FILED
MAY 18 1990
COMMISSION ON
JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of: HON. MICHAEL F. MOYNIHAN Judge of the Superior Court of Whatcom County	NO. 89-865-F-18 STATEMENT OF CHARGES

Pursuant to authority granted in Revised Code of Washington, Chapter 2.64 (Commission on Judicial Conduct) and the Washington Administrative Code, Chapter 292, and at the order of the Commission on Judicial Conduct, this Statement of Charges alleging the violation by HON. MICHAEL F. MOYNIHAN of rules of judicial conduct is filed. The background and facts of the charges are set forth in the following paragraphs:

Background

(1) HON. MICHAEL F. MOYNIHAN (Respondent herein) is now and, at all times hereinafter mentioned, was a Judge of the Whatcom County Superior Court in Bellingham, Washington.

(2) On April 12, 1990 Respondent was sent a letter from the Commission on Judicial Conduct informing Respondent a Verified

LAW OFFICES
Riddell, Williams, Bullitt & Walkinshaw
2100 SECURITY PACIFIC PLAZA · 777 108TH AVENUE N.E.
BELLEVUE, WASHINGTON 98004
(206) 462-4500

Statement was filed in accordance with WAC 292-12-010(4) and the Commission was pursuing initial proceedings.

(3) Enclosed with the above-referenced communication was a Statement of Allegations.

Facts Supporting Charges

On June 1, 1988, the HON. MICHAEL F. MOYNIHAN participated in an ex parte phone communication with John Belcher, the guardian ad litem for the minor child, Atheana Buckley, in the case Buckley v. Snapper Power Equipment Co., Whatcom County Superior Court Docket Nos. 88-2-00619-5 and 87-2-00784-3. This phone communication took place with Mr. Belcher without notice to counsel for Atheana Buckley.

Basis for Commission Action

Although Judge Moynihan acted in what he believed to be the best interest of the minor child, the Commission has determined that probable cause exists for believing that Respondent has violated Canons 2(A) and 3(A)(4) of the Code of Judicial Conduct (CJC) which state:

CANON 2

Judges Should Avoid Impropriety and the Appearance of Impropriety in All Their Activities

> (A) Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
>
> . . .

LAW OFFICES
Riddell, Williams, Bullitt & Walkinshaw
2100 SECURITY PACIFIC PLAZA · 777 108TH AVENUE N.E.
BELLEVUE, WASHINGTON 98004
(206) 462-4500

CANON 3

Judges Should Perform the Duties of Their Office Impartially and Diligently

. . .

(4) 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, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. Judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them, by amicus curiae only, if they afford the parties reasonable opportunity to respond.

Notification of Right to File Written Answer

In accordance with WAC 292-12-030(5), the Respondent is herewith informed that a written answer may be filed with the Commission to the charges contained in the Statement of Charges within fourteen (14) days after the date of service. If Respondent does not file a written answer, a general denial will be entered on behalf of Respondent. The Statement of Charges and Answer shall be the only pleadings required.

DATED this 18th day of May, 1990.

COMMISSION ON JUDICIAL CONDUCT OF THE STATE OF WASHINGTON

By Esther Garner

ESTHER GARNER
Executive Director
P.O. Box 1817
Olympia, WA 98507

VAT:dmk
5/17/90

LAW OFFICES
Riddell, Williams, Bullitt & Walkinshaw
2100 SECURITY PACIFIC PLAZA · 777 108TH AVENUE N.E.
BELLEVUE, WASHINGTON 98004
(206) 462-4500