	FILED
1	BEFORE THE COMMISSION ON JUDICIAL CONDUCT DFC
2	OF THE STATE OF WASHINGTON COMMISSION ON JUDICIAL CONDUCT
3	
4	Honorable Edward B. Ross, Judge) No. 98-2915-F-75 Whatcom County District Court)
5 6	311 Grand Avenue)STIPULATION, AGREEMENTBellingham, WA 98225-4007)AND ORDER OF
7) ADMONISHMENT
8	The Commission on Judicial Conduct and the Honorable Edward B. Ross, Judge
9	of the Whatcom County District Court, Bellingham, Washington do hereby stipulate and
10	agree as provided for herein pursuant to CJCRP 23. This stipulation shall not become
11	effective until approved by the Washington Commission on Judicial Conduct.
12	STIPULATED FACTS
13	
14	1. The Honorable Edward B. Ross (Respondent), was at all times discussed
15	herein a judge of the Whatcom County District Court, Bellingham, Washington.
16	2. If a contested hearing were held in this matter, witnesses would testify as
17	follows:
18	a. On August 27, 1998, Respondent presided over hearings in Whatcom
19	County District Court. After the conclusion of court business, a supervisor in the
20 21	public defender's office approached the bench with a new attorney in the office to
21	reintroduce her to Respondent as a permanent employee of the office.
23	b. During the course of conversation with the new attorney and the other
24	attorneys present, Respondent learned that new attorney had attended the same
25	
26	law school as had a deputy prosecutor who was also present. In the presence of
27	the various attorneys, Respondent asked the deputy prosecutor: "Is she one of the
28	babes you bagged in law school?" or words to the same effect. All the attorneys
	STIPULATION, AGREEMENT AND ORDER - 1

present understood the question had a sexual connotation.

1

2 Attorneys from public defender's office spoke to Respondent about the C. 3 inappropriateness of making such offensive remarks, and Respondent went to the 4 public defender's office and apologized to the attorney in question and all others 5 who were present. Notwithstanding, on September 30, 1998, during a luncheon 6 with the district court probation department, Respondent described to those present 7 a "rumor" about the same new attorney that was offensive and possibly defamatory. 8 9 The evidence would show that the rumor was false and Respondent stated to the 10 people present that the rumor was false, and that he had not been spreading such 11 a rumor elsewhere. Nonetheless, Respondent's republication of the false rumor 12 was at the least, insensitive, and could have exacerbated the injuries to the 13 reputation and standing of the new attorney and others with whom she works. In 14 hindsight, Respondent acknowledges that he ought not to have repeated the 15 16 substance of the rumor.

3. On February 23, 1999, pursuant to CJCRP 17(e), the Commission sent a
certified letter to Respondent informing him that the Commission was pursuing Initial
Proceedings. Enclosed with the letter was a Statement of Allegations.

4. On March 22, 1999, Respondent formally responded to the Statement of
Allegations.

5. On July 2, 1999, the Commission determined that probable cause exists to
 believe that Respondent has violated Canons 1, 2(A) and 3(A)(3) of the Code of Judicial
 Conduct (CJC). On July 7, 1999, the Commission filed Statement of Charges against
 Respondent.

6. On July 30, 1999, Respondent filed his Answer to the Statement of Charges

STIPULATION, AGREEMENT AND ORDER - 2

1 admitting or denying the allegations, or providing other explanations. Additionally, 2 Respondent asserted for the first time that on June 29, 1998, he suffered a "significant 3 brain injury in addition to broken bones and nerve damage to his neck." Respondent 4 asserted his understanding that "is typical for persons with a severe brain injury to make 5 spontaneous statements without any advance idea what the contents of the statement will 6 be." Respondent also asserted for the first time that he understood that this kind of 7 8 statement could also result from the steroids he was taking. Respondent denied making 9 the statements attributed to him, but asserts that if he was found to have done so, that his 10 medical condition be considered as a mitigating factor. 11

7. Respondent would present evidence supporting his assertions in his Answer.
 Disciplinary counsel would present contrary evidence and argument, as well as evidence
 of Respondent's past similar conduct.

8. Though Respondent does not have a specific recollection on August 27,
1998, of having said the words attributed to him by the other witnesses, he acknowledges
that those witnesses are trustworthy and truthful people, and that his own memory, as well
as what he in fact, said, may have been temporarily affected by the severe injury that he
suffered approximately two months before that date.

21

AGREEMENT

Based upon the foregoing stipulated facts, Respondent agrees that if a
 contested hearing were held in this matter, even though he would offer evidence to
 contradict the testimony described above, a fact finder could reasonably find that
 Respondent did violate Canons 1, 2(A) and 3(A)(3) of the Code of Judicial Conduct by
 making inappropriate and offensive comments in his official capacity. To avoid the risk
 of an adverse finding at a contested hearing and the possibility of harsher discipline,

STIPULATION, AGREEMENT AND ORDER - 3

1 Respondent has agreed not to contest the allegations against him.

2. Respondent agrees to attend at his own expense a course in gender bias
training approved in advance by the Chair of the Commission. Such course shall be
completed within one year from the date of filing of this agreement. Upon satisfactory
completion, Respondent shall file a declaration with the Commission that the course
was completed.

8 3. Respondent further agrees that he will not retaliate against any person
 9 known or suspected to have cooperated with the Commission, or otherwise associated
 10 with this matter.

4. Respondent agrees that he will refrain from making comments of an
offensive sexual nature while functioning in a judicial capacity in the future.

14 5. Respondent agrees that by entering into this stipulation and agreement he
15 hereby *waives* his procedural rights and appeal rights pursuant to the Commission on
16 Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State
17 Constitution in this proceeding.

19 Honorable Edward B.

11

18

20

26

27

28

21 22 Disciplinary Counse

23 24 Leland Riplev 25

Counsel for Respondent

10/21/99 Date

te

STIPULATION, AGREEMENT AND ORDER - 4

ORDER Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders and Judge Edward B. Ross is hereby ADMONISHED for violating Canons 1, 2(A) and 3(A)(3) of the Code of Judicial Conduct. Respondent shall fulfill the terms of the agreement as above set forth. Dated this SRD day of DDDMB14999. Grego ſaiı Commission on Judicial Conduct **STIPULATION, AGREEMENT AND ORDER - 5**