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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 Hon. Bonnie Canada-Thurston
Commissioner of the
King County Superior Court

CJC No. 7707-F-167

**STIPULATION, AGREEMENT
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct ("Commission") and King County Superior Court Commissioner Bonnie Canada-Thurston ("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.

The Commission is represented in these proceedings by Disciplinary Counsel Paul Taylor. Respondent is represented by Attorney Sheryl Willert.

I. STIPULATED FACTS

1. Respondent is now, and was at all times referred to in this document, a Commissioner of the King County Superior Court. She has served in that capacity since 1992.

2. The Commission initiated this instant disciplinary proceeding against Respondent following an investigation of a complaint alleging Respondent repeatedly interrupted, yelled and attempted to intimidate an attorney during the course of a hearing that occurred on July 31, 2014. The Commission served Respondent with a Statement of Allegations on August 5, 2015, alleging Respondent violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.6(A) and 2.8(B)) of the Code of Judicial Conduct by "engaging in impatient, intimidating and discourteous conduct toward litigants and lawyers [that] prevented the parties from being fully and fairly heard." By way of example, the

1 Commission identified five hearings alleged to illustrate such intemperate behavior. The
2 hearings occurred on July 31, 2014 (Cause Number 08-3-06041-5), concerning a petition
3 for child custody modification; September 26, 2014 (Cause Number 11-3-04057-4),
4 concerning enforcement of a parenting plan provision; October 7, 2014 (Cause Number
5 12-3-02459-0), concerning temporary child support; October 9, 2014 (Cause Numbers
6 14-3-04572-1), concerning a restraining order in a dissolution case; and October 9, 2014
7 (Cause Number 14-2-26621-9); concerning a petition for a domestic violence restraining
8 order where both parties were unrepresented. An audio/video recording excerpt of the July
9 31, 2014, hearing is attached to this stipulation for illustrative purposes.

10 3. The Commission previously sanctioned Respondent for demeanor in 2005.
11 (See *In re Hon. Canada-Thurston*, CJC No. 4389-F-120 (Stipulation, Agreement and Order
12 of Admonishment, filed September 9, 2005).) In that stipulation, Respondent agreed that
13 in four different proceedings, her demeanor "could reasonably be perceived as intimidating
14 or impatient" and "by her conduct, [she] created conditions such that the parties may at
15 times have been inhibited from fully and fairly presenting their positions." Respondent
16 further agreed that she would not repeat such conduct in the future, mindful of the potential
17 threat any repetition of her conduct posed to public confidence in the integrity and
18 impartiality of the judiciary and to the administration of justice.

19 4. Respondent answered the current Statement of Allegations on August 27,
20 2015. In her answer, Respondent acknowledged her tone of voice was "very stern" in one
21 referenced hearing, but she initially denied violating the Code as alleged. She explained
22 that, given her court's caseloads, "it is essential to be efficient, firm and direct while still
23 letting people know they have been heard. I do not have a soft voice, in fact, there have
24 been occasions where my voice is all I have had to control a situation that may have gone
25 awry in my courtroom." Upon further reflection on the impact her demeanor had on those
26 who appeared before her, and after consultation with counsel, Respondent now agrees
27

1 she violated the Code in the manner set forth below.

2 **II. AGREEMENT**

3 **Respondent's Conduct Violated the Code of Judicial Conduct**

4 1. Respondent agrees that, as evidenced by the examples cited by the
5 Commission, she violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.6(A) and
6 2.8(B)) of the Code of Judicial Conduct by failing to treat all individuals appearing before
7 her in court with patience, courtesy and respect.

8 a. Rules 1.1 and 1.2 require judges to uphold the integrity of the judiciary
9 by avoiding impropriety and the appearance of impropriety and by acting at all times in a
10 manner that promotes public confidence in the independence, integrity and impartiality of
11 the judiciary.¹

12 b. Rules 2.6(A) and 2.8(B) require judges accord every person who has
13 a legal interest in a proceeding the right to be heard according to law, and mandates that
14 judges be patient, dignified and courteous to all persons with whom they deal in their
15 official capacity.²

16 2. Regularly interrupting litigants and attorneys and addressing them in an
17 unduly confrontational, loud and harsh manner violates these ethical provisions.
18 Discourteous and intolerant behavior erodes public confidence in the fairness and integrity
19 of the judicial system, and impairs the right of individuals to be fairly heard by intimidating
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21 ¹ Canon 1 of the Code of Judicial Conduct states that a judge shall uphold and promote the independence,
22 integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. Rule 1.1
23 specifies, "A judge shall comply with the law, including the Code of Judicial Conduct." Rule 1.2 provides, "A judge
shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of
the judiciary, and shall avoid impropriety and the appearance of impropriety."

24 ² Canon 2 expresses that "a judge should perform the duties of judicial office impartially, competently, and
25 diligently." Rule 2.6(A) specifies, "A judge shall accord to every person who has a legal interest in a proceeding,
26 or that person's lawyer, the right to be heard according to law." Rule 2.8(B) states, "A judge shall be patient, dignified
27 and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals
in an official capacity, and shall require similar conduct of lawyers, court staff, court officials and others subject to the
judge's direction and control."

1 or discouraging them from fully presenting their positions in court.³

2 3. The fact that judicial officers have an obligation to control their courtrooms
3 to minimize disruption of court proceedings does not give them license to berate or yell at
4 individuals they perceive to be non-responsive or less than forthright. As the Code
5 instructs, "Judges can be efficient and businesslike while being patient and deliberate."

6 4. Appropriate judicial demeanor plays an important role in the public's
7 perception of "justice." The judge sets the tone for the courtroom experience.
8 Discourteous and intolerant behavior by a judge in the courtroom erodes the public's
9 confidence in the quality of justice administered by that judge. The public is more likely to
10 respect and have confidence in the integrity and fairness of a judge's decision if the judge
11 is outwardly respectful, patient and dignified. Because of the power disparity between a
12 judge and others in the courtroom, berating a litigant or an attorney is an abuse of judicial
13 power.

14 **Imposition of Sanction**

15 1. The sanction imposed by the Commission must be commensurate to the
16 level of Respondent's culpability and must be sufficient to restore and maintain the dignity
17 and honor of the judicial position. The sanction should also seek to protect the public by
18 assuring that Respondent and other judges will refrain from similar acts of misconduct in
19 the future.

20 2. In determining the appropriate level of discipline to impose, the Commission
21 considers the factors set out in CJCRP 6(c).

22 A. Characteristics of Respondent's Misconduct. The nature of

23
24 ³ Respondent places uniform time limits for oral argument on each party who appears before her in order to
25 afford all who have matters pending can be heard. In her efforts to insure that the presenting parties have an
26 opportunity to be heard, Respondent acknowledges that she has interrupted litigants and their counsel in what she
27 now recognizes may be a misguided effort to direct the litigants to the issues which are pertinent and germane to
28 their arguments. Commissioner Canada-Thurston recognizes and agrees that her efforts to ensure that members of
the bar who are representing clients as well as non-represented litigants have an opportunity to present information
to the court that is germane to their contested matters has been perceived by some as discourteous and intolerant
behavior.

1 Respondent's misconduct is serious and represents a continuing pattern of intemperate,
2 disrespectful and injudicious behavior. The misconduct occurred in the courtroom, during
3 court proceedings, and while Respondent was acting in her official capacity. Contested
4 domestic relations matters tend to be especially fraught with emotion for the litigants. It is
5 especially concerning that, as a Family Law commissioner who regularly hears domestic
6 violence matters, Respondent's intemperance is at times directed toward, or witnessed
7 by, individuals who are particularly vulnerable to verbal abuse. On the other hand,
8 Respondent's misconduct is comparatively less egregious or flagrant than other judges
9 sanctioned at a higher level by the Commission for intemperance or indecorous demeanor.
10 Although Respondent is too often quick to take offense and to be confrontational, she has
11 not been and is not gratuitously harsh or discourteous, or personally insulting. Her
12 comments consistently relate to the matters before the court. Partly as a result of the
13 characteristics of her voice and method of projection, her manner of addressing attorneys
14 and litigants frequently sounds antagonistic, even when she is praising their work.
15 Respondent's actions appear to be motivated by her desire, not only to manage her docket
16 and control her courtroom, but also to ensure that she reaches the correct result under
17 the law for all parties that appear before her.

18 B. Service and Demeanor of Respondent. Respondent has been a
19 judicial officer for 24 years. The Commission's investigation reveals she is widely regarded
20 as a very competent and conscientious court commissioner. Her harsh demeanor,
21 however, often overshadows her otherwise sound legal decisions. As noted above,
22 Respondent was previously admonished in 2005 for similar behavior. She has cooperated
23 with the Commission's investigation. Although she initially denied impropriety in this
24 matter, upon reflection and consultation, Respondent now accepts that her demeanor,
25 objectively viewed, is at times injudicious as set forth in this agreement. By entering into
26 this stipulation in good faith and agreeing to take steps to correct and avoid inappropriate
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1 behavior in the future, the Commission has a basis to believe she will modify her conduct.

2 3. Based upon the stipulated facts, upon consideration and balancing of the
3 aggravating and mitigating factors and Respondent's desire to resolve this matter,
4 Respondent and the Commission agree that Respondent's stipulated misconduct shall be
5 sanctioned by the imposition of a "reprimand." A "reprimand" is a written action of the
6 Commission that requires a respondent to appear personally before the Commission and
7 that finds that the conduct of the respondent is a violation of the Code of Judicial Conduct
8 and does not require censure or a recommendation to the Supreme Court that the
9 respondent be suspended or removed. A reprimand shall include a requirement that the
10 respondent follow a specified corrective course of action. Reprimand is the intermediate
11 level of disciplinary action available to the Commission.

12 4. Respondent agrees that she will participate in ethics training focusing on
13 appropriate courtroom control, approved in advance by the Commission Chair or Chair
14 designate, at the National Judicial College, accredited law school or judicial seminar, or a
15 similar institution or program no later than one year from the date this stipulation is
16 accepted by the Commission. Respondent agrees she will complete such training (not at
17 Commission expense) and will certify the successful completion of such training in writing
18 within one year from the date this stipulation is accepted by the Commission.

19 5. Respondent agrees that she will not repeat such conduct in the future,
20 mindful of the potential threat any repetition of her conduct poses to public confidence in
21 the integrity and impartiality of the judiciary and to the administration of justice.

22 6. Respondent agrees that she will promptly read and familiarize herself with
23 the Code of Judicial Conduct in its entirety and provide written confirmation of that fact
24 within one month of the date this stipulation is accepted.

25 7. Respondent agrees that she will participate in behavioral coaching with an
26 emphasis on sensitivity training by a qualified behavioral modification professional,
27 approved in advance by the Commission Chair or the Chair's designate and not at

1 Commission expense, until such professional has certified, in writing, that such counseling
2 has accomplished positive changes and that in his/her opinion, the Respondent has the
3 competency to maintain these changes in the future.

4 Standard Additional Terms and Conditions

5 8. Respondent agrees that by entering into this stipulation and agreement, she
6 waives her procedural rights and appeal rights in this proceeding pursuant to the
7 Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the
8 Washington State Constitution.

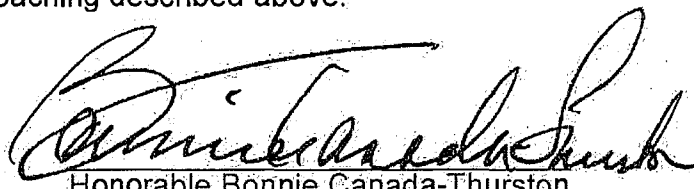
9 9. Respondent further agrees that she will not retaliate against any person
10 known or suspected to have cooperated with the Commission, or otherwise associated with
11 this matter. Both the respondent and the Commission agree that neither party will call the
12 behavior coach as a witness in any proceeding related to the Respondent's
13 compliance with this stipulation, except as to whether Respondent completed the coaching
14 described above?

15  3/4/2016
16 Honorable Bonnie Canada-Thurston Date
17 Respondent

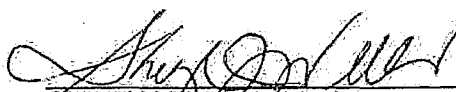
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19 Sheryl Willert Date
20 Attorney for Respondent

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22 Paul Taylor Date
23 Disciplinary Counsel for the
24 Commission on Judicial Conduct

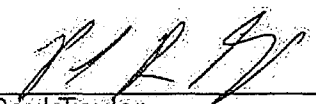
compliance with this stipulation, except as to whether Respondent completed the coaching described above.


Honorable Bonnie Canada-Thurston
Respondent

3/1/2016
Date


Sheryl Wilfert
Attorney for Respondent

2/29/16
Date

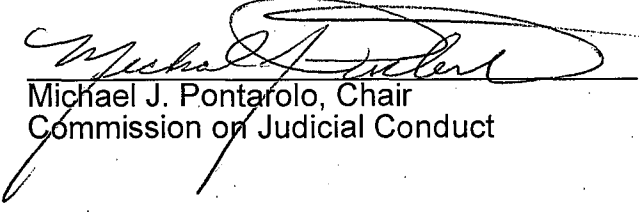

Paul Taylor
Disciplinary Counsel for the
Commission on Judicial Conduct

3/3/06
Date

ORDER OF REPRIMAND

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2 Based on the above Stipulation and Agreement, the Commission on Judicial
3 Conduct hereby orders Respondent, Bonnie Canada-Thurston, REPRIMANDED for the
4 above set forth violations of the Code of Judicial Conduct. Respondent shall not engage
5 in such conduct in the future and shall fulfill all of the terms of the Stipulation and
6 Agreement as set forth therein.

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8 DATED this 4th day of March, 2016

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12 Michael J. Pontarolo, Chair
13 Commission on Judicial Conduct
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