

**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

**STIPULATION, AGREEMENT,
AND ORDER OF CENSURE AND
RECOMMENDATION OF
SUSPENSION**

The Commission on Judicial Conduct and Debra Burchett, Cowlitz County District Court Judge, hereby stipulate and agree as provided below. This stipulation is entered pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure.

The Commission is represented in this proceeding by Disciplinary Counsel William H. Walsh and Respondent is represented by Kevin Bank.

I. STIPULATED FACTS

A. Judge Debra Burchett (“Respondent”), was at all times discussed herein a judge of the Cowlitz County District Court. Respondent was elected to her position in 2018, and took the bench in January 2019.

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 misconduct. The Commission conducted an independent investigation, which revealed additional potential ethical concerns.

D. Following a confidential preliminary investigation, the Commission initiated disciplinary proceedings by serving Respondent with a Statement of Allegations on October 25, 2021. The Statement of Allegations alleged violations of 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) and (D), 2.12(A) and 2.16(B)) of the Code of Judicial Conduct.

E. Respondent answered the Statement of Allegations by letter dated October 25, 2021. In the answer, Respondent denied that her conduct violated the Code as alleged.

F. On November 19, 2021, the Commission determined that probable cause existed with regard to the allegations. On December 3, 2021, Respondent was served with a Statement of Charges (SOC) which included four distinct charges. Two of those charges were as follows:

1. Section II(B). In Case No. 1A0344079, hearing date August 18, 2021, Respondent told a litigant, contesting a traffic infraction, that although he was requesting dismissal, given the evidence and his admission, it was clear he had committed the infraction. Thereafter, she engaged in an off-the-record discussion with him. When she came back on the record she dismissed the infraction without stating a reason or explaining the interruption in the recording. As alleged, this conduct violates Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3(A), 2.4(B), and 2.5(A).

2. Section II(D): In Case No. 20S000060, following a hearing on June 21, 2021, Respondent awarded a judgment as a counterclaim in a case where the defendants had not filed a counterclaim; contrary to basic law and not affording the Plaintiffs' fundamental right to notice and an opportunity to be heard. As alleged, this conduct violates Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.5(A) and 2.6(A).

G. A hearing date was set for May 31, 2022, and the parties engaged in discovery. Since that time, discussions between the parties led to this agreement.

II. AGREEMENT

A. Respondent's Conduct Violated the Code of Judicial Conduct.

1. Based upon the above stipulated facts, Respondent agrees that her conduct described above violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B), 2.5(A), and 2.6(A)) of the Code of Judicial Conduct with regard to SOC Sections II(B) and (D). Respondent further agrees that in responding to Sections II(B) and (D) of the Statement of Charges, she failed to undertake reasonable diligence to ensure the accuracy of her responses and, thus, her responses were not sufficient as a result.

2. With regard to the allegations in Section II(B) of the Statement of Charges, Respondent acknowledges that the basis of going off-the-record should have been stated once she went back on the record and that the substance of communications while off-the-record should have been stated once she went back on the record, especially with regard to any matter relevant to her decision to dismiss the citation. Respondent acknowledges that when a judge fails to provide an explanation for off-the-record comments, there is a risk that the court's decision could be the product of bias or personal preference. This conduct violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3(A), 2.4(B), and 2.5(A).

3. With regard to the allegations in Section II(D) of the Statement of Charges, Respondent is unable to provide an explanation as to why two judgments were issued under her signature and why a counterclaim award was provided when a counterclaim had not been asserted. Respondent acknowledges that judges must take due care in assessing all matters before them and that great care is important and necessary when issuing judgments in civil proceedings to avoid unjust awards. This conduct violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.5(A) and 2.6(A).

4. Rules 1.1 and 1.2 require judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 2.2 states that: “A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.” Rule 2.3(A) requires that: “A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice” and Rule 2.4(B) requires that: “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(A) requires that “A judge shall perform judicial and administrative duties competently and diligently.” Rule 2.6(A) states: “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.

5. In consideration for Respondent’s admissions above, the charges contained in Sections II(A) and (C) of the Statement of Charges will be dismissed pursuant to CJCRP 23(a).

B. Imposition of Sanction.

1. In accepting this stipulation, the Commission takes into account those factors listed in CJCRP 6(c).

a. Characteristics of Respondent's Misconduct. Respondent engaged in misconduct that went to the core duties of her judicial position. The misconduct occurred in the courtroom, during court proceedings, and while Respondent was acting in her official capacity. The nature of injury from Respondent's misconduct concerns both the deprivation of the rights of particular litigants, but also to the public's perception of the integrity and impartiality of the judiciary.

b. Service and Demeanor of Respondent. Respondent has been a judicial officer for a relatively short period of time and, as noted above, was previously disciplined by the Commission. Respondent has cooperated with the Commission's investigation and proceedings and, as evidenced by this agreement, has accepted that her conduct was inappropriate.

2. Among the factors considered, the Respondent provided the Commission certain letters attesting to her professional dedication and the achievements she garnered over the course of her legal career.

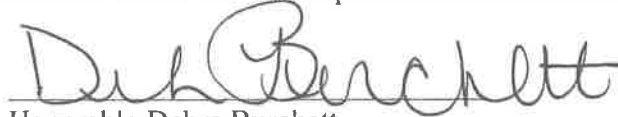
3. Weighing and balancing the above factors, Respondent and the Commission agree that a censure and a recommended ten (10) day suspension is the appropriate level of sanction to impose in this matter. A "censure" is a written action of the Commission that requires Respondent to appear personally before the Commission and finds that the conduct of Respondent is in fact a violation of the Code of Judicial Conduct that detrimentally affects the integrity of the judiciary and undermines public confidence in the administration of justice. It is the highest level of sanction the Commission can impose on its own. A censure shall include a requirement that the Respondent follow a specified corrective course of action. Respondent further affirms that she will not repeat such conduct in the future. The recommended ten (10) day suspension will be jointly submitted to the Washington Supreme Court for consideration.

4. Respondent agrees that she will read and familiarize herself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within thirty (30) days of entry of this stipulation.

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

6. Respondent further agrees that she will not seek reelection or hold any judicial office, nor perform any judicial duties in the future without first securing approval from the Commission provided in CJCRP 28, or its successor or replacement rule.

7. Respondent has been represented by Kevin Bank in these proceedings and she affirms and enters into this stipulation after consultation with her counsel.



Honorable Debra Burchett
Cowlitz County District Court

5/6/2022
Date

Kevin Bank
Respondent's Counsel

Date

William Walsh
Disciplinary Counsel
Commission on Judicial Conduct

Date

4. Respondent agrees that she will read and familiarize herself with the Code of Judicial Conduct in its entirety and provide written confirmation of that fact within thirty (30) days of entry of this stipulation.

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

6. Respondent further agrees that she will not seek reelection or hold any judicial office, nor perform any judicial duties in the future without first securing approval from the Commission provided in CJCRP 28, or its successor or replacement rule.

7. Respondent has been represented by Kevin Bank in these proceedings and she affirms and enters into this stipulation after consultation with her counsel.

Honorable Debra Burchett
Cowlitz County District Court




Kevin Bank

Respondent's Counsel

Date

5/6/22
Date



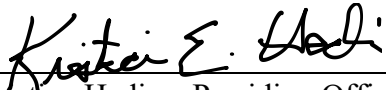
William Walsh
Disciplinary Counsel
Commission on Judicial Conduct

5-6-2022
Date

ORDER OF CENSURE

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Debra Burchett Censured for violating Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4(B), 2.5(A), and 2.6(A)). Respondent shall not engage in such conduct in the future and shall fulfill the terms of the agreement as set forth above.

DATED this 31st day of May, 2022.



Kristian Hedine, Presiding Officer