

FILED
MAY - 7 2009
COMMISSION ON JUDICIAL CONDUCT

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON**

In re the matter of

CJC No. 5198-F-136

The Honorable Judith R. Eiler
Judge, King County District Court

DISCIPLINARY COUNSEL'S RESPONSE
TO RESPONDENT'S MOTION FOR
RECONSIDERATION

I. INTRODUCTION

A Hearing Panel of the Commission on Judicial Conduct heard and considered testimony and argument in this matter over the course of four days in November 2008. Following deliberation, the panel issued its decision on April 10, 2009. Respondent now asks the panel to reconsider its decision recommending that Respondent be suspended without pay for ninety days. Respondent's request is entirely inappropriate given the Commission's findings. Accordingly, Respondent's motion should be denied.

II. STATEMENT OF FACTS

Disciplinary Counsel incorporates the Findings of Fact from the Commission Decision. Respondent's motion does not dispute any of those facts. Accordingly, the Commission's Findings of Fact should be viewed as undisputed for purposes of this motion.

1 Respondent. In fact, the clerks both testified that they liked Respondent personally,
2 confirming a complete lack of personal bias against her. The reality is that Respondent failed
3 to show that any of these witnesses were biased against her for any reason, other than her
4 treatment of persons appearing in her courtroom.

5 **C. Respondent Previously Stipulated That Conduct of This Nature Violated**
6 **the Code of Judicial Conduct.**

7 Respondent's current reading of the Code fails to acknowledge or address a key
8 consideration affecting the level of appropriate sanction in this matter: she had previously
9 stipulated that conduct of this nature violated the Code. As the Commission Decision points
10 out in its Decision, Respondent had previously agreed that intimidating and demeaning
11 behavior cited in CJC No. 4148-F-116 violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4)
12 of the Code. Commission Decision at 2. She agreed in the prior matter that she had abused
13 her authority and undermined the public confidence in the judiciary. *Id.* She promised not to
14 engage in that type of behavior again. *Id.*

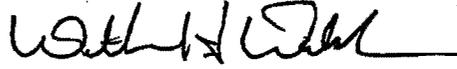
15 **D. Respondent's Proposed Sanctions Are Not Reasonable.**

16 During the hearing, the Panel deserved to hear some credible reassurance that Respondent
17 had truly learned her lesson and would not engage in this type of misconduct again. However,
18 Respondent offered no apologies and no reassurances of any kind. Instead, Respondent minimized
19 her conduct and mischaracterized virtually every fact in an effort to avoid the consequences of her
20 actions. The conclusion was – and remains – unmistakable: Respondent has no intention to
21 meaningfully change her abusive judicial approach.

22 Respondent suggests she be put on three months' paid vacation (i.e., paid suspension) as
23 "punishment" for her misconduct. The fact that Respondent would even suggest such a thing
24 raises serious concerns about her view of the Commission's Decision and its affect on her future
25 conduct.

1 Respondent's motion to reconsider and proposed alternative sanctions should be rejected.

2 Respectfully submitted this 7th day of May, 2009.

3 

4 William H. Walsh, WSBA No. 21911
5 Disciplinary Counsel

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

