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COMMISSION ON JUDICIAL CONDUCT

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

In re the matter of  
The Honorable Judith R. Eiler  
Judge, King County District Court

CJC No. 4148-F-116  
**STIPULATION, AGREEMENT  
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and the Honorable Judith R. Eiler, Judge of the King County District Court, stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

The Commission has been represented in these proceedings by Disciplinary Counsel Steven A. Reisler. Judge Eiler has been represented by Attorney Kurt M. Bulmer.

STIPULATED FACTS

1. Judge Judith R. Eiler (Respondent) is now, and was at all times referred to in this document, a judge of the King County District Court. Respondent has served in that capacity since 1992.

2. On October 6, 2004, the Commission on Judicial Conduct sent a certified letter to Respondent informing her that the Commission was pursuing initial disciplinary proceedings against her pursuant to Commission on Judicial Conduct Rule of Procedure (CJCRP) 17(d). Enclosed with the letter was a Statement of Allegations alleging Respondent violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct by engaging in a pattern or practice of rude, impatient

1 and undignified treatment of pro se litigants in the courtroom. The Commission  
2 alleged that Respondent interrupted litigants; addressed them in an angry,  
3 condescending or demeaning tone of voice; threatened to rule against litigants who  
4 interrupted or annoyed her; and otherwise failed to conduct herself in a judicious  
5 manner. By way of example, the Commission identified nine hearings that occurred  
6 between December 2002 and December 2003 wherein such behavior was evidenced.  
7 (An audio recording of portions of one of those hearings is appended hereto and is  
8 made part of the record as an illustration of the behaviors described above.)

9 3. Respondent answered the Statement of Allegations on November 8,  
10 2004. In her answer Respondent agreed, after reviewing the hearings identified by  
11 the Commission, that they demonstrated as a whole that she had been intemperate  
12 in her comments and that she had not shown all those who appear before her the  
13 respect to which they are entitled.

## 14 AGREEMENT

### 15 **Respondent's Conduct Violated the Code of Judicial Conduct**

16  
17 Based upon the foregoing stipulated facts, Respondent agrees she violated  
18 Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct.<sup>1</sup>

19  
20 1. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary  
21 by avoiding impropriety and the appearance of impropriety and by acting at all times  
22 in a manner that promotes public confidence in the integrity and impartiality of the  
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24 <sup>1/</sup> Canon 1 of the Code of Judicial Conduct provides, "Judges shall uphold the integrity and  
25 independence of the judiciary." Canon 2 provides, "Judges should avoid impropriety and the appearance of  
26 impropriety in all their activities," and Canon 2(A) specifies, "Judges should respect and comply with the law  
27 and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the  
28 judiciary." Canon 3 provides, "Judges shall perform the duties of their office impartially and diligently." Canon  
3(A)(1) specifies in part, "Judges should be faithful to the law and maintain professional competence in it;"  
Canon 3(A)(3) specifies, "Judges should be patient, dignified and courteous to litigants, jurors, witnesses,  
lawyers and others with whom judges deal in their official capacity, and should require similar conduct of  
lawyers, and of the staff, court officials and others subject to their direction and control;" and Canon 3(A)(4)  
specifies in part, "Judges should accord to every person who is legally interested in a proceeding, or that  
person's lawyer, full right to be heard according to law."

1 judiciary. Discourteous and intolerant behavior by a judge in the courtroom erodes  
2 the public's confidence in the quality of justice administered by that judge. The public  
3 is more likely to respect and have confidence in the integrity and fairness of a judge's  
4 decision if the judge is outwardly respectful, patient and dignified. By not treating all  
5 persons before her with patience, dignity and respect, Respondent undermined public  
6 confidence in, and respect for, both the integrity of the judicial system and herself as  
7 a judge.

8         2. Canon 3(A)(1) requires judges to be faithful to the law. On several  
9 instances, Respondent warned parties before her that if they "want to lose, annoy me"  
10 or "if you annoy me, that would be a bad thing" or words to that effect. These  
11 comments are inappropriate and violate Canon 3(A)(1). They indicate Respondent  
12 would act arbitrarily and base her decision on factors other than the objective  
13 application of the evidence to the law.

14         3. Canon 3(A)(3) requires judges to be patient, dignified and courteous to  
15 all persons with whom the judges deal in their official capacity. Respondent breached  
16 this basic mandate by chastising, belittling, interrupting and berating certain pro se  
17 litigants who appeared before her. By doing so, she abused her judicial power.  
18 Although judges have an obligation to control their courtrooms to minimize disruption  
19 of court proceedings, they must do so in a manner consistent with the requirements  
20 of the Code of Judicial Conduct. On numerous occasions, Respondent failed in her  
21 duty to be patient, dignified and courteous.

22         4. Canon 3(A)(4) requires judges to accord every party who has a legal  
23 interest in a proceeding a full right to be heard according to law. Respondent  
24 prevented some litigants from fully presenting their case by interrupting them without  
25 justification. Moreover, fear of Respondent's temper or sarcasm intimidated other  
26 litigants and discouraged some of them from presenting their testimony or their  
27 positions in court.

1 **Imposition of Sanction**

2 1. The sanction imposed by the Commission must be commensurate to  
3 the level of Respondent's culpability and must be sufficient to restore and maintain  
4 the dignity and honor of the judicial position. The sanction should also seek to protect  
5 the public by assuring that Respondent and other judges will refrain from similar acts  
6 of misconduct in the future.

7 2. In entering this stipulation, the Commission takes into account the  
8 factors set out in CJCRP 6(c).

9 A. Characteristics of Respondent's Misconduct. Respondent's  
10 violations of the Code of Judicial Conduct are serious. The acts of misconduct are  
11 not isolated. Respondent displayed a pattern of intemperate, disrespectful and  
12 injudicious behavior over an extended period of time. The misconduct occurred in the  
13 courtroom, during court proceedings, and while Respondent was acting in her official  
14 capacity. By intimidating and demeaning pro se litigants, she abused the authority of  
15 her judicial position and undermined public confidence in and respect for the courts.  
16 As such, Respondent's misconduct strikes at the core of an effective judiciary. In  
17 mitigation, Respondent has explained that she was experiencing particular stresses  
18 in her personal life during the period of time referenced herein and failed to realize at  
19 the time the inappropriateness of her conduct, which she now recognizes.

20 B. Service and Demeanor of Respondent. Respondent has been  
21 a judicial officer for 12 years and has had no prior disciplinary actions. She has  
22 cooperated with the Commission's investigation. She acknowledges that the acts  
23 occurred and that they were inappropriate. She has expressed remorse for her  
24 unprofessional behavior and recognizes the need to change her demeanor. In that  
25 regard, Respondent began taking steps, prior to the Commission contacting her, to  
26 ameliorate her temperament and avoid inappropriate behavior in the future. She has  
27 thus demonstrated a sincere effort to modify her conduct.

1           3.     Based upon the stipulated facts, upon consideration and balancing of  
2 the aggravating and mitigating factors and Respondent's desire to resolve this matter,  
3 Respondent and the Commission agree that Respondent's stipulated misconduct  
4 shall be sanctioned by the imposition of a reprimand. A "reprimand" is a written action  
5 of the Commission that requires a respondent to appear personally before the  
6 Commission and that finds that the conduct of the respondent is a violation of the  
7 Code of Judicial Conduct and does not require censure or a recommendation to the  
8 supreme court that the respondent be suspended or removed. A reprimand shall  
9 include a requirement that the respondent follow a specified corrective course of  
10 action. Reprimand is the intermediate level of disciplinary action available to the  
11 Commission.

12           4.     Respondent agrees that she will participate in ethics training, approved  
13 in advance by the Commission Chair or his/her designate, at the National Judicial  
14 College, accredited law school or judicial seminar, or a similar institution or program  
15 no later than one year from the date this stipulation is accepted by the Commission.  
16 Respondent agrees she will complete such training at her own expense and will certify  
17 the completion of such training in writing within one year from the date this stipulation  
18 is accepted by the Commission.

19           5.     Respondent agrees that she will not repeat such conduct in the future,  
20 mindful of the potential threat any repetition of her conduct poses to public confidence  
21 in the integrity and impartiality of the judiciary and to the administration of justice.

22           6.     Respondent agrees that she will promptly read and familiarize herself  
23 with the Code of Judicial Conduct in its entirety.

24           7.     Respondent agrees that she will participate in behavioral therapy with  
25 an emphasis on sensitivity training by a qualified health care professional, approved  
26 in advance by the Commission Chair or his/her designate, until such professional has  
27 certified, in writing, that such treatment is no longer necessary.

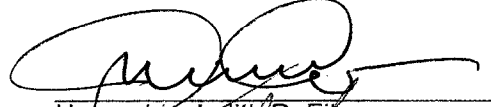
28     **STIPULATION, AGREEMENT AND ORDER OF REPRIMAND - 5**

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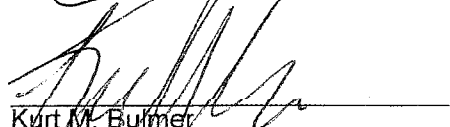
Standard Additional Terms and Conditions

8. Respondent agrees that by entering into this stipulation and agreement, she waives her procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.

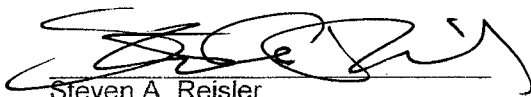
9. Respondent further agrees that she will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.

  
\_\_\_\_\_  
Honorable Judith R. Eifer

1/26/05  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kurt M. Bulmer  
Attorney for Respondent

1/21/05  
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Date

  
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Steven A. Reisler  
Disciplinary Counsel for the  
Commission on Judicial Conduct

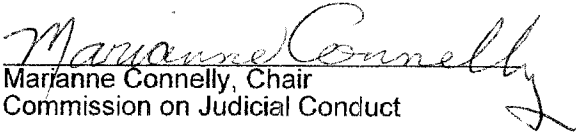
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**ORDER OF REPRIMAND**

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judith R. Eiler, reprimanded for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 4th day of February, 2005

  
Marianne Connelly, Chair  
Commission on Judicial Conduct