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COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of
The Honorable John P. Wulle,
Judge of the Clark County Superior Court

No. 6707-F-154

STATEMENT OF CHARGES

Pursuant to authority granted in Washington State Constitution, Article IV, section 31, the Revised Code of Washington, Chapter 2.64, and the Commission on Judicial Conduct Rules of Procedure ("CJCRP"), 17(d)(4)(C), the Commission on Judicial Conduct orders this Statement of Charges filed alleging violations of the Code of Judicial Conduct by Judge John P. Wulle.

I. BACKGROUND

1. Judge John P. Wulle ("Respondent") is now, and was at all times referred to in this document, a Clark County Superior Court Judge.

2. Pursuant to CJCRP 17(c), after independently investigating reports concerning Respondent's courtroom demeanor, the Commission on Judicial Conduct initiated disciplinary proceedings against Respondent by serving him with a Statement of Allegations on July 24, 2011.

3. By a letter dated July 24, 2011, Respondent answered the Statement of Allegations.

4. On October 31, 2011, the Commission received an additional complaint regarding Respondent's courtroom demeanor during a hearing on October 25, 2011. Following investigation into this subsequent complaint, the Commission served Respondent with an Amended Statement of Allegations on December 5, 2011 and

1 invited his response.

2 5. Respondent has not filed with the Commission a response to the
3 Amended Statement of Allegations as of the date of the filing of this document.¹

4 6. Respondent has been previously sanctioned by the Commission for
5 engaging in discourteous, impatient and undignified behavior, and for using language
6 that reasonably appeared to manifest bias or prejudice, while attending a court-related
7 conference in his judicial capacity. See, Stipulation, Agreement and Order of Censure,
8 CJC 5202-F-133 (filed December 7, 2007), attached hereto.

9 7. At its executive session on the 10th day of February, 2012, the
10 Commission on Judicial Conduct made a finding that probable cause exists to believe
11 that the Respondent violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.8) of
12 the 2011 Code of Judicial Conduct, and/or violated Canons 1, 2(A), 3(A)(2) and 3(A)(3)
13 of the 1995 Code of Judicial Conduct.

14 15 **II. CONDUCT GIVING RISE TO CHARGES**

16 Respondent is charged with violating Canon 1 (Rules 1.1 and 1.2) and Canon
17 2 (Rule 2.8) of the 2011 Code of Judicial Conduct, and/or violating Canons 1, 2(A),
18 3(A)(2) and 3(A)(3) of the 1995 Code of Judicial Conduct. It is charged that
19 Respondent has failed to maintain order and decorum in proceedings over which he
20 has presided and has engaged in a pattern or practice of discourteous, impatient and
21 undignified behavior. Examples of such behaviors are demonstrated in, but not limited
22 to, the following proceedings: Cause No. 11-2-06639-1 (date of hearing October 25,
23 2011) concerning a petition for a protection order; Cause No. 10-8-01048-9 (date of
24

25
26 1/ CJCRP 17(d)(2) provides, "Within twenty-one days after the service of the notice to
27 respondent, respondent may file a written response admitting or denying the allegations with the
28 commission. Respondent shall personally review and sign any response. The proceedings will not
be delayed if there is no response or an insufficient response." Pursuant to CJCRP 17(d)(2),
Respondent's written response to the Amended Statement of Allegations was, therefore, due on or
before December 26, 2011.

1 hearing March 11, 2011) and Cause No. 10-8-00041-6 (date of hearing July 6, 2010)
2 both concerning juvenile matters; and Cause No. 07-1-01276-1 (date of hearing March
3 2, 2009) concerning a criminal sentencing hearing.
4

5 **III. BASIS FOR COMMISSION ACTION**

6 On February 10, 2012, the Commission determined that probable cause exists
7 to believe that Respondent has violated Canon 1 (Rules 1.1 and 1.2) and Canon 2
8 (Rule 2.8) of the 2011 Code of Judicial Conduct, and Canons 1, 2(A), 3(A)(2) and
9 3(A)(3) of the 1995 Code of Judicial Conduct. These sections of the 2011 Code state:
10

11 **CANON 1**

12 **A Judge shall uphold and promote the independence, integrity,**
13 **and impartiality of the judiciary, and shall avoid impropriety and**
14 **the appearance of impropriety.**

15 **Rule 1.1**

16 **Compliance with the Law**

17 A judge shall comply with the law, including the Code of Judicial Conduct.
18

19 **Rule 1.2**

20 **Promoting Confidence in the Judiciary**

21 A judge shall act at all times in a manner that promotes public confidence in the
22 independence, integrity, and impartiality of the judiciary, and shall avoid impropriety
23 and the appearance of impropriety.

24 **CANON 2**

25 **A Judge should perform the duties of judicial office**
26 **impartially, competently, and diligently.**

27 **Rule 2.8**

28 **Decorum, Demeanor, and Communication with Jurors**

- 1 (A) A judge shall require order and decorum in proceedings before the court.
- 2 (B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses,
- 3 lawyers, court staff, court officials, and others with whom the judge deals in an
- 4 official capacity, and shall require similar conduct of lawyers, court staff, court
- 5 officials, and others subject to the judge's direction and control.

6

7 Relevant sections of the 1995 - 2010 Code state:

8

9 **CANON 1**

10 **Judges shall uphold the integrity and**

11 **independence of the judiciary.**

12 An independent and honorable judiciary is indispensable to justice

13 in our society. Judges should participate in establishing, maintaining and

14 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.

15 **CANON 2**

16 **Judges should avoid impropriety and the appearance of impropriety**

17 **in all their activities.**

18 (A) Judges should respect and comply with the law and should

19 act at all times in a manner that promotes public confidence in the

integrity and impartiality of the judiciary.

20 **CANON 3**

21 **Judges shall perform the duties of their office**

22 **impartially and diligently.**

23 (A) Adjudicative Responsibilities.

24 ...

25 (2) Judges should maintain order and decorum in proceedings before

26 them.

27 (3) Judges should be patient, dignified and courteous to litigants, jurors,

28 witnesses, lawyers and others with whom judges deal in their official capacity, and

should require similar conduct of lawyers, and of the staff, court officials and others

1 subject to their direction and control.

2
3 **IV. RIGHT TO FILE A WRITTEN ANSWER**

4 In accordance with CJCRP 20, Respondent may file a written answer to this
5 Statement of Charges with the Commission and serve a copy on disciplinary
6 counsel within twenty-one (21) days after the date of service of the Statement of
7 Charges.

8 DATED this 10th day of February 2012.

10 COMMISSION ON JUDICIAL CONDUCT
11 OF THE STATE OF WASHINGTON

12
13 

14 J. Reiko Callner
15 Executive Director
16 P.O. Box 1817
17 Olympia, WA 98507

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of:

CJC No. 5202-F-133

The Honorable John P. Wulle,
Judge of the Clark County Superior Court

STIPULATION, AGREEMENT
AND ORDER OF CENSURE

The Washington Commission on Judicial Conduct ("Commission") and Judge John P. Wulle ("Respondent"), stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

I. STIPULATED FACTS

A. Jurisdiction and Procedural History.

1. Respondent is now, and was at all times referred to in this document, a Clark County Superior Court Judge.

2. On November 3, 2006, the Commission received a complaint concerning Respondent's conduct during a training conference he attended in July 2006. The Commission conducted an independent investigation of the allegations, determined sufficient evidence existed to support the complaint, and sent a Statement of Allegations to Respondent on February 8, 2007. The Statement of Allegations alleged Respondent, while attending the aforementioned conference in his official capacity, engaged in discourteous, impatient, and undignified behavior, and used language that reasonably appeared to manifest bias or prejudice.

3. Respondent answered the Statement of Allegations on February 18, 2007. In his answer, Respondent denied impropriety, explaining the specific comments and actions attributed to him, when considered in context, were innocuous and/or pertinent to the open and thoughtful discussions taking place during the conference. Respondent's answer concluded,

1 thoughtful discussions taking place during the conference. Respondent's answer concluded,
2 "Finally, it sickens and deeply troubles me to think that someone would interpret my words
3 or conduct as demeaning to others. I would never intentionally do that. From these allegations
4 I have learned that I cannot step out of my role as a judge even when I'm 2,000 miles from
5 home."

6 4. At its meeting on April 6, 2007, the Commission considered Respondent's
7 answer in light of the evidence obtained during the preliminary investigation and determined
8 to proceed in the initial proceedings phase of this disciplinary action. The Commission
9 promptly notified Respondent of its decision. Respondent, in turn, hired attorney Kurt Bulmer,
10 who entered his appearance on behalf of Respondent in this matter on May 22, 2007.

11 **B. Background**

12 1. In connection with its decision to establish a juvenile recovery court, the Clark
13 County Superior Court formed a juvenile recovery court team. This "team" consisted of eight
14 individuals representing entities integral to the implementation and operation of a juvenile
15 recovery court: a juvenile probation officer, a regional education official, a chemical
16 dependency treatment provider, the specialty court program manager, the juvenile court
17 administrator, a defense attorney, a prosecuting attorney, and a superior court judge.

18 2. The team attended a training conference, entitled "Planning Your Juvenile Drug
19 Court," held in Los Angeles July 24 - 28, 2006. The conference was sponsored and paid for
20 by the U.S. Department of Justice, Bureau of Justice Assistance and Office of Juvenile Justice
21 and Delinquency Prevention, in collaboration with the National Council of Juvenile and
22 Family Court Judges. The Clark County Superior Court applied to send the team to the
23 conference anticipating the training would be pertinent to its process of planning and
24 implementing a juvenile recovery court and to be in a position to receive federal grant money
25 for the specialty court.

26 3. Respondent attended the conference as the team's superior court judge
27 representative.

1 4. The format of the conference involved plenary presentations by conference
2 faculty, attended by juvenile recovery court teams from jurisdictions around the country. The
3 plenary sessions were followed by "breakout sessions" where individual teams would meet
4 separately to focus on specific topics, issues and strategies raised during the plenary session
5 or designed as part of the conference curriculum. Each team had a facilitator assigned from
6 the conference faculty, who remained with the team throughout the conference. The
7 facilitator's role was to guide the group and keep its discussion focused, and to facilitate
8 completion of required work assignments.

9 **C. Specific Instances of Inappropriate Conduct**

10 1. Witnesses present at the conference attribute the following behavior and
11 comments to Respondent, which he accepts as accurate.

12 a. On two of the four days of the program, Respondent repeatedly
13 interrupted group discussion by using profanity and expletives to express his disapproval of
14 or indifference to pursuing federal funding for the Clark County Juvenile Recovery Court.

15 b. When the facilitator assigned to the Clark County team introduced
16 himself to the group during the first breakout session, he noted he was from San Francisco, a
17 city he characterized as very liberal and litigious. Respondent interjected, "Yeah, and very
18 gay." Members of the team found Respondent's comment to be inappropriate because it was
19 gratuitous and seemed to be directed at the facilitator.

20 c. During the same session, the facilitator mentioned he was required to
21 conduct a follow-up visit with the team in Clark County. In response to the facilitator's
22 comment, Respondent questioned out loud whether the facilitator, who is African American,
23 would be welcomed or allowed in Vancouver, suggesting the community was "awfully white"
24 and alluding to the term "BIV." (In this context, "BIV" was meant as an acronym for "black
25 in Vancouver," which is locally understood by some to refer to perceived problems historically
26 associated with racial profiling in Vancouver.)

27 d. Later in the week, during a break in the conference, other faculty
28

1 members asked Respondent who Clark County's facilitator was, and he answered, "the black
2 gay guy."

3 e. During a breakout session, the team's facilitator wrote a star on an
4 assignment the team completed and said jokingly, "Clark County gets a star." Respondent
5 replied, "I don't need a star, I'm not a Jew."

6 f. A team member asked Respondent to lower his voice during a plenary
7 session, and he acknowledged the request by raising his middle finger at the team member.

8 g. During a breakout session on the fourth day of the conference,
9 Respondent became frustrated with the pace or direction of discussion and announced it was
10 time for the group to move on to the next topic. A fellow team member spoke up, "No judge,
11 this is important, we need to work through this," or words to that effect. In response to this
12 seemingly respectful entreaty, Respondent angrily yelled, "F - - - you!" and threw his pen
13 down on a table and left the room. Members of the team said they were shocked by this
14 unjustified "outburst." When Respondent returned to the group, he did not apologize, but
15 rather sat in the back of the room and did not engage in any further discussion with the group
16 during that session.

17 2. Several witnesses present at the conference during the incident described in
18 paragraph I(C)(1)(g), immediately above, noted they smelled an odor of alcohol emanating
19 from Respondent. Respondent denies consuming alcohol at any time during the conference.
20 He recalls suffering from a cold and taking cough syrup, and suggests the odor from the cough
21 syrup may have been misconstrued as an odor of alcohol. The parties agree that the factual
22 dispute over this issue does not materially affect the facts conceded by Respondent, recited
23 above.

24 II. AGREEMENT

25 A. Respondent's Conduct Violated the Code of Judicial Conduct.

26 1. Respondent agrees the totality of his conduct, described above, violated Canons
27 1, 2(A), and 3(A)(3) of the Code of Judicial Conduct.

1 2. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary by
2 avoiding impropriety and the appearance of impropriety and by acting at all times in a manner
3 that promotes public confidence in the integrity and impartiality of the judiciary. Canon
4 3(A)(3) requires judges to be patient, dignified and courteous to all persons with whom they
5 deal in their official capacity.

6 3. Because of the special position judges hold in society – as standard bearers of
7 fairness and impartiality – a judge’s conduct of personal behavior must, at all times, be above
8 reproach: “By accepting his office, a judge undertakes to conduct himself in both his official
9 and personal behavior in accordance with the highest standard that society can expect.”¹
10 Respondent’s conduct fell short of this standard. Abusive verbal confrontation, repeated use
11 of profanity, and misguided attempts at humor is undisciplined conduct unbecoming a judge
12 in any setting, and is particularly inappropriate in a professional one. Respondent’s behavior
13 as described herein violated the Code of Judicial Conduct because it was undignified,
14 discourteous and impatient, created the appearance Respondent is biased or prejudiced, and
15 thus undermined public confidence in his integrity and impartiality.

16 **B. A Censure is the Appropriate Sanction for Respondent’s Misconduct.**

17 1. The sanction imposed by the Commission must be commensurate to the level
18 of Respondent’s culpability, sufficient to restore and maintain the public’s confidence in the
19 integrity of the judiciary, and sufficient to deter similar acts of misconduct in the future.

20 2. In determining the appropriate level of discipline to impose, the Commission
21 considers the aggravating and mitigating factors set out in Rule 6(c) of its Rules of Procedure.

22 a. Characteristics of the Misconduct.

23 While Respondent’s actions occurred outside the courtroom, they occurred while he
24 was engaged in his official capacity representing the Clark County Superior Court at a national
25

26 1/ *In the Matter of Turco*, 137 Wn.2d 227, 243 (1999) (quoting *Cincinnati Bar Ass’n v. Heitzler*, 32
27 Ohio St.2d 214 (1972).

1 conference. His actions not only reflected poorly on himself, but also on his fellow team
2 members, his court, Clark County and the State of Washington. Respondent's inappropriate
3 behavior significantly undermined the team's respect for him. Witnesses at the conference
4 variously described his actions as embarrassing, demeaning, offensive and shocking. Several
5 team members discussed Respondent's problematic behavior with their colleagues and
6 supervisors when they returned from the conference, further eroding public regard for him and
7 the judiciary. Respondent's actions were also reported to the agencies sponsoring the
8 conference.

9 In mitigation, Respondent's conduct appears to have been an aberration. He believes
10 the conduct occurred as a result of his misguided attempts to fit in with the team and/or be
11 humorous. Witnesses familiar with Respondent described his behavior at the conference as
12 being out of character. These witnesses do not believe Respondent to be racist, homophobic
13 or anti-Semitic. Respondent's reputation is generally that of a thoughtful jurist. There is no
14 indication that Respondent exploited his judicial position to satisfy personal desires.
15 Respondent maintains that he did not intend to offend or demean anyone.

16 b. Service and Demeanor of Respondent.

17 Respondent has been a judicial officer for 10 years and has had no prior disciplinary
18 sanctions imposed against him. On the other hand, the remaining factors the Commission must
19 consider support an aggravated sanction. Respondent has failed to demonstrate an appreciation
20 for the seriousness of his actions. Respondent has never apologized for his actions. At the
21 conference, he was approached by several people who expressed concern about his behavior
22 and he simply dismissed their concerns, minimized his responsibility or blamed others for the
23 situation. Several team members, in fact, expressed that what they found most troubling about
24 Respondent's actions was his apparent lack of personal insight regarding the imprudence of
25 his speech and behavior. Respondent was equally dismissive of concerns about his conduct
26 when approached after the conference by his colleagues on the court. When the Commission
27 contacted him, Respondent answered the Statement of Allegations by questioning how anyone

1 could interpret his words or conduct as demeaning to others. In addition, Respondent's answer
2 proved to contain several inaccurate or evasive statements. For instance, Respondent wrote
3 that he apologized for yelling at his fellow team member, when he did not. He claimed his
4 reference to "BIV" was in the context of a discussion on cultural competency, when it was not.
5 He wrote that his observation about San Francisco having a large gay community was made
6 when the facilitator was out of the room. It was not. At a minimum, Respondent's initial
7 response to the Commission demonstrates his lack of insight into his own behavior and a
8 failure to appreciate the requirement that his answers to the Commission must be complete and
9 accurate. From the Commission's perspective, any failure to be forthright with the
10 Commission threatens the integrity of this disciplinary process and is a serious aggravating
11 factor.

12 3. Based upon the stipulated facts, upon consideration and balancing of the above
13 factors, Respondent and the Commission agree that Respondent's stipulated misconduct shall
14 be sanctioned by the imposition of a censure. A "censure" is a written action of the
15 Commission that requires Respondent to appear personally before the Commission and that
16 finds that conduct of the respondent violates a rule of judicial conduct, detrimentally affects
17 the integrity of the judiciary, and undermines public confidence in the administration of justice.
18 A censure may or may not include a recommendation to the supreme court that the respondent
19 be suspended (with or without pay) or removed. A suspension is not recommended in this
20 matter. A censure shall include a requirement that the respondent follow a specified corrective
21 course of action. Censure is the most severe disciplinary action the Commission can issue.

22 4. Respondent agrees to complete the following remedial measures.

23 a.) Within two years of the acceptance and filing of this stipulation,
24 Respondent shall take ten hours of courses in judicial ethics, at his own expense. The courses
25 are to be approved in advance by the Chair of the Commission or her designate.

26 b.) Within three months of the acceptance and filing of this stipulation,
27 Respondent will obtain a drug and alcohol evaluation by a counselor approved in advance by
28 STIPULATION, AGREEMENT AND ORDER OF CENSURE - 7

1 the Chair of the Commission or her designee. Commission staff shall have access to the
2 counselor in order to provide information from witnesses to the incidents that gave rise to this
3 case, in addition to information from Respondent. If a course of treatment is recommended
4 by the counselor, Respondent shall promptly enter into compliance with a treatment program,
5 approved in advance by the evaluator and by the Chair of the Commission or her designee, and
6 show proof of completion or good faith progress towards completion, as defined by the
7 treatment provider, within two years of the date of entry of this stipulation. If a course of
8 treatment is recommended, Respondent shall ensure that progress reports are submitted by the
9 treatment provider to the Commission every six months.

10 c.) Within one year of the acceptance and filing of this stipulation,
11 Respondent shall attend and complete, at his own expense, at least seven hours in one or more
12 programs on racial, religious, sexual orientation, and diversity training. The course or courses
13 are to be approved in advance by the Chair of the Commission or her designee, and are to
14 address how Respondent's behavior embarrassed and offended those witnessing it and his own
15 lack of insight into that behavior.

16 Standard Additional Terms of Commission Stipulation

17 5. Respondent further agrees he will not retaliate, or appear to retaliate, against
18 any person known or suspected to have cooperated with the Commission, or otherwise
19 associated with this matter.

20 6. Respondent agrees he will not repeat such conduct in the future, mindful of the
21 potential threat any repetition of his conduct poses to public confidence in the integrity and
22 impartiality of the judiciary and to the administration of justice.

23 7. Respondent agrees he will promptly read and familiarize himself with the Code
24 of Judicial Conduct in its entirety.

25 8. Respondent is represented in these proceedings, and enters into this stipulation
26 after consultation with his counsel.

27 9. Respondent agrees that by entering into this stipulation and agreement he
28 STIPULATION, AGREEMENT AND ORDER OF CENSURE - 8

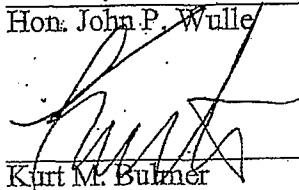
1 Rules of Procedure and Article IV, Section 31 of the Washington State Constitution in this
2 proceeding.

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5 Hon. John P. Wulle

10-12-07

Date

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8 Kurt M. Bulmer
9 Attorney for Respondent

10/25/07

Date

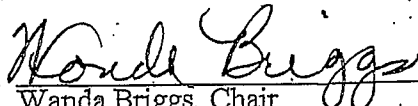
10 J. Reiko Callner
11 Executive Director
12 Commission on Judicial Conduct

Date

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14 **ORDER OF CENSURE**

15 Based on the above Stipulation and Agreement, the Commission on Judicial Conduct
16 hereby orders Respondent, Judge John P. Wulle, censured for the above set forth violations of
17 the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and
18 shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.
19

20 DATED this 7th day of December, 2007

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22
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24 Wanda Briggs, Chair
25 Commission on Judicial Conduct
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1 Rules of Procedure and Article IV, Section 31 of the Washington State Constitution in this
2 proceeding.

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5 Hon. John P. Wulle

Date

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7
8 Kurt M. Bulmer
Attorney for Respondent

Date

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10 J. Reiko Callner
11 J. Reiko Callner
Executive Director
Commission on Judicial Conduct

10 - 16 - 07
Date

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14 **ORDER OF CENSURE**

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19
20 DATED this 7th day of December, 2007

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23 Wanda Briggs
24 Wanda Briggs, Chair
Commission on Judicial Conduct