1	BEFORE THE COMMISSION ON JUDICIAL CONDUCT
2	OF THE STATE OF WASHINGTON FILED
з	FEB - 7 2003
4	COMMISSION ON JUDICIAL CONDUCT
5	In Re the Matter of
6	The Honorable Ellen K. Clark
7	Spokane County Superior Court) STIPULATION, AGREEMENT 1116 W Broadway Ave.) AND
8	Spokane, WA 99260) ORDER OF ADMONISHMENT
9	
10	The Commission on Judicial Conduct and the Honorable Ellen K. Clark,
11	Spokane County Superior Court Judge, stipulate and agree as follows:
12	This stipulation is submitted pursuant to CJCRP 23 and shall not become
13	effective until approved by the Washington Commission on Judicial Conduct.
14	STIPULATION
15	1. The Honorable Ellen K. Clark ("Respondent") is now, and was at all times
16	referred to in this document, Judge of the Spokane County Superior Court.
17	2. Respondent presided over the trial in Spokane County Superior Court cause
18	number 00-3-01410-2, concluding on November 28, 2001. Her decision in that case
19	was not filed until September 23, 2002.
20	3. Respondent presided over the trial in cause number 00-3-01642-3,
21	concluding on August 31, 2001. Her decision in that case was not filed until October
22	29, 2002.
23	4. On August 15, 2002, August 28, 2002, and September 12, 2002, the
24	Commission received the complaints that commenced an investigation concerning
25	Respondent.
26	5. On October 7, 2002, the Commission on Judicial Conduct sent Respondent
20	a letter informing her that the Commission was commencing initial proceedings against
27	her. A Statement of Allegations was enclosed and a response was invited.
20	STIPULATION, AGREEMENT AND ORDER OF ADMONISHMENT - 1

6 The Commission received Respondent's reply to the Statement of 1 2 Allegations on November 1, 2002 and a supplemental response on November 20, 3 2002.

7. In her response, Respondent admitted and accepted responsibility for the 4 delays. She described the cases as being complicated, difficult and lengthy. With the 5 6 press of other court business, Respondent found it difficult to find time to return to 7 conclude the cases.

8 8. Respondent also self-reported two other cases in which her decisions were 9 delayed. Respondent presided over a four-day trial in case 97-3-00250-6 concluding 10 on November 16, 2001. Her decision in that case was not filed until May 24, 2002.

11 Respondent presided over a proceeding in case 81-3-02665-4 concluding on 12 May 24, 2001. Her decision in that case was not filed until July 18, 2002.

13 9. The time Respondent took to make decisions in the four cases identified above, substantially exceeded that established by RCW 2.08.240¹ and Washington 14 State Constitution Article IV, Section 20.² Such conduct involving delay violated 15 Canons 1, 2(A), and 3(A)(6) of the Code of Judicial Conduct. Canon 3(A)(6) states: 16 17 "Judges should dispose promptly of the business of the court."

18 When Respondent was assigned as the sole family law judge in January 19 2001, family law cases were not being resolved in compliance with state time 20 standards. In July, 2001, a second judge was added to the department. By the end 21 of 2001, the department's compliance with state time standards improved 22 considerably.

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- 24
- RCW 2.08.240 provides:
- 25 Every case submitted to a judge of a superior court for his decision shall be decided by him within ninety days from the submission thereof: PROVIDED, That if within said period of ninety days a rehearing shall have been ordered, then the period within which he is to decide shall commence at the time the cause is submitted upon such rehearing, and upon wilful 26 failure of any such.

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² WASHINGTON STATE CONSTITUTION ARTICLE 4, §20 provides:

Every cause submitted to a judge of a superior court for his decision shall be decided by him within ninety days from the submission thereof; Provided, That if within said period of ninety days a rehearing shall have been ordered, then the period 28 within which he is to decide shall commence at the time the cause is submitted upon such a hearing.

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1	10. At the same time the overall performance of the court's family department
2	improved, Respondent was also responsible for delayed decisions in four cases. To
3	avoid similar situations in the future, Respondent changed the way she processes
4	cases by setting a specific hearing date to render a decision.
5	11. Respondent was at all times very cooperative with the Commission. She
6	acknowledged the delays and has taken measures to avoid future recurrences.
7	Respondent has had no prior disciplinary action.
8	
9	AGREEMENT
10	1. Based upon the stipulated facts, Respondent agrees that while a judge of
11	the Superior Court she violated Canons 1, 2(A), and 3(A)(6) of the Code of Judicial
12	Conduct.
13	2. Respondent agrees to accept a written admonishment as described in RCW
14	2.64.010(1) and CJCRP Terminology and Rule 6.
15	3. Respondent agrees that she will exercise caution to avoid repeating the
16	violation.
17	4. In accepting this stipulation, the Commission takes into account
18	Respondent's cooperation with the Commission's investigation, her prompt
19	acknowledgment of the Commission's concerns, and her efforts to correct the problem
20	that resulted in this proceeding.
21	Standard Terms
22	5. Respondent agrees further that she shall not engage in any retaliatory
23	conduct with regard to any person known or suspected to have cooperated with the
24	Commission, named as a potential witness in this matter, or otherwise associated with
25	this proceeding.
26	6. Respondent represents that she has either consulted or had an opportunity
27	to consult with counsel of her choosing regarding this stipulation and proceeding.
28	Respondent voluntarily enters into this stipulation.
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1 7. Respondent agrees that by entering into this Stipulation and Agreement she hereby waives her procedural rights and appeal rights pursuant to the Commission on 2 3 Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington 4 State Constitution in this proceeding. 5 $\frac{11/26/02}{Date}$ $\frac{12/2/02}{Date}$ 6 Honorable Ellen K. Clark, Respondent 7 8 9 David Akana, Counsel WSBA # 5523 Commission on Judicial Conduct 10 11 12 ORDER OF ADMONISHMENT 13 Based upon the above stipulation and agreement, the Commission on Judicial 14 Conduct hereby orders, and Judge Ellen K. Clark, Respondent, is hereby 15 ADMONISHED for violating Canons 1, 2(A) and 3(A)(6) of the Code of Judicial 16 Conduct. Respondent shall exercise caution to avoid repeating the violation in the 17 future. DATED this _____ day of _____ *Fibruary*____, 2002. 18 19 20 March Lell 21 Keller, Chair 22 Commission on Judicial Conduct 23 24 25 26 27 28 STIPULATION, AGREEMENT AND ORDER OF ADMONISHMENT - 4