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3 **BEFORE THE COMMISSION ON JUDICIAL CONDUCT**
4 **OF THE STATE OF WASHINGTON**
5

6 In re the matter of)

7 THE HONORABLE JUDITH R. EILER
8 Judge, King County District Court
9 _____)

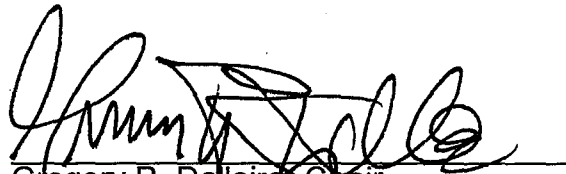
No. 4148-F-116

**CERTIFICATE OF
COMPLETION AND ORDER**

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11 The Commission on Judicial Conduct, pursuant to CJCRP 29(b), has
12 considered information submitted by the Honorable Judith R. Eiler. Based on the
13 information considered and attached and incorporated herein, the Commission herein
14 certifies that Judge Eiler has satisfactorily completed the terms and conditions of
15 paragraphs 4, 6 and 7 of the Imposition of Sanction section of the Stipulation,
16 Agreement and Order of Reprimand filed February 4, 2005.

17
18 So ordered.

19
20 Dated this 4TH day of AUGUST, 2006.

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22 
23 Gregory R. Dallaire, Chair
24 Commission on Judicial Conduct
25
26
27
28

KURT M. BULMER**ATTORNEY AT LAW**

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July 19, 2006

Kurt C. Twitty
Investigative Officer
Commission on Judicial Conduct
PO Box 1817
Olympia, WA 98507

RE: CJC 4148-F-116 - Hon. Judith Eiler

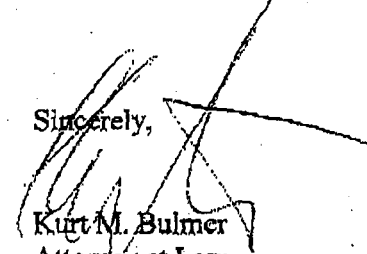
Dear Mr. Twitty:

I have now provided you with Dr. Rutt's report indicating that Judge Eiler has completed the counseling required by the stipulation and order in this matter. I have advised Ms. Callner that Judge Eiler has waived the confidentiality notation placed on that report. Judge Eiler has previously submitted a February 10, 2005, affidavit of reading the Code in full and on November 22, 2005, we submitted information showing Judge Eiler has completed the judicial ethics training requirements of the stipulation and order.

I believe that these documents demonstrate full compliance with the corrective measures ordered. We request the Commission enter an order certifying completion of the corrective measures ordered in CJC 4148-F-116.

If you or the Commission wish any additional information or feel there is some other corrective measure which needs to be complied with, please advise and we will address it immediately.

Sincerely,


Kurt M. Bulmer
Attorney at Law
WSBA # 5559

cc: Hon. Judith Eiler

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RECEIVED
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July 14, 2006

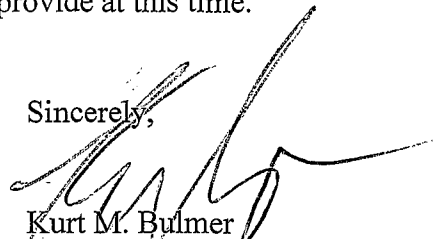
Kurt C. Twitty
Investigative Officer
Commission on Judicial Conduct
PO Box 1817
Olympia, WA 98507

RE: CJC 4148-F-116 – Hon. Judith Eiler

Dear Mr. Twitty:

Enclosed please find the final report of Dr. Rutt on the counseling Judge Eiler received. Please advise if there is anything additional we need to provide at this time.

Sincerely,



Kurt M. Bulmer
Attorney at Law
WSBA # 5559

cc: Hon. Judith Eiler

Confidential

**FINAL REPORT
CONSULTATION PLAN and PROGRESS**

Client Name: Judge Judith Eiler
Address: 1210 S. Central
Kent, WA 98023
Contact Information: Ph: 206-296-7794
Email: judith.eiler@metokc.gov

Entry Date: 2-6-2006
Report Date: 5-25-2006
Diagnosis: Not Applicable

AREA: Courtroom Communication **TARGET DATE:** 5-6-2006
GOAL: Increase awareness of courtroom communication of her own, in comparison to other judges.
PLAN: Observe the courtroom communication of other judges. Observe 3-4 judges in 6 cases total. Report observations regarding communication used in orienting claimants to courtroom procedures, managing the litigants' alternate representation, and presentation of ruling.
PROGRESS NOTE: Judge Eiler has directly observed 4 judges over a three month period. She has also discussed their approach to courtroom communication with several judges directly in order to develop an awareness of her own approach and to make conscious decisions about her own communication approach in the courtroom. Judge Eiler reported her observations to this consultant and participated in discussion comparing various communication approaches. Within this discussion, Judge Eiler demonstrated an increased awareness of the variety of communication styles and made new decisions to improve her own communication style.
STATUS: Completed May 22, 2006

AREA: Courtroom Communication **TARGET DATE:** 5-6-2006
GOAL: Increase of awareness and options for courtroom communication.
PLAN: Consultant will observe the courtroom communication of Judge Eiler on several occasions. Consultant will provide feedback of communication strengths and weaknesses, offering suggestions for improved communication if applicable.
PROGRESS NOTE: **2-6-2006:** Provided feedback on metacommunication skills in orienting litigants to her courtroom, that is, informing parties about the communication procedures in the courtroom such as the need for auditory responses, turn taking, etc., in order to minimize the need for judge to correct litigants' behavior after-the-fact. Also discussed managing the litigants' communication in court, and options for clearer communication of rulings.

2-21-2006: Courtroom observation with feedback given on approach to communication of judgments or rulings given to litigants. Suggested omitting language such as "I am giving you \$\$\$\$" and replacing with more objective language such as "My judgment is for the plaintiff party. Defendant party is to pay you \$\$\$\$." or, "The award is in the amount of \$\$\$\$ for the plaintiff to be paid by defendant." Also discussed courtroom demeanor and management of the parties' turn taking of talk in the courtroom for greater efficiency.

5-22-2006: Courtroom observation with feedback and discussion. Positive feedback given on Judge Eiler's orientation of litigants to courtroom proceedings and the management of their turn taking during proceedings. Discussed the use of nonverbal gestures, voice, rate of speech to strengthen authority and create more control in the courtroom. Improved communication of judgment or ruling observed. Discussed option of including some rationale for the ruling in order to decrease litigants' possible perception that the ruling is made arbitrarily; for example, adopting language such as, "You convinced me that ____ but you did not convince me that ____, therefore my judgment is for the ____." Observed effective use of pauses including leaving the courtroom briefly prior to delivering judgment which Judge Eiler reported had a positive effect on litigants' ability to listen and accept the verdict.

STATUS: Completed May 22, 2006

AREA: Courtroom Communication **TARGET DATE:** 5-6-2006
GOAL: Increase awareness of options in the communication of authority.
PLAN: Read Lions Don't Need to Roar by D. Benton addressing the communication of "presence". Discuss options for creating "presence" in the courtroom, including establishing a tenor created in the courtroom for litigants.

PROGRESS NOTE:

Utilizing her observations of other judges along with readings, Judge Eiler participated in discussion about the effect of a judge's communication on the tenor or feeling created in the courtroom. Some kinds of communication can create more calm and control in the courtroom while other kinds of communication can have the effect of exacerbating argumentativeness, reactivity and defiance in parties. In general, slower rate of speech along with fewer gestures, use of meaningful gestures and pauses are suggested in order to create calmer atmosphere in the courtroom wherein claimants are more likely to listen. Judge Eiler demonstrated her appreciation of nonverbal communication and the effect it had on courtroom by deliberating slowing her rate of speech at times, using pauses, and clearer gestures. In general, Judge Eiler has demonstrated greater awareness of options she has to communicate authority and create the kind of atmosphere in the courtroom that is more conducive to hearing cases in small claims court efficiently and respectfully.

STATUS: Completed May 22, 2006

AREA: Courtroom Communication **TARGET DATE:** 5-6-2006
GOAL: Increase cross-cultural communication awareness.
PLAN: Read articles or engage in discussion related to cross-cultural communication competence. Discuss options for application to courtroom.

PROGRESS NOTE:

Judge Eiler was able to engage in discussion demonstrating her awareness of cross-cultural differences in communication among a variety of litigants which come into her courtroom. She also reported on her participation in several continued education sessions on this topic. Related to this, we discussed the

various communication styles among litigants that are often more challenging. For example, people who have difficulty understanding the purpose or process of the hearing, people who persist in talking about their feelings or perceived victimization, people who assume they can negotiate a ruling of the judge, people who persist in being argumentative and yelling. While there is no universal formula available to address these challenges, we discussed options for respectfully managing these various problems. Together, we developed some alternate languaging options that might help manage difficult litigants, along with discussing how to know when to set limits on litigants' inappropriate behavior.

STATUS: Completed May 22, 2006

AREA: Self-Care related to stress management. **TARGET DATE:** 5-6-2006

GOAL: Informal assessment of stress factors which may affect Judge Eilers' courtroom behavior.

PLAN: Judge Eiler will participate in discussion and answer questions related to stress factors she believes have influenced her life and courtroom behavior. She will participate in discussion about her own stress management techniques and explore options to increase stress management skills if needed. Further, Judge Eiler will be able to identify feelings and behaviors indicating a need for increased self-care so as to prevent stressors from affecting courtroom behavior.

PROGRESS NOTE:

Judge Eiler reported the range of stressful life circumstances she experienced in 2002. She reported how she dealt with these stressors ineffectively at first, and how she developed effective stress management techniques, including developing new support systems, and developing awareness of indicators for when she needed to do more to take care of herself. At this time, Judge Eiler incorporates effective methods of stress management and self-care on a routine basis. In addition, she is able to identify feelings and behaviors as indicators for a need to increase self care.

STATUS: Completed May 22, 2006

PROGRESS SUMMARY

Judge Eiler fully participated in all aspects of this plan to strengthen her courtroom communication. Primary areas of courtroom communication addressed included: 1) Orienting claimants to the courtroom, communicating rules or procedures at the beginning of hearing to minimize unneeded interruptions of litigants during court proceedings; 2) Restating litigants' claims to increase perception they are being understood by the court, 3) Management of litigant turn taking behavior when presenting their case, 4) Delivering the final ruling or judgment in a manner that will increase the likelihood litigants will listen, understand and accept the ruling; 5) General communication techniques to create an atmosphere in the courtroom conducive for litigants to understand courtroom proceedings, understand rulings, and walk away believing they received fair, objective, respectful treatment by the court rather than being treated arbitrarily.

Actual communication behaviors were observed by the consultant. Suggestions were given for alternative communication behaviors to strengthen courtroom communication. Judge Eiler demonstrated increased awareness of her courtroom communication and incorporated some new behaviors over the period of three months, demonstrating not only increased awareness of her behavior, but also how she can have more control over her courtroom.

Both verbal/substantive language aspects of communication were addressed as well as nonverbal communication behaviors. Specifically, the following nonverbal suggestions for communication were addressed in order to create an atmosphere in the courtroom that is more peaceful, less anxious, and less reactive: 1) Less gestures overall with more meaningful gestures, 2) Slower rate of speech, 3) Use of silence and pauses during proceedings and before delivering final judgment, 4) Adjusting chair seating to increase ease of communication and perceived authority.

IMPRESSIONS

Overall, Judge Eiler demonstrated a genuine interest in addressing the goal of this consultation – that is, to increase her communication skill in the courtroom. She fully participated in this plan and in the opinion of this consultant increased her awareness of how her communication is effective and how it could be improved. Judge Eiler took to heart suggestions of this consultant and adopted new behaviors. In addition, Judge Eiler appeared to develop a greater awareness of the perception problems faced by litigants (e.g. they have difficulty understanding the process), and how she can address those problems through her own communication, minimizing corrective communication and interruptions. The following informal assessment of Judge Eilers' communication behavior was observed by this consultant prior to consultation and upon completion of the plan (on a scale of 1-10, 10=Best Possible).

Areas of Communication	Pre-Consult Rating: 2/6/2006										Post-Consult Rating: 5/22/2006									
Nonverbal Behavior	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Courtroom Demeanor	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Language Use /Substance Use	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Perceived Competence	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Perceived Fairness/ Likeability	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Teaching Qualities	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Perceived Authority	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
Overall Communication Rating	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10


Additionally, it is my professional impression that Judge Eiler is a good practically-minded judge who has an interest in using time in the courtroom efficiently. She is able to incorporate a sense of humor appropriately and appears to have great respect for the law of which she is very mindful during courtroom proceedings.

RECOMMENDATIONS

Judge Eiler demonstrated good progress strengthening her communication skill in the courtroom. Based on her improvement and her conscientious nature, I would anticipate that she will continue to develop in her skill. In addition, she has demonstrated an ability to identify indicators for self care and the need for stress management, which may have contributed to complaints from litigants in the past. At this time, I believe Judge Eiler has successfully completed this program and addressed issues of behavior change as directed by the Commission on Judicial Conduct, and in so doing has likely strengthened her judgeship. She may benefit from occasional review of communication along with review behavioral options addressed during this program of consultation. Other than this, I submit that Judge Eiler's participation in this program of consultation would satisfy the stipulated order of the CJC.

Please do not hesitate to contact me regarding this program of consultation or this report; or if in any way I can be of further assistance to the Commission.

RESPECTFULLY SUBMITTED BY:


 Deborah J. Rutt, PhD, ACSW
 Communication Consultant
 Washington State Certified Counselor


 Date

■DJR Communication

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