

ORIGINAL

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED
OCT 12 1992

COMMISSION ON
JUDICIAL CONDUCT

In Re the Matter of)
) No. 91-1137-F-34
)
Honorable John P. Junke) ANSWER TO STATEMENT
Walla Walla District Court) OF CHARGES
)
)

COMES NOW, the Honorable John P. Junke, by and through
his attorney, Kurt M. Bulmer, and Answers the Statement of
Charges filed September 21, 1992, against him by the
Commission on Judicial Conduct, as follows:

ADMISSIONS, DENIALS AND OBJECTIONS

1. Judge Junke generally denies all allegations that he
has acted in violation of any Canons of the Code of Judicial
Conduct.

a. The Statement of Charges incorporates legal
conclusions as well as factual allegations in the
"Facts Supporting Charges." All such legal conclusions are
improperly made in the Statement of Charges and Judge Junke
expressly reserves his right to have any such legal
conclusions made by the appropriate tribunal.

b. The allegations do not provide sufficient facts
and detail to permit Judge Junke to fairly defend himself.

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3 For example, Paragraph 2, (b) asserts Judge Junke met with
4 defendants in jail but provides no dates or times or even
5 what cases are involved when multiple case numbers are
6 cited. Paragraph 2, (c) asserts that Judge Junke communicated
7 ex parte with "the judge pro tem, defense counsel, and/or
8 prosecuting attorney" and then lists cases. There is no
9 identification of who, what or when. In many of the "Facts
10 Supporting Charges" Judge Junke must speculate as to the
11 Commission's allegations. Judge Junke is entitled to full
12 and detailed disclosure of each and every fact which the
13 Commission intends to demonstrate at hearing.

14 c. Judge Junke has the right to require the State to
15 prove the allegations against him. By generally denying these
16 allegations Judge Junke puts the State to its proof as to
17 each and every factual allegation made in the Statement of
18 Charges as well as to all those which may be made and which
19 are required to be shown in order to show violations of the
20 Code of Judicial Conduct.

21 d. Judge Junke puts the State to its proof under the
22 clear, cogent and convincing standard adopted by the
23 Commission under WAC 292-12-110 (4).

24 e. Judge Junke puts the State to demonstrating each
25 and every factual and legal element of each of the Code of
26 Judicial Conduct sections he is charged with having

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3 violated.

4 2. Statement of Charges - Paragraph 1 - Background -
5 Admitted.

6 3. Statement of Charges - Paragraph 2, parts (a) through
7 (d):

8 a. Paragraph 2 and its sub-parts are generally denied.

9 b. It is specifically denied that Judge Junke improperly
10 initiated or considered ex parte communications and it is
11 further denied that any such communications have occurred.

12 c. Judge Junke objects to the use of the language of
13 this paragraph which says "initiating and considering ...
14 other communications" since it is impossible to determine
15 what is meant by this term or what is being charged and asks
16 for a specific statement as to what is meant by this
17 language.

18 d. Judge Junke objects to the use of open ended
19 pleadings by the use of the phrase "including without
20 limitation the following" and reserves the right to further
21 answer as to any other matters which may be alleged or
22 attempted to be proven and asserts his right to full
23 disclosure and notice as to all factual matters which will be
24 asserted against him.

25 4. Statement of Charges - Paragraph 3 -

26 a. Paragraph 3 is generally denied.
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3 b. Judge Junke specifically denies that he improperly
4 took or considered evidence obtained outside the trial, ex
5 parte, without the consent of the parties.

6 c. Judge Junke objects to the use of open ended
7 pleadings by the use of the phrase "including without
8 limitation the following cases" and reserves the right to
9 further answer as to any other matters which may be alleged
10 or attempted to be proven and asserts his right to full
11 disclosure and notice as to all factual matters which will be
12 asserted against him.

13 5. Statement of Charges - Paragraph 4 -

14 a. Paragraph 4 is generally denied.

15 b. Judge Junke specifically denies that he failed to
16 maintain proper impartiality.

17 c. Judge Junke specifically denies that he improperly
18 inserted himself into any proceedings.

19 d. Judge Junke objects to the use of open ended
20 pleadings by the use of the phrase "including without
21 limitation the following" and reserves the right to further
22 answer as to any other matters which may be alleged or
23 attempted to be proven and asserts his right to full
24 disclosure and notice as to all factual matters which will be
25 asserted against him.

26 6. Statement of Charges - Paragraph 5 -
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3 a. Paragraph 5 is generally denied.

4 b. Judge Junke specifically denies that he improperly
5 exercised the power of his office.

6 c. Judge Junke specifically denies that he permitted
7 personal bias to affect his impartiality.

8 d. Judge Junke objects to the use of open ended
9 pleadings by the use of the phrase "including without
10 limitation" and reserves the right to further answer as to
11 any other matters which may be alleged or attempted to be
12 proven and asserts his right to full disclosure and notice as
13 to all factual matters which will be asserted against him.

14 7. Statement of Charges - Paragraph 6 -

15 a. Paragraph 6 is generally denied.

16 b. Judge Junke specifically denies that he misused
17 the administrative powers of his office.

18 c. Judge Junke specifically denies that he improperly
19 treated court personnel.

20 d. Judge Junke specifically denies that he improperly
21 limited access to court records.

22 d. Judge Junke objects to the use of open ended
23 pleadings by the use of the phrase "including without
24 limitation" and reserves the right to further
25 answer as to any other matters which may be alleged or
26 attempted to be proven and asserts his right to full
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3 disclosure and notice as to all factual matters which will be
4 asserted against him.

5 8. Statement of Charges - Paragraph 7 -

6 a. Paragraph 7 is generally denied.

7 b. Judge Junke specifically denies that he sought out
8 opportunities for news coverage beyond the duties of his
9 office.

10 c. Judge Junke objects to the use of open ended
11 pleadings by the use of the phrase "including without
12 limitation" and reserves the right to further
13 answer as to any other matters which may be alleged or
14 attempted to be proven and asserts his right to full
15 disclosure and notice as to all factual matters which will be
16 asserted against him.

17 9. Statement of Charges - Paragraph 8 -

18 a. The first paragraph of Paragraph 8 on the history
19 of the proceeding is admitted except that it is denied that
20 the Commission did not receive an answer pursuant to the
21 extension. It is admitted that the answer was not sent at the
22 time set by the extension but an extensive answer was
23 provided to the Commission.

24 b. The second paragraph of Paragraph 8 is denied. This
25 paragraph asserts that probable cause exists for the
26 believing that Judge Junke violated the asserted Canons.

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3 Judge Junke denies that such probable cause exists.

4 10. Statement of Charges - Paragraph 9 - Judge Junke
5 acknowledges this paragraph. As a citation of procedural
6 steps the matters therein are not subject to admission or
7 denial.

8 JURISDICTION AND OTHER DEFENSES

9 By way of further response Judge Junke asserts:

10 11. As to those matters asserted in the Statement of
11 Charges but which were not identified in the Verified Statement
12 and letter about the Initial Proceedings, the Commission is
13 proceeding without authority and beyond the scope of its powers.

14 12. As to all matters that involve personnel matters
15 between the Judge Junke and his staff that are related to the
16 employer/employee relationship, these are outside the scope of
17 the Commission's authority for sanctioning.

18 13. AS to all factual allegations, Judge Junke has not been
19 provided with sufficient details prior to the filing of the
20 Statement of Charges nor as part of the Statement of Charges to
21 respond to the allegations. Until such time as sufficient detail
22 is provided Judge Junke reserves his right to amend his answer
23 and to raise additional defenses. Such defenses include but are
24 not limited to freedom of speech, freedom of assembly, freedom
25 to express political opinion, the supremacy clause, due process,
26 equal protection, vagueness, lack of jurisdiction, laches, pre-

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3 emption, double jeopardy, collateral estoppel, res judicata,
4 separation of powers and judicial independence.

5 14. As to all matters involving legal determinations
6 falling within the discretion of the court or which were carried
7 out under the statutory authority of the court or within its
8 rule making authority or under contractual authority, the
9 Commission is without authority to review such matters, to
10 conduct proceedings involving such matters, to force Judge Junke
11 to defend his actions on such matters or to impose its judgement
12 on such matters. The Commission is without authority to sanction
13 on such matters.

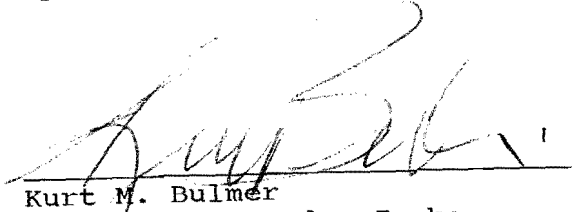
14 15. By way of a general defense to these matters Judge
15 Junke asserts that these charges stem from persons who are
16 threatened that Judge Junke, pursuant to his administrative and
17 judicial responsibilities, is insisting upon bringing change to
18 the Walla Walla District and Municipal Courts. The matters
19 identified in this Statement of Charges almost all stem from
20 Judge Junke's attempts to bring a more orderly process to the
21 District and Municipal Courts system or from Judge Junke
22 changing long stand patterns which had developed under prior
23 District Court judges. The process of change often brings
24 dislocation of "protected turf" and may represent a challenge to
25 individuals who have come to consider some decision areas to be
26 exclusively theirs. Judge Junke will defend this Statement of
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3 Charges, in part, on the basis that many of the allegations made
4 against him do not met the probable cause requirements of the
5 State Constitution once the historical procedures and processes
6 of the Walla Walla District and Municipal Courts and the
7 necessary processes which must be gone through in order to bring
8 about change are considered.

9 REQUEST FOR DISMISSAL

10 16. Judge Junke denies that he has acted improperly. He
11 asks that a hearing be held within 42 days pursuant to the
12 regulations of the Commission. He asks that all allegations
13 against him be dismissed.

14 DATED this 9th day of October, 1992.

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18 Kurt M. Bulmer
19 Attorney for Judge Junke
WSBA # 5559

20 201 Westlake Ave. N.
21 Seattle, WA 98109

22 (206) 343-5700
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