

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of:)	
)	
HONORABLE ROBERT D. MOILANEN)	NO. 91-1182-ATT-92-42
Judge)	
Clark County District Court)	AMENDED STATEMENT OF CHARGES
1200 Franklin Street)	
P.O. Box 5000)	
Vancouver, WA 98668-5000)	
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This Amended Statement of Charges is filed alleging the violation by the Honorable Robert D. Moilanen of Rules of Judicial Conduct 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. The background and facts of the charges are set forth in the following paragraphs:

I. BACKGROUND

1. Hon. Robert D. Moilanen, the Respondent herein, is now and at all times hereinafter mentioned was a Judge of the Clark County District Court.

2. On February 20, 1992, Respondent was sent a letter from the Commission on Judicial Conduct informing him that a verified statement was filed in accordance with WAC 292-12-010(4) and that the Commission was pursuing initial proceedings.

3. Enclosed with the above-mentioned letter from the Commission was a Statement of Allegations.

II. FACTS SUPPORTING CHARGES

1. The Hon. Robert D. Moilanen has exhibited inappropriate demeanor when working with court personnel outside the courtroom setting. He has done this by referring court staff as "sluts" and "bitches". Further he has misused personal information gained from court personnel by taunting actions related to phobias and taunting remarks related to distressing family events. Deposition evidence concerning these issues is incorporated herein by this reference.

2. The Hon. Robert D. Moilanen has exhibited inappropriate demeanor when working with female court personnel by exposing them to incidents of sexual harassment, such as (a) indicating that the judge's secretary would be "shared among the judges" in a sexual way, (b) commenting to his clerk about her personal life, her relationship with others, and name calling of a sexual and demeaning nature; and (c) making obscene gestures to his clerk. Deposition evidence concerning these issues is incorporated herein by this reference.

3. The Hon. Robert D. Moilanen has abused the power of his office and exhibited demeaning behavior towards court personnel by (a) making continuous threats with regard to remaining employed with the court, and (b) refusing to grant sick leave to his clerk and forcing her to remain at work when it was not in her best interest. Deposition evidence concerning these issues is incorporated herein by this reference.

4. The Hon. Robert D. Moilanen has abused the power of his office in discharging administrative responsibilities by (a) forcing clerks to handle paperwork for weddings when it was not their wish to do so and not required in their job description, and (b) filing small claims matters in his own court (Small Claims Cause Nos. 203056 and 206046, R. D. Moilanen v. Michael and Carol Burton), and (c) using court staff to clean his chambers rather than using a cleaning service provided for that purpose, and (d) requiring court staff to attend to his personal business affairs during court hours while the work of the court waited. Deposition evidence concerning these issues is incorporated herein by this reference.

5. The Hon. Robert D. Moilanen has misused public funds by (a) having installed and maintained for his sole use a private phone line which is used for his personal business, and by (b) making personal long distance phone calls at public expense. Deposition evidence concerning these issues is incorporated herein by this reference.

6. The Hon. Robert D. Moilanen has taken direct action to interfere with the Commission on Judicial Conduct's investigation of the above charges by breaching the confidentiality requirements set forth in the Commission rules and statutes through continued intimidation and debriefing of other persons by:

(i) attempting to coach court staff responses directly or indirectly through others;

(ii) holding debriefing interviews of persons believed to have been approached by the Commission's investigator;

(iii) asking court personnel to destroy potential evidence of misconduct.

Deposition evidence concerning these issues is incorporated herein by this reference.

7. The Honorable Robert D. Moilanen did engage in ticket fixing by using the authority and influence of his office to influence a public official to reduce a criminal traffic charge to an infraction, to wit:

(a) On or about February 3, 1984, the Honorable Robert D. Moilanen, while a passenger in an automobile driven by his friend, Rebecca Whippy, was involved in a roll-over accident on Highway 14 in Skamania County;

(b) The accident was investigated by Washington State Patrol Trooper Dale Johnson who issued a Negligent Driving citation to Mrs. Whippy;

(c) Later, the Honorable Robert D. Moilanen called Skamania County Deputy Prosecuting Attorney Grant E. Hansen and asked him to reduce the charge to Speeding, which was done;

(d) The Honorable Robert D. Moilanen arranged with Randal Fritzler to appear as Mrs. Whippy's attorney and to pay the fine for Mrs. Whippy with money provided by the Honorable Robert D. Moilanen.

III. BASIS FOR COMMISSION ACTION

The Commission has determined that probable cause exists for believing that the Respondent has violated Canons 1, 2(A), 2(B), 3(A)(1), 3(A)(3), 3(A)(4), 3(B)(1), and 7(B)(2) of the Code of Judicial Conduct, RCW 2.64.113, WAC 292-08-050, and the Constitution of the State of Washington, Article IV, Section 31, which state:

Code of Judicial Conduct:

"CANON 1

**"A Judge Should Uphold the Integrity and
Independence of the Judiciary**

"An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective."

"CANON 2

**"A Judge Should Avoid Impropriety and
the Appearance of Impropriety in
All His Activities**

"A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

"B. Judges should not allow their families, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of their office to advance the private interests of others; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses."

"CANON 3

**"A Judge Should Perform the Duties of
His Office Impartially and Diligently**

"A. Adjudicative Responsibilities

"(1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

. . . .

"(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

. . . .

"(4) A judge should accord to every person who is legally interested in a proceeding, or his 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. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

"B. Administrative Responsibilities

"(1) A judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials."

RCW 2.64.113:

"Confidentiality--Violations. The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

"Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court."

"CANON 5

"Judges Should Regulate Their Extrajudicial Activities to Minimize the Risk of Conflict With Their Judicial Duties

"(A) Avocational Activities. Judges may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of their office or interfere with the performance of their judicial duties."

WAC 292-08-050:

ARTICLE IV
THE JUDICIARY

"WAC 292-08-050 Confidentiality Provisions.

(1) Except as provided in this rule and WAC 292-12-030 and 292-12-040, the fact that a complaint has been made, or a statement has been given to the commission and all papers and matters submitted to the commission together with the investigation and initial proceedings conducted pursuant to these rules, shall be confidential. However, the person filing a complaint or giving a statement to the commission is not prohibited by these rules from informing any third party, or the public generally, of the factual basis upon which a complaint is based, or a statement is given."

IV. NOTIFICATION OF RIGHT TO FILE A WRITTEN ANSWER

In accordance with WAC 292-12-030(5) and the Stipulation and Order of Continuance dated August 27, 1992, the Respondent is herewith informed that a written answer may be filed with the Commission to the charges contained in

the Amended Statement of Charges within seven (7) days after the date of service. If Respondent does not file a written Answer, a general denial will be entered on his behalf. The Amended Statement of Charges shall be the only pleadings required.

DATED this 14th day of September, 1992.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

By David Akana
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Executive Director
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