

FILED  
MAY 14 2010  
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

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In Re the Matter of:  
The Honorable Toni A. Sheldon,  
Judge of the Mason County  
Superior Court

CJC No. 6084-F-146

**STIPULATION, AGREEMENT  
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and the Honorable Toni A. Sheldon, Judge of the Mason County Superior Court, stipulate and agree as follows.

This stipulation is submitted pursuant to Commission on Judicial Conduct Rule of Procedure 23 and shall not have any effect until approved by the Washington Commission on Judicial Conduct.

**STIPULATED FACTS**

1. The Honorable Toni A. Sheldon, Respondent, is now, and was at all times referred to herein, a Mason County Superior Court Judge. Respondent has served in that capacity since 1992.

2. On January 20, 2009, Respondent presided over a one day trial in an unlawful detainer action, Mason County Superior Court case number 08-2-00394-2. The matter was submitted for a decision on February 2, 2009. Respondent issued an oral ruling 136 days later, on June 18, 2009. (A written judgment and decree was entered on July 23, 2009.)

3. On May 21, 2009, the Commission received a complaint concerning Respondent's failure to render a decision in the above-referenced case. Following an independent preliminary investigation into the allegation of the complaint, the Commission determined to commence initial disciplinary proceedings on August 25, 2009, by serving Respondent with a Statement of Allegations. The Statement of

1 Allegations alleged Respondent failed to render a decision in case number 08-2-00394-  
2 2 in a timely manner, and thus failed to dispose promptly of the business of the court  
3 in violation of Canons 1, 2(A) and 3(A)(6) of the Code of Judicial Conduct.

4 4. Respondent, through counsel, answered the Statement of Allegations on  
5 September 24, 2009. Respondent acknowledged the facts as set forth in this stipulation.  
6 She explained that, during the relevant times of this complaint, her workload had  
7 temporarily increased due to the retirement of her benchmate.<sup>1</sup> She also identified  
8 particular stresses and circumstances in her personal life that contributed to this  
9 situation. She wrote that she was dealing with those issues and was "committed to  
10 getting back on track with her court calendar and not having any additional delays in  
11 rendering decisions." To that end, Respondent disclosed other potential cases of  
12 decisional delay. One of these self-reported matters, upon further investigation, appears  
13 to have transgressed the Code. Respondent presided over a habeas corpus proceeding  
14 in case 08-2-01087-6 which was submitted for a decision on February 9, 2009. Her  
15 decision in that case was not filed until August 21, 2009.

16 5. The time Respondent took to issue decisions in the two cases identified  
17 above exceeded the limits established by RCW 2.08.240 and Washington Constitution,  
18 article IV, section 20.<sup>2</sup>

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21 1/ In support of this statement, Respondent requested the Commission consider the attached  
22 chart derived from the Administrative Office of the Court's annual caseload reports.

23 2/ The Washington Constitution, art. 4, sec. 20 provides, "Every cause submitted to a judge  
24 of a superior court for his decision shall be decided by him within ninety days from the submission  
25 thereof; Provided, That if within said period of ninety days a rehearing shall have been ordered, then  
26 the period within which he is to decide shall commence at the time the cause is submitted upon such  
27 rehearing."

28 RCW 2.08.240 uses nearly identical language and provides, "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 failure of any such judge so to do, he shall be  
deemed to have forfeited his office."

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**AGREEMENT**

1. Based upon the stipulated facts, Respondent agrees she violated Canons 1, 2(A) and 3(A)(6) of the Code of Judicial Conduct by failing to timely decide two matters over which she presided. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety in all their activities. Canon 3(A)(6) requires judges to “dispose promptly of the business of the court.” As to superior court judges, the requirement to dispose of matters “promptly” is generally defined by reference to constitutional and statutory provisions which require superior court judges to decide each case submitted for a decision within ninety days.

2. Respondent and the Commission agree that the appropriate level of discipline to impose in this matter is a written reprimand as described in RCW 2.64.010(6) and in the Terminology section of the CJCRP.

3. In determining the appropriate level of discipline, the Commission considers the factors set out in CJCRP 6(c). The nature of this type of misconduct – decisional delay – is inherently problematic because it potentially deprives litigants of timely justice, which often cannot be remedied through the appellate process. Accordingly, the Commission vigilantly enforces Canon 3(A)(6). In addition, Respondent has acknowledged more than one instance of delay in this current disciplinary matter, and significantly, she has been previously sanctioned for an instance of decisional delay.<sup>3</sup> In mitigation, Respondent is generally recognized as a conscientious jurist. She has disclosed compelling personal circumstances she experienced that were not of her making, but which contributed to these delays. She has also provided assurances to the Commission that she has addressed these circumstances adequately to avoid repetition. While, as noted, this was not an isolated instance of delay, the amount of delay from the

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3/ See, Stipulation, Agreement and Order of Admonishment, CJC No. 3654-F-97 (2002).

1 date the subject cases were ripe for a decision until the decisions were rendered was  
2 relatively modest, and the parties were not particularly prejudiced by the dilatory  
3 decisions. In addition, Respondent has cooperated fully with the Commission in this  
4 matter. Her forthright response to this proceeding and her express recognition of the  
5 problematic nature of this misconduct lend weight to her stated commitment to modify  
6 her behavior to avoid future transgressions of this type.

7 4. Respondent agrees that she will exercise caution to avoid repeating the  
8 violations in the future. She will diligently maintain a log of pending decisions so that  
9 cases close to their due date will be regularly brought to her attention.

10 5. Respondent agrees she will read the Code of Judicial Conduct in its  
11 entirety within two weeks of the date this stipulation is entered, and will certify in writing  
12 to the Commission that she has done so.

13 6. Respondent agrees further that she shall not engage in any retaliatory  
14 conduct with regard to any person known or suspected to have cooperated with the  
15 Commission or who was otherwise associated with this proceeding.

16 7. In accepting this stipulation, the Commission takes into account  
17 Respondent's cooperation with the Commission's investigation and her acknowledgment  
18 of the violations.

19 8. Respondent has been represented in these proceedings by attorney Anne  
20 Bremner. Respondent affirms she enters into this agreement after consultation with her  
21 attorney.

22 9. Respondent agrees that by entering into this Stipulation and Agreement  
23 she hereby waives her procedural rights and appeal rights pursuant to the Commission  
24 on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington  
25 State Constitution in this proceeding.

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Toni A. Sheldon

Honorable Toni A. Sheldon, Respondent

2-24-2010

Date

Anne M. Bremner

Anne M. Bremner  
Attorney for Respondent

3.18.2010

Date

J. Reiko Callner, Executive Director  
Commission on Judicial Conduct

Date

**ORDER OF REPRIMAND**

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby ORDERS, and Judge Toni A. Sheldon, Respondent, is hereby REPRIMANDED for violating Canons 1, 2(A) and 3(A)(6) of the Code of Judicial Conduct. Respondent shall fulfill the terms of the agreement as above set forth.

DATED this 14 day of MAY, 2010.

John W. Sleeter

John Sleeter, Chair  
Commission on Judicial Conduct

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Toni A. Sheldon  
Honorable Toni A. Sheldon, Respondent

2-24-2010  
Date

Anne M. Bremner  
Anne M. Bremner  
Attorney for Respondent

3-18-2010  
Date

J. Reiko Callner  
J. Reiko Callner, Executive Director  
Commission on Judicial Conduct

3-19-10  
Date

**ORDER OF REPRIMAND**

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DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
John Sleeter, Chair  
Commission on Judicial Conduct

County or Judicial District	Population by Year <sup>1</sup>	2007 Criminal Trials <sup>2</sup> / Filings w/o the Noncharges <sup>3</sup> / Trials/Filings %	2008 Criminal Trials <sup>4</sup> / Filings w/o the Noncharges <sup>5</sup> / Trials/Filings %	2009 Criminal Trials <sup>6</sup> / Filings w/o the Noncharges <sup>7</sup> / Trials/Filings %
Ferry/Stevens/ Pend Oreille (2 Judges)	2007 63,150 2008 64,200 2009 64,700	14 390 3.6%	18 405 4.4%	11 344 3.2%
Island/San Juan (2 Judges)	2007 94,300	12 330 3.6%		
Island (2 Judges)	2008 79,300 2009 80,300		14 331 4.2%	19 238 8.0%
Kittitas (2 Judges)	2007 38,300 2008 39,400 2009 39,900	6 292 2.1%	13 286 4.5%	14 269 5.2%
Mason (2 Judges)	2008 54,600 2008 56,300 2009 56,800	60 474 12.7%	74 459 16.1%	63 324 19.4%
Walla Walla (2 Judges)	2008 58,300 2008 58,600 2009 59,200	17 389 4.4%	21 409 5.1%	11 350 3.1%
Statewide (188 Judges)		2420 48,141 5.0%	2511 42,866 5.9%	2,259 37,861 6.0%

<sup>1</sup> Office of Financial Management, State of Washington: <http://www.ofm.wa.gov/pop/april1/default.asp>

<sup>2</sup> AOC, Superior Court 2007 Annual Caseload Report, page 31:  
<http://www.courts.wa.gov/caseload/content/archive/superior/Annual/atbls07.pdf>

<sup>3</sup> AOC, Superior Court 2007 Annual Caseload Report, page 41:  
<http://www.courts.wa.gov/caseload/content/archive/superior/Annual/atbls07.pdf>

<sup>4</sup> AOC, Superior Court 2008 Annual Caseload Report, page 31:  
<http://www.courts.wa.gov/caseload/content/archive/superior/Annual/atbls08.pdf>

<sup>5</sup> AOC, Superior Court 2008 Annual Caseload Report, page 41:  
<http://www.courts.wa.gov/caseload/content/archive/superior/Annual/atbls08.pdf>

<sup>6</sup> AOC, Superior Court January 2009 to December 2009 Year to Date Caseload Report, page 19:  
<http://www.courts.wa.gov/caseload/superior/vtd/dec2009vtd.pdf>

<sup>7</sup> AOC, Superior Court January 2009 to December 2009 Year to Date Caseload Report, page 23:  
<http://www.courts.wa.gov/caseload/superior/vtd/dec2009vtd.pdf>