



to the clerk and voluntarily agreed to view—and did in fact thereafter view—an on-line training course addressing sexual harassment and discrimination.

C. The Commission received a complaint regarding this matter in March 2018. Following a confidential preliminary investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on May 25, 2018. The Statement of Allegations alleged that by making an inappropriate comment of a sexual nature to a court employee, Respondent violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3(B) and 2.8(B)) of the Code of Judicial Conduct.

D. Respondent timely answered the Statement of Allegations on June 8, 2018. In his answer, Respondent acknowledged making the comment and that it was inappropriate. He wrote that he intended to make a joke to a person he had known for several years and whom he considered a friend. He wrote that nonetheless he realizes the comment was in bad taste and “should not have been made regardless of [the clerk’s] subjective opinion of its offensiveness.”

## **II. AGREEMENT**

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

1. Respondent agrees his conduct described above violates Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3(B) and 2.8(B)) of the Code of Judicial Conduct. Rules 1.1 and 1.2 require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary.<sup>1</sup> Rule 2.3(B) prohibits judges from engaging in harassment, and Rule 2.8(B) requires judges to be patient, dignified and

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<sup>1</sup> Canon 1 of the Code of Judicial Conduct states that a judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. Rule 1.1 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.”

courteous to all persons with whom they deal in their official capacity including court staff.<sup>2</sup>

2. Judges are held to a high standard of conduct. Comments of a sexual nature, such as the comment at issue here, are inappropriate in any professional setting, and particularly so when the speaker holds such a disproportionately high position of power over the person subjected to the comments. Because of that power disparity, subordinate employees can feel inhibited from reporting such conduct and endure a workplace unsure of when they might again be subjected to it. Respondent's comment detracted from the dignity of Respondent's judicial office.

B. Imposition of Sanction

1. The sanction imposed by the Commission must be commensurate to the level of Respondent's culpability and must be sufficient to maintain the dignity and honor of the judicial position. The sanction should also seek to protect the public's confidence in the judiciary by deterring Respondent and deterring other judges from similar acts of misconduct.

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

a. Characteristics of Respondent's Misconduct. This was an isolated incident, and though Respondent made an inappropriate comment, there is no indication he intentionally exploited his position. Rather, his inappropriate comment appears to have resulted from Respondent being overly casual around court staff and not showing due regard to his role as a judge. The comment occurred outside the courtroom and was not connected to a court proceeding, but Respondent was acting in his capacity as a judge. The misconduct was

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<sup>2</sup> Canon 2, Rule 2.3 (B) provides, "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so." Rule 2.8 (B) states, "A judge shall be patient, dignified 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."

disruptive to the workplace and upsetting to the clerk to whom the comment was made.

b. Service and Demeanor of Respondent. Respondent has been a judicial officer for over seven years. He has no prior disciplinary history. He immediately acknowledged and recognized that his comment was inappropriate. He has taken responsibility for his actions. He offered to apologize to the clerk. He voluntarily watched an anti-sexual harassment training video provided by the county Human Resources department. He has fully cooperated in this proceeding. By entering into this stipulation, he has further demonstrated his commitment to refrain from similar acts in the future.

C. Based upon the stipulated facts, upon consideration and balancing of the factors set out in CJCRP 6(c), Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of an admonishment. An "admonishment" is a written action of the Commission that cautions a respondent not to engage in certain proscribed behavior. An admonishment may include a requirement that the respondent follow a specified corrective course of action. Admonishment is the least severe disciplinary action the commission can issue.

D. Respondent agrees that he will participate in ethics training focusing on appropriate courtroom demeanor, approved in advance by the Commission Chair or Chair designate. Respondent agrees he will complete one hour of such training (not at Commission expense) and will certify successful completion of such training in writing within one year from the date this stipulation is accepted by the Commission. This requirement takes into account the prior training Respondent has voluntarily undertaken. It is the Commission's hope and expectation that Respondent will fully absorb the gravity of the situation and put to use the skills he acquired during previous remedial training.

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

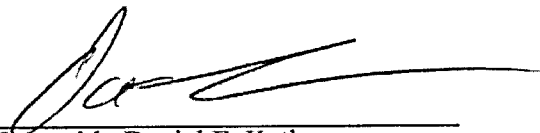
F. Respondent agrees that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within one month of the date this stipulation is accepted.

G. Respondent has been represented in these proceedings. He affirms he enters into this agreement after having had an opportunity to consult with his attorney.

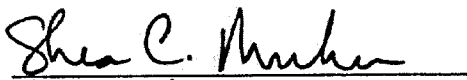
H. Standard Additional Terms and Conditions

1. By entering into this stipulation and agreement, Respondent waives his procedural rights and appeal rights in this proceeding pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.


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

  
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Honorable Daniel F. Kathren  
Respondent

11/19/18  
Date

  
\_\_\_\_\_  
Shea C. Meehan  
Attorney for Respondent

11/26/18  
Date

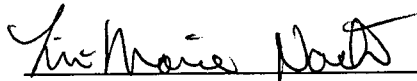
  
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J. Reiko Callner  
Executive Director  
Commission on Judicial Conduct

11/26/18  
Date

**ORDER OF ADMONISHMENT**

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Judge Daniel F. Kathren Admonished for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3(B) and 2.8(B)) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill the terms of the agreement as set forth above.

DATED this 7<sup>th</sup> day of December, 2018.

  
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Lin-Marie Nacht, Chair  
Commission on Judicial Conduct