

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

FILED

DEC -1 1995

In Re the Matter of)
)
Honorable Edwin L. Poyfair,)
Judge, Department 4)
Clark County Superior Court)
P.O. Box 5000)
Vancouver, WA 98668)
_____)

COMMISSION ON JUDICIAL CONDUCT

No. 94-1921-F-57

STIPULATION AND AGREEMENT
AND ORDER OF ADMONISHMENT

The Commission on Judicial Conduct and the Honorable Edwin L. Poyfair ("Respondent"), Judge of the Clark County Superior Court, do hereby stipulate and agree as provided for herein. This stipulation shall not become effective until approved by the Washington Commission on Judicial Conduct.

The Commission on Judicial Conduct is represented in these proceedings by its counsel, David Akana, and the Honorable Edwin L. Poyfair represented himself.

STIPULATION

Respondent, without subpoena or official summons, but under threat of a subpoena, signed a two-page affidavit dated July 5, 1994. The affidavit, procured and submitted at the behest of one party, provided opinion evidence concerning the parenting skills of both parties in a matter pending before the Franklin County Superior Court, Cause No. 93-5-50136-0.

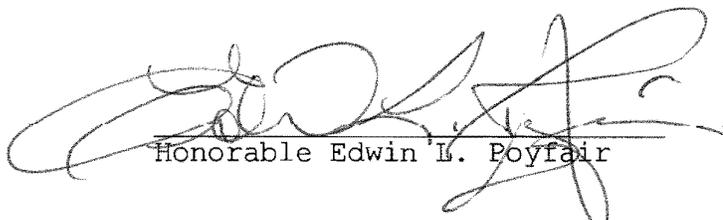
In the affidavit, Respondent declared, "I am currently a sitting Superior Court Judge in Clark County, Washington"

He further stated that "[Doe] is a most caring and loving parent" and that [Roe] is "head strong and uncompromising" and "her refusal to allow [Doe] visitation further indicates her selfish, unrelenting personality." In the closing paragraph, Respondent states to the court that his opinion would be shared "were you to contact any judge in Clark/Skamania County."

AGREEMENT

Respondent does hereby agree to accept an admonishment as described in WAC 292-08-030(1). Respondent accepts the Commission's determination that his described conduct constitutes a violation of Canon 2(B)¹ of the Code of Judicial Conduct and agrees that he will exercise caution to avoid repeating the violation in the future.

DATED this 30th day of October, 1995.



Honorable Edwin L. Poyfair



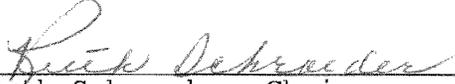
David Akana, Counsel for
Commission on Judicial Conduct

¹ Canon 2(B) states in part that "Judges should not testify voluntarily as a character witness." Ethics Advisory Opinion (EAC) No. 85-4 states that, if subpoenaed to testify, it is not proper for a judge to provide opinion, as opposed to fact, testimony. See EAC No. 93-12. EAC No. 91-24 states that a judge may respond to discovery requests as a fact witness so long as there is no question that the judicial position is not being compromised or exploited. See also EAC No. 92-17.

ORDER OF ADMONISHMENT

Based upon the above Stipulation and Agreement set forth herein, the Commission on Judicial Conduct hereby orders and Respondent is hereby admonished for violating Canon 2(B) of the Code of Judicial Conduct. Respondent shall exercise caution to avoid repeating the violation in the future.

DATED this 1st day of December, 1995.



Ruth Schroeder, Chair
Commission on Judicial Conduct