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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:)	
)	
HONORABLE ROBERT D. MOILANEN)	NO. 91-1182-F-29
Judge)	
Clark County District Court)	STATEMENT OF CHARGES
1200 Franklin Street)	
P.O. Box 5000)	
Vancouver, WA 98668-5000)	

This 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.



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

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5 **II. FACTS SUPPORTING CHARGES**

6 1. The Hon. Robert D. Moilanen has exhibited
7 inappropriate demeanor when working with court personnel
8 outside the courtroom setting. He has done this by referring
9 court staff as "sluts" and "bitches". Further he has misused
10 personal information gained from court personnel by taunting
11 actions related to phobias and taunting remarks related to
12 distressing family events.

13
14 2. The Hon. Robert D. Moilanen has exhibited
15 inappropriate demeanor when working with female court personnel
16 by exposing them to incidents of sexual harassment, such as (a)
17 indicating that the judge's secretary would be "shared among
18 the judges" in a sexual way, (b) commenting to his clerk about
19 her personal life, her relationship with others, and name
20 calling of a sexual and demeaning nature; and (c) making
21 obscene gestures to his clerk.

22
23 3. The Hon. Robert D. Moilanen has abused the power of
24 his office and exhibited demeaning behavior towards court
25 personnel by (a) making continuous threats with regard to
26 remaining employed with the court, and (b) refusing to grant
27 sick leave to his clerk and forcing her to remain at work when
28 it was not in her best interest.

29
30 4. The Hon. Robert D. Moilanen has exhibited
31 inappropriate demeanor in the courtroom by (a) engaging
32 defendants in discussions of court related services in a

1 negative tone, gaining agreement, then sentencing to jail
2 terms; making comments to defendants, and others in general,
3 critical of court related services which undermine credibility
4 and compliance (Cause No. 132027, Clark County v. Harry S.
5 Donaldson), and (b) creating sentences which tend to demean the
6 defendant, such as requiring the defendants to write out
7 statements regarding their offense over long periods of time or
8 related to subjects they have brought up in court (Cause No.
9 3383, City of Vancouver v. Cassie Skinner); discriminating by
10 sentencing people to jail, particularly if they have small
11 children with them or they are very elderly.

12
13 5. The Hon. Robert D. Moilanen has abused the power of
14 his office in discharging administrative responsibilities by
15 (a) forcing clerks to handle paperwork for weddings when it was
16 not their wish to do so and not required in their job
17 description, and (b) filing small claims matters in his own
18 court (Small Claims Cause Nos. 203056 and 206046, R. D.
19 Moilanen v. Michael and Carol Burton), and (c) using court
20 staff to clean his chambers rather than using a cleaning
21 service provided for that purpose, and (d) requiring court
22 staff to attend to his personal business affairs during court
23 hours while the work of the court waited.

24
25 6. The Hon. Robert D. Moilanen has misused public funds
26 by (a) having installed and maintained for his sole use a
27 private phone line which is used for his personal business, and
28 by (b) making personal long distance phone calls at public
29 expense.

30
31 7. The Hon. Robert D. Moilanen has taken direct action
32 to interfere with the Commission on Judicial Conduct's
investigation of the above charges by breaching the

1 confidentiality requirements set forth in the Commission rules
2 and statutes through continued intimidation and debriefing of
3 other persons by:

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

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

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

11 8. The Hon. Robert D. Moilanen has used listening
12 devices in his phone to eavesdrop on the office of others so as
13 to invade and undermine basic expectations of privacy.
14

15 **III. BASIS FOR COMMISSION ACTION**

16
17 The Commission has determined that probable cause exists
18 for believing that the Respondent has violated Canons 1, 2(A),
19 3(A)(1), 3(A)(3), 3(A)(4), 3(B)(1), and 7(B)(2) of the Code of
20 Judicial Conduct, RCW 2.64.113, WAC 292-08-050, and the
21 Constitution of the State of Washington, Article IV, Section
22 31, which state:

23 **Code of Judicial Conduct:**

24
25 **"CANON 1**

26
27 **"A Judge Should Uphold the Integrity and
28 Independence of the Judiciary**

29 "An independent and honorable judiciary is
30 indispensable to justice in our society. A
31 judge should participate in establishing,
32 maintaining, and enforcing, and should himself
observe, high standards of conduct so that the

1 integrity and independence of the judiciary may
2 be preserved. The provisions of this Code
3 should be construed and applied to further that
4 objective."

5 "CANON 2

6 "A Judge Should Avoid Impropriety and
7 the Appearance of Impropriety in
8 All His Activities

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

14 "CANON 3

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

17 "A. Adjudicative Responsibilities

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

22 . . .

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

30 . . .

31 "(4) A judge should accord to every person
32 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

1 initiate nor consider ex parte or other
2 communications concerning a pending or impending
3 proceeding. A judge, however, may obtain the
4 advice of a disinterested expert on the law
5 applicable to a proceeding before him if he
6 gives notice to the parties of the person
7 consulted and the substance of the advice, and
8 affords the parties reasonable opportunity to
9 respond.

10 **"B. Administrative Responsibilities**

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

17 **RCW 2.64.113:**

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

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

26 **WAC 292-08-050:**

27 **ARTICLE IV**
28 **THE JUDICIARY**

29 **"WAC 292-08-050 Confidentiality Provisions.**

30 (1) Except as provided in this rule and WAC 292-
31 12-030 and 292-12-040, the fact that a complaint
32 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

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

DATED this 14th day of April, 1992.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

By David Akana
DAVID AKANA
Executive Director
P.O. Box 1817
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