

BEFORE THE STATE OF WASHINGTON
COMMISSION ON JUDICIAL CONDUCT

In Re the Matter of

CJC No. 5198-F-136

HONORABLE JUDTH R. EILER
Judge, King County District Court,

COMMISSION DECISION

Respondent.

A fact finding hearing relating to the above-entitled matter was held on November 18-21, 2008 pursuant to an Order of the Commission on Judicial Conduct. Members of the Commission present as a fact finding panel were Joseph G. Bell, Wanda Briggs, Marianne Connelly, Wayne Ehlers, Candace Kalish, Hubert G. Locke, John A. McCarthy, Tom L. Morris, and Michael Pontarolo (Presiding Officer).

The Respondent, Judith R. Eiler, was present and represented by her attorney Anne M. Bremner. Disciplinary Counsel for the Commission on Judicial Conduct was William H. Walsh.

The Commission on Judicial Conduct heard and considered the testimony of witnesses, the exhibits and records referenced herein and briefs and argument of counsel.

At the conclusion of the evidence, the Commission deliberated and based upon the evidence makes the following:

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FINDINGS OF FACT

The Commission on Judicial Conduct (Commission) finds by clear, cogent, and convincing evidence as follows:

1. The Honorable Judith R. Eiler (Respondent) is now and was at all times referenced in this document, a Judge of the King County District Court since 1992.

2. At all times relevant the Respondent spent the greatest portion of her judicial activities in the courtroom, on the bench, presiding over small claims and traffic infraction matters where litigants are unrepresented.

3. The Respondent's behavior outside of the courtroom and away from the bench has been exemplary, but it is within the courtroom, sitting as judge, that the Respondent's demeanor, attitude, verbal expression, conduct and treatment of litigants, attorneys and court personnel violated the standards set by the Code of Judicial Conduct.

4. In January 2004, at the request of her Presiding Judges, the Respondent took leave from the bench for a "little less than a month" due to complaints relating to her demeanor while on the bench.

5. Due to ongoing complaints, the Commission, on October 6, 2004, sent a letter to the Respondent informing her that the Commission was pursuing initial disciplinary proceedings, based upon a Statement of Allegations alleging Respondent violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct by engaging in a pattern or practice of rude, impatient, and undignified treatment of pro se litigants in the courtroom.

6. The pattern of conduct complained of in the Statement of Allegations included interrupting litigants, addressing them in an angry, condescending and demeaning tone of voice, threatening to rule against litigants who interrupted or

1 annoyed her or otherwise failing to act in a manner which maintained public
2 confidence in the integrity and impartiality of the judiciary.

3 7. On January 26, 2005, the Respondent executed a Stipulation, CJC No.
4 4148-F-116, agreeing with the Statement of Allegations and further agreeing that
5 she had violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of
6 Judicial Conduct as set forth in Paragraph 1 through 4 of the Agreement. (Exhibit
7 113)

8 8. In the Stipulation and Agreement, the Respondent agreed:

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10 “...that she will not repeat such conduct in the future, mindful of the
11 potential threat any repetition of her conduct poses to public confidence in
12 the integrity and impartiality of the judiciary and to the administration of
13 justice.”

14 9. The Respondent also agreed that by intimidating and demeaning pro
15 se litigants, she abused the authority of her position and undermined the public
16 confidence in and respect for the courts.

17 10. In accordance with the Stipulation and Agreement, sanctions were
18 imposed upon the Respondent due to her pattern of intemperate, disrespectful,
19 undignified and intimidating behavior within the courtroom while acting in her
20 official capacity.

21 11. Based in part upon the Respondent’s explanation that she failed to
22 recognize her inappropriate conduct because she was experiencing particular stress
23 in her personal life during the relevant period and based upon a finding of no prior
24 discipline, cooperation with the Commission, and acknowledgement that
25 inappropriate acts had occurred requiring change and positive steps towards
26 modification of her judicial conduct, an Order of Reprimand was filed by the
27 Commission as part of CJC No. 4148-F-116 on February 4, 2005, which included
28 an agreement that she participate in behavior therapy with emphasis on sensitivity
29 training.
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1 12. Following submission of proof by Respondent that she had completed
2 the required behavior therapy with a pre-approved trainer, a Certification of
3 Completion in accordance with the Stipulation, Agreement and Order of Reprimand
4 was entered on August 4, 2006. (Exhibit 117)

5 13. On February 14, 2008, the Commission sent a letter to the Respondent
6 informing her that the Commission was commencing initial proceedings against her
7 pursuant to CJCRP 17(d), and served upon the Respondent a Statement of
8 Allegations citing a sample of cases heard by the Respondent between November
9 2006 and January 2008 alleging the Respondent had violated Canons 1, 2(A),
10 3(A)(2), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct by engaging in a
11 pattern or practice of rude, impatient, undignified and intimidating treatment of pro
12 se litigants, attorneys and court personnel and for changing a court order without
13 proper grounds in a manner suggesting she was motivated by self-interest or for
14 improper purposes. (Exhibit 101)

15 14. The Respondent answered the first Statement of Allegations on March
16 15, 2008, admitting that she had made the statements reflected in the audio CDs and
17 further responding generally that due to the “culture of the court in King County,
18 the amount of workload and the constraints of the protocols imposed from the
19 Office of the Presiding Judge” the failings exhibited should be found to be “de
20 minimus”. The Respondent also professed that she, “would like to improve...and
21 believed that she had...improved.” (Exhibit 114)

22 15. Despite her expressing her desire to improve, the Respondent’s
23 courtroom conduct towards litigants, court personnel and attorneys in her official
24 capacity did not improve after the initial Statement of Allegations was issued on
25 February 14, 2008.

26 16. On April 10, 2008, the Commission sent a second letter to the
27 Respondent with an Amended Statement of Allegations citing five additional
28 examples of misconduct between February 14, 2008 and March 3, 2008 wherein the
29 Respondent engaged in a pattern of conduct similar to that alleged in the Statement
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1 of Allegations dated February 14, 2008. The Respondent was directed per CJCRP
2 17(d) to issue a response within 21 days after receipt of notice, which she failed to
3 provide. (Exhibit 102)

4 17. On or about June 20, 2008, the Commission issued a Statement of
5 Charges incorporating the allegations cited in the Statements of Allegations dated
6 February 14, 2008 and April 10, 2008.

7 18. Through counsel, Respondent answered the Statement of Charges on
8 July 11, 2008, and thereafter a fact finding hearing was conducted on November 18-
9 21, 2008.

11 **COUNT ONE:**

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13 19. Following the Respondent's discipline in 2005 and her Certification
14 of Completion dated August 4, 2006, the Respondent, by her words, actions and
15 tone of voice treated pro se litigants, witnesses, and attorneys appearing before her
16 in an impatient, undignified, discourteous, belittling and demeaning manner.

17 20. In multiple cases as described by litigants, attorneys and court
18 personnel, the Respondent utilized a recurrent pattern of sarcasm, interruption,
19 humiliation, belittlement and intimidation of pro se litigants and their witnesses
20 causing litigants to become frustrated to the point of abandoning their attempts at
21 presenting evidence.

22 21. In multiple cases, the Respondent, in a pattern of impatient and
23 condescending behavior, routinely insulted litigants if she felt they did not respond
24 adequately or properly to her questions.

25 22. On one occasion the Respondent scolded a witness, who was
26 consulting with a party litigant during the testimony of an opposing party, that her
27 "credibility had plummeted" not based upon her testimony but because she was
28 talking while an opposing party was speaking. (Hearing Transcript p. 373 line 2-3.)

29 23. Court personnel, who observed the Respondent's pattern of
30 intemperate, discourteous and undignified behavior on a daily basis, were

1 embarrassed for themselves and for the litigants who appeared before the
2 Respondent. The Respondent threatened to fire a court clerk if she gave legal advice
3 to a litigant, when in fact the clerk was not providing legal advice but was assisting
4 the litigant in the manner called for by her position.

5 24. Due to the Respondent's intimidating behavior and treatment, litigants
6 became frustrated and discouraged, causing them to question whether a fair trial
7 could be obtained before the Respondent.

8 25. The Respondent's pattern and frequency of conduct, as described
9 above, failed to establish or enforce high standards of judicial conduct or maintain
10 and preserve the integrity of the judiciary but, to the contrary, undermined the
11 integrity of the judiciary, eroding public confidence in the judicial system.

12 26. The Respondent conceded that there were times she was impatient,
13 undignified, or discourteous or was "not my best" (Hearing Transcript p. 865 line 3)
14 but sees this as necessary to perform her job. There was neither substantial nor
15 credible evidence to establish that the Respondent's routine of sarcasm, humor at
16 the expense of litigants, or impatient, undignified or discourteous behavior was or is
17 necessary to perform the duties of a District Court Judge in King County.

18 27. The Respondent's courtroom behavior towards litigants as described
19 above, was not limited to an isolated event or case but remained a pattern of
20 behavior after the August 4, 2006 Certificate of Completion, arising out of her 2005
21 judicial discipline.

22 28. The Respondent considered her prior Stipulation and Agreement with
23 the Commission in 2005 as a convenient vehicle to mollify the Commission, and to
24 avoid a hearing without the conviction that her pattern of behavior was
25 inappropriate and a violation of the Canons.

26 29. The Respondent's lack of civility within the courtroom continued
27 after the service of the Amended Statement of Allegations issued on April 10, 2008,
28 and complaints regarding her courtroom demeanor continued up to the time of the
29 hearing with additional complaints having been received by her Presiding Judge.
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1 30. The Respondent's pattern of behavior described above is not an
2 acceptable "style" of courtroom behavior when used in the manner and with the
3 frequency as witnessed by courtroom personnel and as experienced by litigants and
4 attorneys who appeared before the Respondent.

5 31. The Respondent's pattern of misconduct as witnessed by litigants,
6 court personnel and attorneys during courtroom hearings is in part exhibited in the
7 cases cited below and attendant audio clips entered into evidence:
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- 9 1. *Harris Fence Co. vs. Sutherland* (64-005870), 11-07-2006;
- 10 2. *Sylvan S. Chulman vs. Shoreline Construction Co.* (63-001844), 02-
11 09-2007;
- 12 3. *D'Hondt and Peck vs. Irwin and Western Moving* (63-001578), 02-09-
13 2007;
- 14 4. *State vs. Elizabeth Alexandra* (IO5366708), 09-07-2007;
- 15 5. *State vs. Sandra Hinman* (IT0030832), 09-07-2007;
- 16 6. *State vs. Christian Matesan* (IT0030811), 09-07-2007;
- 17 7. *TLT Flooring vs. Empire Today* (53-007973), 09-20-2007;
- 18 8. *State vs. Evan Harlan* (IT0033132), 09-21-2007;
- 19 9. *State vs. Anita Taylor* (IO5514482), 09-21-2007;
- 20 10. *Tan vs. Ho, Inc.* (73-001736), 01-14-2008;
- 21 11. *State v. Jeremiah Walker* (IO5569754), 02-04-2008;
- 22 12. *State v. Brian Hablutzel* (IO5405813), 02-05-2008;
- 23 13. *State v. John Law* (IO5282732), 02-05-2008;
- 24 14. *State v. Dennis Ford* (IO5669069), 03-03-2008;
- 25 15. *State v. Adam Manning* (IO5608421), 03-03-2008.

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28 32. The Respondent's courtroom pattern of misconduct is not limited to
29 her words alone but enhanced by the intonation of her voice and exhibited by her
30 whistling and tapping her hand on the bench to gain a litigant's attention. Her voice

1 inflections with words that are mocking and belittling were frequent and
2 commonplace, forming judicial abuse that has been longstanding and the subject of
3 numerous complaints.

4 33. There was insufficient evidence to establish that the Respondent's
5 decisions in the above cases were erroneous; however in a number of cases, litigants
6 were not allowed to develop their cases or were so intimidated by the Respondent
7 that they did not submit evidence which might otherwise have resulted in a different
8 outcome.

9 34. The behavioral counseling undergone by the Respondent per her 2005
10 Stipulation and Agreement for Reprimand did not significantly result in the
11 Respondent modifying her behavior while acting within her official capacity within
12 the courtroom. Ordering treatment will not be effective until the Respondent is
13 convinced that treating litigants, court personnel and attorneys in an undignified,
14 discourteous, humiliating and belittling manner results in the erosion of public
15 confidence in the integrity of the judiciary, and she is willing to personally strive to
16 modify her behavior.
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18 19 **COUNT TWO** 20

21 35. During the second week of September 2007, the Respondent's
22 Presiding Judge, sent to the Respondent a letter received from pro se litigant, Ms.
23 Alexandra, who had appeared before the Respondent on September 7, 2007. (Case
24 No. I05366708) (Exhibit 105D)
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26 36. Ms. Alexandra complained that the Respondent had "unnecessarilly
27 [sic] belittle[d], humiliate[d], and insulte[d]" her during the September 7, 2007
28 hearing making her court experience a "horrible and traumatic emotional
29 experience." Ms. Alexandra also complained that the Respondent frequently
30 "interrupted [sic] answers with insults and harrassed [sic] everyone before and after
me as well." (Exhibit 106)

1 37. Ms. Alexandra sought an apology in her letter but did not seek
2 reversal of the Respondent's decision.

3 38. On September 13, 2007, the Respondent, after listening to the audio
4 record of the hearing, wrote a letter of apology to Ms. Alexandra for being overly
5 harsh, interrupting her and making her cry. She also volunteered that Ms.
6 Alexandra's letter had "...made me seriously review my handling of my traffic
7 court matters ... and ... without your letter I might not have changed." (Exhibits
8 107 and 507)

9 39. On September 13, 2007, the Respondent executed an order reversing
10 her previous court finding that Ms. Alexandra was guilty of speeding, by dismissing
11 all charges against Ms. Alexandra, because the Respondent felt Ms. Alexandra's
12 complaint letter was an "inartfully" drafted request for reconsideration. (Hearing
13 Transcript pp. 523, line 25 – 524 line 1-5)

14 40. The Respondent interpreted the reference to the phrase "official
15 complaint" contained in Ms. Alexandra's letter, as notice that a "formal complaint"
16 had been made to the Commission on Judicial Conduct and that by her entering on
17 September 13, 2007, an order reversing her previous court finding of September 7,
18 2007, the Respondent claimed that she was not thereby attempting to influence the
19 grievant in any way nor did she believe that her response would affect a complaint
20 already filed with the Commission.
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22 41. Based upon the Respondent's apology, Ms. Alexandra wrote a letter
23 to the Commission dated October 17, 2007, requesting the complaint made against
24 the Respondent be retracted. (Exhibit 508)

25 42. Although evidence of the above described sequence further
26 establishes the Respondent's misconduct and violation of the Canons under Count
27 One, it does not establish by clear, cogent, and convincing evidence that the
28 Respondent attempted to influence a potential witness in a Commission proceeding
29 nor use or appear to use her authority to serve her private interests contrary to the
30 Canons as pleaded in Count Two.

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CONCLUSIONS OF LAW

1. The Commission on Judicial Conduct determines by clear, cogent and convincing evidence that under Count One of the Statement of Charges, the Respondent has violated Canons 1, 2(A), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct (CJC). These sections of the code state:

Canon 1

Judges shall uphold the integrity and independence of the judiciary.

An independent and honorable judiciary is indispensable to justice in our society. **Judges should participate in establishing, maintaining and enforcing high standards of judicial conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved.** The provisions of this Code are to be construed and applied to further that objective.

Canon 2

Judges should avoid impropriety and the appearance of impropriety in all their activities.

(A) Judges should respect and comply with the law and **should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.**

Canon 3

Judges shall perform the duties of their office impartially and diligently.

The judicial duties of judges should take precedence over all other activities. Their judicial duties include all the duties of office prescribed by law. **In the performance of these duties, the following standards apply:**

(A) **Adjudicative Responsibilities.**

(3) **Judges should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom judges deal in**

1 initial and Amended Statement of Allegations served in February and April 2008
2 respectively, the Respondent's behavior and demeanor on the bench towards
3 litigants, witnesses, court personnel and attorneys continued to be intemperate,
4 impatient, undignified, and discourteous.

5 The Respondent maintains she has not violated the Canons; that the Canons
6 are hortatory and generally responds that her actions are necessary to complete her
7 duties as a District Court Judge within King County. Presumptively it is this
8 philosophy that supports her justification for the imprudent courtroom behavior
9 exhibited on multiple occasions.

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11 **B. The nature, extent and frequency of occurrence of the acts of**
12 **misconduct.**

13 The nature, extent and frequency of occurrence of the acts have been
14 significant and ongoing, even to the point that complaints continued up to the time
15 of hearing. The Respondent's pattern of intemperate, disrespectful, impatient, rude
16 and sarcastic remarks towards litigants, especially pro se litigants, as described by
17 those who work within her court is routine if not daily, as opposed to isolated and
18 infrequent. The Respondent describes herself as a "teacher," more precisely as a
19 "vice principal"; one who is tough and disciplines and is not liked. It is this image
20 she strives to maintain despite her acknowledgement in the 2005 Stipulation and
21 Agreement that continuation of her pattern of behavior threatens public confidence
22 in the integrity and impartiality of the judiciary.

23 **C. Whether the misconduct occurred in or out of the courtroom.**

24 The misconduct cited in Count One occurred within the courtroom.

25 **D. Whether the misconduct occurred in the Judge's official capacity**
26 **or in her private life.**

27 The misconduct occurred in the Judge's official capacity.

28 **E. Whether the Judge flagrantly and intentionally violated the oath**
29 **of office.**
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1 The Respondent did not flagrantly or intentionally violate her oath of office,
2 but by failing to act in a manner that promotes public confidence in the judiciary
3 and by failing to perform her adjudicative duties in a patient, dignified and
4 courteous manner she has failed to meet the high judicial standards necessary to
5 maintain judicial integrity before all members of the public who are legally
6 interested in a proceeding, or the right to be heard under the law.

7 **F. The nature and extent to which the acts of misconduct have been**
8 **injurious to other persons.**

9 The actions of the Respondent have diminished public confidence in the
10 integrity and impartiality of the judiciary. The Respondent's intemperate behavior
11 and lack of judicial demeanor, patience and understanding were so pervasive at
12 times that they denied the opportunity for litigants to be heard. In several cases the
13 Respondent denied litigants the opportunity to complete sentences, or present
14 testimony, because the litigants lacked the ability to express themselves in a manner
15 acceptable to the Respondent or the Respondent pre-determined that certain
16 evidence was not necessary. Attempt at sarcasm and humor, at the expense of
17 litigants who are inexperienced or uninformed, has diluted not only the expectation
18 of justice but the anticipation that justice can be attained. This is not the perception,
19 let alone the anticipation, that the Respondent should engender within those who
20 observe or come before her. Her negative courtroom demeanor surpassed the point
21 generally acceptable or needed to complete her duties and maintain control within
22 the courtroom.

23
24 **G. The extent to which the judge exploited the judge's official**
25 **capacity to satisfy personal desires.**

26 The Respondent sees herself as a "vice principal" who determines
27 responsibility, imposes punishment and is required to do so "in a stern, firm, tough
28 manner." The control she exhibits in court is a status she seems to cherish. By all
29 accounts the Respondent's treatment of individuals outside the courtroom is far
30 different than within the courtroom. Having listened to audio clips of individual

1 cases, followed in most instances by participating litigants, the Respondent often
2 seemed unable to direct her court without asserting her control, even if it entailed
3 the use of sarcasm or discourteous behavior.

4 **H. The effect the misconduct has upon the integrity of and respect**
5 **for the judiciary.**

6 Witnesses before the Commission testified that they left the Respondent
7 courtroom with little respect for the judiciary or the judicial process. They felt they
8 did not have the opportunity to present their case; that they were scolded,
9 intimidated, mistreated and threatened that their case would be decided, not upon
10 the facts, but upon how they responded to the Respondent. Some litigants gave up
11 because of interruption and intimidation.
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13 In one case a witness was told that her credibility had plummeted not based
14 upon her testimony, but because she was talking when the opposing party was
15 testifying. She was told "your credibility just plummeted, don't do that again" if
16 she spoke when the other side was giving testimony. The evidence supports
17 frequent abuse of power and position against inexperienced litigants who
18 questioned the Respondent or failed to present evidence in a manner satisfactory to
19 the Respondent.

20 There was more than one litigant who took the time to observe a separate
21 District Court proceeding in advance of appearing before the Respondent, only to
22 leave the Respondent's courtroom after their hearing, totally disenchanted with the
23 judicial system, having been interrupted, corrected and told what evidence would be
24 listened to and what evidence was unacceptable, before the Respondent was fully
25 aware of the nature or importance of the evidence to be presented. A number of
26 witnesses including litigants, attorneys, and observers, expressed the adverse effects
27 upon them when they appeared before the Respondent and their resultant perception
28 of judges.
29

30 **I. Whether the Judge has acknowledged or recognized that the acts**
occurred.

1 The Respondent has acknowledged that the acts occurred and that the words
2 recited in both the audio clips and transcripts were hers. She, however, asserts, in
3 general, that given the nature of her position and duties arising from that position
4 including the “culture of the court in King County, the amount of work load and the
5 constraints of the protocols and prose from the Office of Presiding Judge” that her
6 failings are “de minimus.” Acknowledging periods of impatience and discourteous
7 behavior or times that she is not “at her best” she sees this behavior as necessary to
8 perform her duties and to be a “teacher.”

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10 **J. Whether the Judge has evidenced an effort to change or modify**
11 **her conduct.**

12 In writing, the Respondent has indicated her desire to modify her behavior
13 but in practice, despite prior discipline and undergoing behavioral therapy, the same
14 or similar behavior continues to occur on a frequent if not daily basis. The sum and
15 substance of her current testimony appear to confirm that despite stipulating to past
16 discipline, she was not convinced that she needed to modify her behavior.

17 **K. The Judge’s length of service in a judicial capacity.**

18 The Respondent has served for approximately 16 years as a judge. This
19 length of time under these circumstances does not mitigate the seriousness of the
20 Respondent’s behavior. Given the length of time on the bench it is expected that the
21 Respondent would be better able to employ acceptable courtroom behavior in
22 completing her duties. “Courts can be efficient and businesslike while being
23 patient and deliberate.” (Comment to Canon 3(A)(4))

24 **L. Whether there has been prior disciplinary action concerning the**
25 **Judge.**

26 Respondent has previously been subject to discipline by way of a Stipulation
27 and Agreement to Reprimand in January 2005. As part of the Stipulation
28 Respondent agreed to participate in ethics training, to promptly read and familiarize
29 herself with the Code of Conduct in its entirety, to participate in behavioral therapy
30 and not repeat such conduct in the future “mindful of the potential threat any

1 repetition of her conduct poses to public confidence in the integrity and impartiality
2 of the judiciary and to the administration of justice.” (Emphasis added) The
3 Respondent has violated the requirement of not repeating such conduct in the
4 future. Respondent’s failure to treat litigants with respect, dignity, understanding,
5 patience, and with courtesy has diminished public confidence in the integrity and
6 impartiality of the judiciary. Even those who work with her in her courtroom on a
7 regular basis, attest to the fact they are embarrassed not only for themselves but for
8 those who come before the Respondent.

9
10 **M. Whether the judge cooperated with the Commission investigation**
11 **and proceeding.**

12 The Respondent cooperated with the Commission in the investigation and
13 proceeding.

14 **N. Additional factors the CJC believes are relevant.**

15 The Commission acknowledges that judicial duties are challenging, and for
16 that reason not every transgression requires disciplinary action. But where the
17 misconduct of a judge becomes routine then it is incumbent upon the Commission
18 to investigate and, if warranted, issue a Statement of Charges.

19 The Commission is most distressed by the Respondent repeating behavior
20 that was the subject of a previous discipline. Even more distressing is the
21 explanation, now given by the Respondent, for her agreeing to discipline in January
22 2005. Respondent suggests that it was an agreement of convenience. Before her
23 2005 discipline, the Respondent unilaterally sought professional assistance to
24 modify or at least monitor her behavior. Unfortunately the Respondent has
25 continued her previous behavior.

26 The Respondent points to her caseload as the reason for her intemperance.
27 Aside from a general assertion as to the number of cases that might have been heard
28 over a period of time, there is no evidence to establish on the days cited in the
29 Statement of Allegations that her docket was excessive or beyond capacity. In at
30 least two cases cited she allocated significant time for review and testimony, but on

1 those occasions her behavior and the treatment of the litigants were beyond the
2 bounds of dignity, courteousness and patience.

3 There is no bright line that the law provides in these circumstances.

4 However, considering the evidence, the Commission concludes that the
5 Respondent, on a routine basis, engaged in impatient, rude, discourteous and
6 undignified behavior towards litigants, lawyers and others who appeared before her.
7 Although the Respondent has a duty to maintain order and decorum in her
8 courtroom and should require that litigants, lawyers and staff maintain courtesy and
9 dignity, there was no evidence that any of the litigants, attorneys or court staff were
10 impolite, abusive or out of order in referencing or directing their attention to the
11 Respondent. Although the primary duty of a judge is to hear and decide all
12 proceedings fairly, and to allow every person who is legally interested in the
13 proceeding the right to be heard in accordance with the law, this obligation is not
14 inconsistent with treating those who come before the trier of fact in a professional,
15 courteous and dignified manner.
16

17 18 **CONCLUSION**

19 Based upon the Respondent's (1) persistent and repetitive pattern and
20 history of behavior violating the Canons, impacting the integrity of the judiciary;
21 (2) failure to modify her conduct despite her earlier acknowledgement of
22 unprofessional behavior and her recognition that her behavior towards litigants
23 needed to be modified; and (3) failure to recognize that her courtroom behavior and
24 demeanor constitute a threat to public confidence in the integrity and impartiality of
25 the judiciary and the administration of justice, the Commission imposes the sanction
26 of censure and recommends to the Washington Supreme Court that the
27 Respondent be suspended for 90 days without pay. In light of the Respondent's
28 current conviction that the Canons are advisory and that her courtroom behavior is
29 not in violation of the Canons, it is the Commission's opinion that further
30 behavioral therapy or counseling will be of little assistance absent the Respondent's

1 acknowledgement that her behavior as described above does not meet the high
2 standard of judicial conduct required and until she has a resolve to change.

3 DATED this _____ day of March, 2009.

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7 JOSEPH G. BELL

Wanda Briggs
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10 WANDA BRIGGS

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MARIANNE CONNELLY

Wayne Ehlers
WAYNE EHLERS

CANDACE KALISH

HUBERT G. LOCKE

See attached dissenting opinion
JOHN A. MCCARTHY,

TOM L. MORRIS

Michael J. Pontarolo
MICHAEL J. PONTAROLO