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COMMISSION ON JUDICIAL CONDUCT

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

In Re the Matter of

The Honorable Debra Burchett,
Judge of the Cowlitz County District Court

NO. 10535 -F-194

STATEMENT OF CHARGES

Pursuant to authority granted in Article IV, Section 31 of the Washington State Constitution, 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 Debra Burchett.

I. BACKGROUND

A. Judge Debra Burchett (Respondent) is currently a judge of the Cowlitz County District Court. At all times referred to in this document, Respondent served as a judge of the Cowlitz County District Court.

B. On April 23, 2021, Respondent received a written Reprimand from the Commission. (See CJC 9848-F-191, Stipulation, Agreement and Order of Reprimand also viewable at www.cjc.state.wa.us under public actions.)

C. On May 6, 2021, the Commission received a complaint against Respondent, alleging that she engaged in a conversation with the court administrator which could reasonably be considered retaliatory for the court administrator’s perceived cooperation with the Commission in Respondent’s prior discipline. The Commission conducted an independent investigation, which revealed additional potential ethical concerns, including allegations that

1 Respondent directed her clerk to make an ex parte investigation into a probation matter; engaged
2 in an off-the-record discussion with a litigant and then dismissed the matter without apparent
3 legal basis; and awarded a counterclaim in a case when no request for such relief had been
4 requested.

5 D. Following the independent investigation, the Commission initiated disciplinary
6 proceedings against Respondent pursuant to CJCRP 17(c)(3) by serving her with a Statement of
7 Allegations on October 3, 2021. The Statement of Allegations alleged that Respondent may
8 have violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B), 2.5(A),
9 2.6(A), 2.9(A), (C) and (D), 2.12(A) and 2.16(B)) of the Code of Judicial Conduct.

10 E. Respondent, through counsel, submitted a written response to the Statement of
11 Allegations on October 25, 2021. In her answer, Respondent denied that her conduct violated
12 the Code as alleged.

13 F. At its executive session on November 19, 2021, the Commission on Judicial
14 Conduct made a finding that probable cause exists to believe that the Respondent violated Canon
15 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B), 2.5(A), 2.6(A), 2.9(A), (C) and
16 (D), 2.12(A) and 2.16(B)) of the Code of Judicial Conduct.

17 18 **II. CONDUCT GIVING RISE TO CHARGES**

19 It is alleged that Judge Debra Burchett of the Cowlitz County District Court violated
20 Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B), 2.5(A), 2.6(A), 2.9(A), (C)
21 and (D), 2.12(A) and 2.16(B)) of the Code of Judicial Conduct as follows.

22 A. It is alleged that Judge Debra Burchett violated Canon 1, Rules 1.1 and 1.2, and
23 Canon 2, Rules 2.5(A), 2.6(A), 2.9(A), (C), and (D) and 2.12(A), by instructing her clerk to
24 conduct an ex parte investigation into whether a defendant performed community service hours.
25 This is alleged to have occurred in Case No. XZ0476858, during a hearing on August 13, 2021.
26 It is further alleged that this conduct violated her agreement with the Commission on Judicial

1 Conduct in her prior disciplinary matter, paragraph II(G) of the Stipulation and Agreement in
2 CJC No. 9848-F-191; wherein she agreed to refrain from such violations.

3 B. It is alleged that Judge Debra Burchett violated Canon 1, Rules 1.1 and 1.2, and
4 Canon 2, Rules 2.2, 2.3(A), 2.4(B) and 2.5(A), when she told a litigant contesting a traffic
5 infraction that, although he was requesting dismissal, given the evidence and his admission, it
6 was clear he had committed the infraction. Thereafter, she engaged in an off-the-record
7 discussion with him. When she came back on the record she dismissed the infraction without
8 stating a reason or explaining the interruption in the recording. This is alleged to have occurred
9 in Case No. 1A0344079, hearing date August 18, 2021.

10 C. It is alleged that Judge Debra Burchett violated Canon 1, Rules 1.1 and 1.2, and
11 Canon 2, Rule 2.16(B), by confronting the court administrator over her comments when she was
12 contacted by the press following the public filing of the Stipulation, Agreement and Order of
13 Reprimand in CJC 9848-F-191, in April 2021. This gave the appearance that Judge Burchett was
14 retaliating against the court administrator for her suspected cooperation with the Commission in
15 that proceeding. This is alleged to have occurred on or about May 5, 2021. It is further alleged
16 that this conduct violated Judge Burchett's agreement with the Commission on Judicial Conduct
17 in a prior disciplinary matter, paragraph II(F) of the Stipulation and Agreement in CJC No. 9848-
18 F-191.

19 D. It is alleged that Judge Debra Burchett violated Canon 1, Rules 1.1 and 1.2, and
20 Canon 2, Rules 2.2, 2.5(A) and 2.6(A), by awarding a judgment as a counterclaim in a case where
21 the defendants had not filed a counterclaim; contrary to basic law and not affording the plaintiffs
22 notice and an opportunity to be heard. This is alleged to have occurred in Case No. 20S000060,
23 following a hearing on June 21, 2021.

1 **III. BASIS FOR COMMISSION ACTION**

2 On November 19, 2021, the Commission determined that probable cause exists to believe
3 that Respondent has violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B),
4 2.5(A), 2.6(A), 2.9(A), (C) and (D), 2.12(A) and 2.16(B)) of the Code of Judicial Conduct. These
5 sections of the Code state:

6 **CANON 1**

7 A Judge shall uphold and promote the independence, integrity, and impartiality of the
8 judiciary, and shall avoid impropriety and the appearance of impropriety.

9
10 **Rule 1.1**

11 **Compliance with the Law**

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

13
14 **Rule 1.2**

15 **Promoting Confidence in the Judiciary**

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

19 **CANON 2**

20 A Judge should perform the duties of judicial office impartially, competently, and
21 diligently.

22
23 **Rule 2.2**

24 **Impartiality and Fairness**

25 A judge shall uphold and apply the law, and shall perform all duties of judicial office
26 fairly and impartially.

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Rule 2.3

Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

Rule 2.4

External Influences on Judicial Conduct

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

Rule 2.5

Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

Rule 2.6

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

Rule 2.9

Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, before that judge's court except as follows:

1 (1) When circumstances require it, ex parte communication for scheduling,
2 administrative, or emergency purposes, which does not address substantive matters, or ex parte
3 communication pursuant to a written policy or rule for a mental health court, drug court, or other
4 therapeutic court, is permitted, provided:

5 (a) the judge reasonably believes that no party will gain a procedural,
6 substantive, or tactical advantage as a result of the ex parte communication; and

7 (b) the judge makes provision promptly to notify all other parties of the
8 substance of the ex parte communication, and gives the parties an opportunity to respond.

9 (2) A judge may obtain the written advice of a disinterested expert on the law
10 applicable to a proceeding before the judge, if the judge affords the parties a reasonable
11 opportunity to object and respond to the advice received.

12 (3) A judge may consult with court staff and court officials whose functions are
13 to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges,
14 provided the judge makes reasonable efforts to avoid receiving factual information that is not
15 part of the record, and does not abrogate the responsibility personally to decide the matter.

16 (4) A judge may, with the consent of the parties, confer separately with the parties
17 and their lawyers in an effort to settle matters pending before the judge.

18 (5) A judge may initiate, permit, or consider any ex parte communication when
19 expressly authorized by law to do so.

20 ...

21 (C) A judge shall not investigate facts in a matter pending or impending before that judge,
22 and shall consider only the evidence presented and any facts that may properly be judicially
23 noticed, unless expressly authorized by law.

24 (D) A judge shall make reasonable efforts, including providing appropriate supervision,
25 to ensure that this Rule is not violated by court staff, court officials, and others subject to the
26 judge's direction and control.

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Rule 2.12

Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act with fidelity and in a diligent manner consistent with the judge's obligations under this Code.

Rule 2.16

Cooperation with Disciplinary Authorities

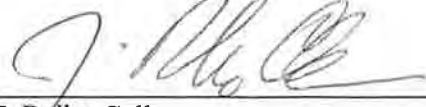
(B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

IV. RIGHT TO FILE A WRITTEN ANSWER

In accordance with CJCRP 20 and 21, Respondent may file a written answer to this Statement of Charges with the Commission within twenty-one (21) days after the date of service of the Statement of Charges; failure to answer the formal charges shall constitute an admission of the factual allegations therein and the Statement of Charges will be deemed admitted.

DATED this 23rd day of November, 2021.

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON



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