

JUL 15 2016

COMMISSION ON JUDICIAL CONDUCT

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

In re the Matter of:	)	
	)	CJC No. 7985-F-168
The Honorable Douglas G. Anderson,	)	
Commissioner Pro Tem of the	)	<b>STIPULATION, AGREEMENT</b>
Grant County Superior Court	)	<b>AND ORDER OF CENSURE</b>

The Washington State Commission on Judicial Conduct ("Commission") and Douglas G. Anderson, Commissioner Pro Tem for the Grant County Superior Court ("Respondent"), stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rules 1 and 23 of the Commission's Rules of Procedure.

**I. STIPULATED FACTS**

1. At all times referred to in this document, Respondent was acting in a judicial capacity as a pro tem court commissioner for the Grant County Superior Court. He has periodically served as a pro tem judicial officer since 2008.<sup>1</sup>

2. Respondent was scheduled to preside as a pro tem commissioner over a show cause hearing in the afternoon on January 2, 2015. The show cause hearing was to determine whether a temporary restraining order previously issued by a superior court judge in a paternity/custody case, *In re Parentage of LD* (Grant County Cause No. 14-3-00618-7), should remain in place pending the outcome of that case. The restraining order prohibited Kristen Jorgensen, the mother of the child at issue (L.D.), from removing L.D. from the State of Washington. Ms. Jorgensen had been served with the temporary restraining order and was

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<sup>1</sup> Respondent has been a practicing attorney in Grant County for approximately 20 years, currently in private practice.

1 required to be present for the show cause hearing.

2           3.       Shortly before the court's 1:30 afternoon calendar on January 2, 2015, Ms.  
3 Jorgensen's father, Kenneth Jorgensen, came to the superior courthouse and asked to speak with  
4 Respondent. Mr. Jorgensen retired as a Grant County Superior Court Judge in 2009. He and  
5 Respondent have known each other for several years in mostly a professional capacity – they  
6 are affiliated with the same church, but belong to congregations in different towns, and  
7 Respondent appeared as a lawyer in court before former Judge Jorgensen many times and  
8 served as an appointed pro tem judicial officer when former Judge Jorgensen was a sitting judge  
9 on the court. Respondent agreed to meet with Mr. Jorgensen, and the two spoke privately for  
10 approximately five minutes in the commissioner's office. In responding to the Commission's  
11 preliminary inquiries, Respondent stated that when he agreed to speak in chambers with retired  
12 Judge Jorgensen on January 2, 2015, he “did not associate him with the name Jorgensen on the  
13 docket for that afternoon” and that the two “did not discuss the case at all” other than to note  
14 that it was on the court's afternoon docket.

15           4.       At approximately 3 p.m. on January 2, 2015, Respondent presided over the show  
16 cause hearing in *In re Parentage of LD*. At the hearing, the petitioner (L.D.'s father) was  
17 present and was unrepresented. Kristen Jorgensen did not appear for the hearing.<sup>2</sup> Retired  
18 Judge Kenneth Jorgensen, however, was present in the courtroom. Even though Mr. Jorgensen  
19 was neither a currently licensed attorney nor a party to the proceeding, Respondent allowed him  
20 to make a motion, to offer unsworn testimony, and to argue at length from counsel table that  
21 the restraining order issued by a sitting superior court judge should be deemed “void” due to  
22 an asserted procedural defect. Under the circumstances presented in the *In re Parentage of LD*  
23 matter, “voiding” the restraining order was not a legally recognized remedy. Nonetheless, at  
24 the conclusion of the hearing, Respondent granted Mr. Jorgensen's oral motion to void the  
25 previously issued restraining order.

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27           <sup>2</sup> It was revealed during the hearing that Kristen Jorgensen had in fact left the state with L.D. to an  
28 undisclosed location in violation of the temporary restraining order, shortly after being served with the order.

1           5.       At no time during the proceeding did Respondent disclose that he had met with  
2 Mr. Jorgensen in chambers on the same day prior to the hearing in *In re Parentage of LD*, nor  
3 did he disclose the content of whatever discussion they had.

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## II. AGREEMENT

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### A.       Respondent Violated the Code of Judicial Conduct

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1.       Based upon the foregoing stipulated facts, Respondent agrees his actions on  
8 January 2, 2015, violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3, 2.4, and 2.5)  
9 of the Code of Judicial Conduct.

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a.       Rules 1.1 and 1.2 require judicial officers to uphold the integrity of the  
11 judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times  
12 in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

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b.       Rules 2.2, 2.3, 2.4, and 2.5 require judicial officers to perform the duties  
14 of judicial office fairly, impartially and competently, and without allowing external interests  
15 or relationships to influence their judgment. In addition, with some exceptions not pertinent  
16 here, Rule 2.9 prohibits judicial officers from initiating, permitting or considering *ex parte*  
17 communications – that is, communications concerning a pending or impending matter made to  
18 the judge outside the presence of the parties or their lawyers.

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2.       Respondent’s actions on January 2, 2015, created, at a minimum, an appearance  
20 of impropriety, favoritism and partiality. The connections between Respondent and retired  
21 Judge Jorgensen alone would not necessarily preclude Respondent from presiding over a case  
22 in which former Judge Jorgensen or his daughter was involved. However, those connections  
23 compounded with Respondent’s actions created a strong appearance of impropriety. His actions  
24 created the appearance that he was biased in favor of a party, Kristen Jorgensen, in that he: (1)  
25 met privately with her father before the hearing and failed to disclose that contact; (2) allowed  
26 her father, a retired superior court judge, to make and argue a motion to the court even though  
27 he was not a party or lawyer in the proceeding; and (3) despite her absence from the hearing,  
28 granted her father’s motion to void a valid court order, a decision that was clearly contrary to

1 law and procedure and that potentially benefitted her.

2 3. Respondent maintains that he and Mr. Jorgensen did not discuss the *In re*  
3 *Parentage of LD* case when they met prior to the January 2, 2015, hearing, and that his decision  
4 was uninfluenced by his professional relationship with Mr. Jorgensen, which he describes as  
5 cordial. Respondent also clarified that he and Mr. Jorgensen belong to separate congregations  
6 of their church and have had no interaction in the context of their church functions.  
7 Nonetheless, Respondent recognizes that the standard for impropriety is an objective one, and  
8 that under the totality of the circumstances described above, a reasonable person would question  
9 his impartiality and the propriety of his actions.

10 **B. Imposition of Sanction**

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

15 2. In determining the appropriate level of sanction to impose, the Commission  
16 considers the factors set out in CJCRP 6(c).

17 a. Characteristics of Respondent's Misconduct.

18 The acts of misconduct were isolated to this particular hearing. However, the acts occurred in  
19 Respondent's official role as a judicial officer and undermined the administration of justice.  
20 The nature of the misconduct – that a significant judicial decision was apparently based on  
21 favoritism and partiality – strikes at the very core of our justice system and significantly erodes  
22 public respect for the integrity of the judiciary. The Commission's investigation showed that  
23 the petitioner, L.D.'s father, had the clear impression that his parental rights would be lost due  
24 to nepotism. Though with counsel he was eventually able to regain access to his child, the  
25 misconduct in question was seriously injurious to the petitioner's emotional well-being and to  
26 his belief that his significant fundamental rights would be safeguarded by the court.

27 b. Service and Demeanor of Respondent.

28 Respondent is generally well-regarded as an attorney and pro tem judge. He has had no prior

1 disciplinary actions taken against him. Respondent acknowledges that the foregoing  
2 improprieties and errors occurred. He has discussed his handling of this matter with the court's  
3 supervising judges, and has credibly assured to the court and Commission he will avoid similar  
4 situations and be more vigilant in considering how his actions might appear to the public.  
5 Respondent has cooperated fully with the Commission's investigation and proceeding.

6 3. Based upon the stipulated facts, upon consideration and balancing of the above  
7 factors, Respondent and the Commission agree that Respondent's stipulated misconduct shall  
8 be sanctioned by the imposition of a "censure." A "censure" is a written action of the  
9 Commission that requires Respondent to appear personally before the Commission and that  
10 finds that the conduct of Respondent is a violation of the Code of Judicial Conduct that  
11 detrimentally affects the integrity of the judiciary, and undermines public confidence in the  
12 administration of justice. It is the highest level of sanction the Commission can impose on its  
13 own. With a censure, the Commission could also recommend to the Supreme Court that a  
14 respondent judge be suspended or removed from office. The Commission and Respondent  
15 agree that such a recommendation is not warranted in this matter, however. A censure shall  
16 include a requirement that the respondent follow a specified corrective course of action.

17 4. Respondent agrees that he will not repeat such conduct in the future, mindful of  
18 the potential threat any repetition of his conduct poses to public confidence in the integrity and  
19 impartiality of the judiciary and to the administration of justice.

20 5. Respondent agrees that he will promptly read and familiarize himself again with  
21 the Code of Judicial Conduct in its entirety and provide the Commission with written  
22 confirmation of this fact within one month of the date of entry of this stipulation, agreement and  
23 order. In addition, Respondent agrees he will undertake training, not at Commission expense,  
24 approved in advance by the Commission Chair or his designee, focusing on according due  
25 process rights with a focus on pro se litigants, and show proof of satisfactory completion of  
26 such training within one year of entry of this stipulation.

27 **C. Standard Additional Terms and Conditions**


28 1. Respondent agrees that by entering into this stipulation and agreement, he

1 waives his procedural rights and appeal rights in this proceeding pursuant to the Commission  
2 on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State  
3 Constitution.

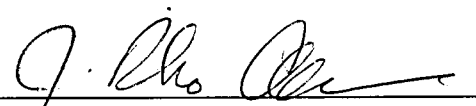
4 2. Respondent further agrees that he will not retaliate against any person known  
5 or suspected to have cooperated with the Commission, or otherwise associated with this matter.

6 3. Respondent affirms he has consulted with or has had an opportunity to consult  
7 with counsel prior to entering into this stipulation.

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Douglas G. Anderson

03-may 2016  
Date

  
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J. Reiko Callner  
Commission on Judicial Conduct

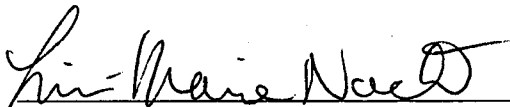
May 9, 2016  
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**ORDER OF CENSURE**

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Douglas G. Anderson, CENSURED for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 15<sup>th</sup> day of JULY, 2016

  
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Lin-Marie Nacht, Vice-Chair  
Commission on Judicial Conduct