refused to file the exhibits with the Court Clerk even after she was requested to do so in a motion filed with the Court to have the exhibits secured with the Court Clerk on July 5, 2011. **Court Document 169.** This is a knowingly and deliberate violation of Federal Rules of Civil Procedure 5(d)(2)(B) which requires a Judge who receives a filing to promptly send the filing to the Court Clerk.

**([https://www.law.cornell.edu/rules/frcp/rule\\_5](https://www.law.cornell.edu/rules/frcp/rule_5))**

Judge Koh actually acknowledged Steven Sherman's assertion that he sent her the DA's MAV recording:

*"Mr. Sherman was simply mistaken when he represented that a synched video had been submitted. The Court finds it troubling that Mr. Sherman seems to believe that he submitted an exhibit that he did not in fact submit. As lead counsel, Mr. Sherman should be aware of the exhibits submitted in support of Defendants' motions, and the Court admonishes Mr. Sherman that he should take care to remain fully informed of the materials submitted to the Court as this case progresses."* Judge Lucy Koh **Lines 17 to 22 of Pg. 11 of Court Document 176. See Also Court Documents 169 and 179.**

**THREE: Judge Koh made a false statement in her ruling to cover up Steven Sherman's false statements to the Court in an attempt to deceive the Court and the opposing party:**

**A:** I requested copies of the original MAV recordings containing an imbedded watermark.

**B:** Mr. Sherman, the Defendants' attorney, filed a motion with Court refusing to provide the original recordings containing the imbedded watermark claiming that the watermark was proprietary software of the manufacturer, Kustom Signals. **See Court Document 65.**

**C:** It became known to me during the Discovery process that original MAV recordings containing the imbedded watermark have never been denied to any party in any criminal or civil case in the past in which Kustom Signals' MAV recordings were involved. The fact that the watermark was proprietary was not a truthful justification to deny the MAV recordings that contained the watermark.

**Conclusion:** Mr. Sherman lied to the Court in his motion as to the reason why he and the defendants were refusing to provide the MAV recordings containing the watermark.

This lie was validated by Judge Grewal ordering the Defendants to produce the MAV recordings containing the watermark on April 21, 2011. **See Court Document 144**

*"To the extent the requested files are not usable by Ciampi absent the help of an expert, that is Ciampi's problem. It does not justify denial of discovery to which Ciampi is entitled. The undersigned will not oversee a production that should have taken place without court intervention."* Paul S. Grewal, United States Magistrate Judge

From October 22, 2010 to April 21, 2011 the Defendants and the defendants' attorney Steven Sherman refused to provide the MAV recordings containing the watermark asserting that the MAV recordings were proprietary as justification not to provide them. This justification was a lie and a deliberate deception to mislead the Court and others and to prejudice the Plaintiff's case.

**D:** In a sanctions motion against attorney Steven Sherman I pointed out how he deliberately deceived the Court by stating that the defendants could not provide a copy of the MAV recordings containing the watermark due to the watermark being proprietary property. **See Court Document 65.**

In order to cover up Mr. Sherman's deliberate attempt to deceive and mislead the Court and the opposing party Judge Koh does not address the actual claim of obtaining the MAV recordings containing the watermark but shifts the subject matter from the actual claim to subject matter of something else that has absolutely nothing to do with the actual claim; Judge Koh shifts the subject matter to the software used to analyze the watermark which was never requested instead of ONLY addressing the MAV recordings containing the watermark.

Judge Koh's decision regarding Sherman's justification for refusing to provide the MAV recording with a watermark:

*"In his response, Mr. Sherman explains that he did not intend to suggest that the watermark itself was proprietary, but rather that the watermark can only be read or verified using proprietary software. This does appear to be the nature of Mr. Sherman's statement, only part of which was cited by Plaintiff in his brief. Mr. Sherman's statement reads:*

*'At this time, plaintiff's request to receive actual 'original MAV recordings containing the digital watermark' infringes on Kustom Signal's proprietary software and MAV system created for police use. Any reading of the data that is encrypted so that the watermark can be read, has been created by software engineers for proprietary licensing; including the watermark software to read the watermark encryption.'*" **Lines 19-27 of page 5 of Court Document 176.**

And

*“Accordingly, it does not appear that Mr. Sherman misrepresented the proprietary nature of the software used to read the watermark and verify the authenticity of the watermarked recordings.” Lines 4 to 6 of page 6 of Court Document 176.*

If you notice, nowhere in Judge Koh’s ruling does she address the subject matter of the MAV recordings which was the evidence being sought. Judge Koh does address the software that analyzes the MAV recordings; however this was evidence that was not being sought nor disputed.

The software used to analyze the watermark was never requested by the Plaintiff and therefore was not being denied to the Plaintiff. The MAV recordings were the subject matter and it was the MAV recordings that were being denied, hence the reason why it was necessary for Judge Grewal to order the defendants, and Mr. Sherman to provide a copy of the MAV recordings containing the watermark, **Court Document 144.**

If Mr. Sherman and the defendants were not denying a copy of the MAV recordings with the watermark then it would have been unnecessary for Judge Grewal to order them to provide a copies. Judge Koh completely ignored this fact and refused to acknowledge that Sherman and THE defendants deliberately deceived the Court and the plaintiff.

I provide this lengthy and detailed account to demonstrate how Judge Koh operated throughout the case regarding many other issues and how adept Judge Koh is in crafting bogus decisions to favor those whom she is bias toward. Judge Koh is a highly, skilled master at using obfuscation in her decisions to disguise her lack of objectivity and blatant bias for one party over that of another. Is this the type of person who should be a judge on the 9<sup>th</sup> Circuit Court of Appeals?

**FOUR:** Judge Koh allowed the defendants to change their testimony to the exact opposite in the civil case to that which they asserted in the criminal case enabling Judge Koh to justify dismissing the civil case against the defendants. The defendants stated that I was violating a non-existent law in order to seize me and my property.

**FIVE:** Judge Koh was presented with irrefutable evidence that the taser gun activation data that was provided to the Court had been falsified by the defendants and that the taser cameras that had been used to record the incident were sent to Taser International and destroyed. Koh acknowledged these acts but concluded that they had no bearing on the case at hand.

**SIX:** Judge Koh was presented with numerous credible pieces of evidence that verified that the video recordings had been edited and falsified including an expert’s forensic report but Judge Koh dismissed all of these facts as being illegitimate and the defendants’ actions as harmless and innocent errors.

**SEVEN:** Judge Koh was provided evidence that the defendants destroyed two taser probes and a taser cartridge in violation of the defendants’ own department and city’s policy and in violation of state laws as well as the U.S. Constitution. The defendants actually admitted to destroying the taser probes

and cartridge on purpose. Despite this Koh concluded that the destruction was harmless and insignificant.

Either way you put it, Judge Koh is not qualified to be a judge let alone a judge on the 9<sup>th</sup> Circuit Court of Appeals. For the complete list of unethical and illegal acts committed by Judge Lucy Koh and to read the court documents cited in this letter go to:

[www.judgelucykoh.weebly.com](http://www.judgelucykoh.weebly.com)

and

[www.judgelucykoh.weebly.com/exhibit-1.html](http://www.judgelucykoh.weebly.com/exhibit-1.html)

If you believe and want a person to preside on the 9<sup>th</sup> Circuit Court of Appeals who will not abide by Supreme Court Precedent; who dictates the law rather than submits to the 'Rule of Law'; who will violate Federal Rules of Civil Procedure; who will allow his/her prejudices and biases to influence his/her decisions; who will refuse to consider substantiated facts in his/her decisions; who will make false statements in his/her decisions in an obfuscatory manner so as to deceive litigants, the Court and the public; who believes that the government has a right to arrest citizens for violating non-existent laws; who believes that the government has a right to use false evidence, even falsified audio/video recordings, to incriminate citizens of crimes and a person who believes that some citizens are not equal under the law to that of other citizens than by all means confirm Judge Lucy Koh to the 9<sup>th</sup> Circuit Court of Appeals. But if you disagree with this statement than you cannot confirm Judge Lucy Koh to the 9<sup>th</sup> Circuit Court of Appeals regardless of her other accomplishments.

As my Representative in the United States Senate I request that you forward a copy of this letter to each member of the Senate Judiciary Committee for the entire Committee should know how Judge Lucy Koh operates as a Judge to better evaluate whether she should be a Judge or not. Judge Koh told the Senate Judiciary Committee in 2010 what the Committee wanted to hear to persuade the Committee to confirm her to the federal bench and then she acted completely opposite to that which she stated to the Committee as soon as she took her position on the bench. Now once again Judge Koh has told the Committee what the Committee wants to hear in order for her to be confirmed to the 9<sup>th</sup> Circuit yet her actions contradict what she has told the Committee. She has lied to the Senate Judiciary Committee not once but on two separate occasions.

Senator Barbara Boxer pointed out during the Nomination Hearing, "**Justice Delayed is Justice Denied.**" Any more delay would not only be a denial of justice, but it would expose that the system of checks and balances no longer exists in the U.S. government having been replaced with a system that basis its decisions on personal bias and prejudice just as Judge Koh does in her rulings.

Sincerely,

Joseph (Tony) Ciampi  
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Palo Alto, California 94302  
650-444-0316  
t.ciampi@hotmail.com



July 13, 2016  
Senate Judiciary Nomination Hearing

Senator Tillis

Judge Lucy Koh



Rios v. United States (1960... X +

supreme-court-cases.insidegov.com/V/1627/Rios-v-United-States

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**Rios v. United States**  
Issue: Criminal Procedure - *Search and seizure, vehicles*

Decision Direction: Liberal (5-4)  
Date of Decision: June 27, 1960  
Petitioner: Person accused, indicted, or suspected of crime  
Respondent: United States

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**Steven Sherman's  
statement on**

**October 22, 2010**

*"At this time, **plaintiff's request to receive actual 'original MAV recordings containing the digital watermark'** infringes on Kustom Signal's proprietary software and MAV system created for police use."*

Lines 17 to 19, pg. 2 of Court Document 65

*"In order to give **plaintiff an additional copy, in the format he seeks**, it would expose Kustom Signal's software to unnecessary exposure and possible competition obtaining it. Therefore, defendants respectfully request that this court deny plaintiff's continual badgering of request **for recordings** that he has already been provided on numerous occasions" Lines 1 to 5, pg. 4 of Court Document 65*

*"Other than the copies provided, his request is asking for trade secret information **and will not be provided.**" Lines 11 to 12, pg. 4 of Court Document 65*

Steven Sherman, the attorney representing the Defendants in Case 5:09-cv-02655-LHK.

**Steven Sherman's  
statement on**

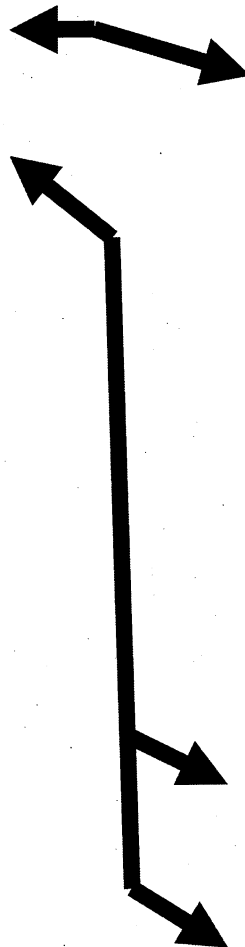
**May 12, 2011**

*"Response – Another explanation is that Plaintiff misunderstood my statement. **I have never contended that the watermark itself in proprietary.** It is the manufacturer's software that allows a party to view/read the watermark that is proprietary." Page 7 lines 12 through 14 of Court Document 156*

**Judge Lucy Koh's  
statement on**

**July 21, 2011**

*"Mr. Sherman explains that he did not intend to suggest that the watermark itself was proprietary, but rather that the watermark can only be read or verified using proprietary software. **This does appear to be the nature of Mr. Sherman's statement**, only part of which was cited by Plaintiff in his brief." Lines 19-27 of page 5 of Court Document 176;*



# United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

July 15, 2011

Mr. Joseph Ciampi  
P O Box 1681  
Palo Alto, California 94302

Dear Mr. Ciampi:

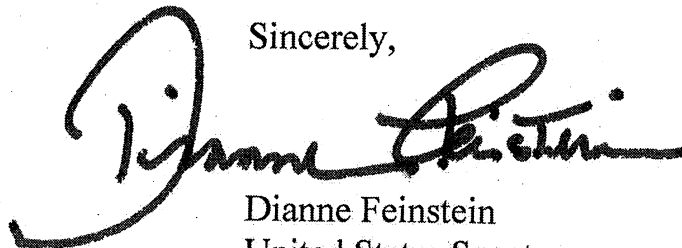
Thank you so much for contacting my office and sharing your concerns with me. I appreciate your trust and am sorry to hear of your difficulties.

I sympathize with your concerns and your desire to have your problems resolved. It appears that your case is a legal matter and you need the kind of assistance which can be provided by legal counsel. If you are not already working with an attorney, you may want to contact the local Bar Association, Legal Aid Societies, or similar groups which can assist you in finding an attorney.

As a United States Senator I cannot intervene in, or comment on, a matter that is within the jurisdiction of the courts. This policy preserves the separation of powers doctrine, delineated in the Constitution to the branches of government, and upholds the integrity of our system of justice.

I appreciate your writing to me and do wish I could be more helpful to you. If there is any way my office can assist you with problems with the federal government, please get back in touch with me.

Sincerely,



Dianne Feinstein  
United States Senator

DF:is