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

In Re the Matter of

The Honorable David S. Keenan
Superior Court Judge for King County

CJC No. 9608-F-189

OPINION DISSENTING IN PART

I am a public member of the Commission and write separately from the majority on several points. I specifically disagree with the majority in its conclusion in Finding of Fact #14. I would not find that the bus ad would appear to a reasonable person to be a campaign ad. The ad did not run during the judge's election cycle, and it said nothing about voting for or electing the judge. I therefore disagree with that finding. It clearly is an ad promoting North Seattle College, however, using the judge's status as judge as part of the ad.

My background is in public service in the legislative branch, and I applaud and admire Judge Keenan's intention to promote people to consider a career as a judge who, like himself, are from non-traditional, disadvantaged backgrounds. I, myself, am an advocate for disadvantaged and marginalized communities, and it distresses me to be part of a body sanctioning a judge for doing something I find so admirable and necessary. As a member of the Commission, though, I know that I have to consider whether a judge doing the same thing for a cause I do not agree with would be a Code violation, because the result must be the same whether I agree with the judge's intention or not. I wholeheartedly agree with the judge's intention to inspire and promote people from marginalized communities to aspire to leadership positions in all aspects of our democracy. I also understand that a judge's intent is not relevant to whether

1 the judge's actions violated the Code, though it should have a bearing on what the judge's
2 sanction is.

3 Everyone would like to have a judge in their advertisement to serve the greater good, but
4 we do not all agree on what the greater good is. If it is all right under the Code for Judge Keenan
5 to be in this ad, then it has to be all right for another judge, with different views, to be in an ad
6 that would promote a very different cause.

7 Because I believe Judge Keenan's intentions were so positive, this is precisely the kind
8 of case where I wish the Commission was not legally unable to impose a private sanction. I
9 would greatly prefer that the Commission was able to write Judge Keenan a private cautionary
10 letter, sparing him the stress, expense, and embarrassment of a public Commission proceeding.
11 The State Constitutional provision that governs this Commission does not currently allow such
12 a private sanction, however, and perhaps that is something that the legislature and the public can
13 reexamine. Under the existing law, however, all I can do as a member of the Commission is to
14 express my true regret that a judge with such an outstanding personal story and truly noble
15 intentions should find himself in this position, even to receive the most lenient and gentle action
16 the Commission has at its disposal.

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18 DATED this 5th day of February, 2021.

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20 COMMISSION ON JUDICIAL CONDUCT

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22 
23 Sherry Appleton