

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

In Re the Matter of

The Honorable Robin McCroskey  
Judge of the Pend Oreille County District Court

CJC No. 9879-F-203

**STIPULATION, AGREEMENT  
AND ORDER OF  
ADMONISHMENT**

The Commission on Judicial Conduct (“Commission”) and Judge Robin McCroskey (“Respondent”) stipulate and agree as provided below. This stipulation is entered pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure and shall not become effective until approved by the Washington State Commission on Judicial Conduct. The Commission has been represented in these proceedings by its Executive Director, Reiko Callner, and Judge McCroskey has represented herself.

**I. STIPULATED FACTS**

A. Respondent was elected to the Pend Oreille County District Court in 2018 and re-elected to the court in 2022. She also currently serves as the Superior Court Commissioner for Ferry, Pend Oreille and Stevens Counties.

B. Respondent has maintained a Facebook page since before being elected to the bench. At all times relevant in this document, her Facebook page clearly identified her as a district court judge. During a confidential investigation, the Commission became aware of a post

Respondent made to her Facebook page that appeared to solicit money and other posts that appeared to promote or advertise specific local businesses.

C. GoFundMe Post:

On January 14, 2022, Respondent shared to her Facebook page a “GoFundMe<sup>1</sup>” account which stated it was to “Help [ ] cover her medical expenses!” Respondent added to the post, “She’s one of a kind.”

D. Business-related Posts:

On October 10, 2020, Respondent shared a photo of what appeared to be a bride and groom with the text: “Thank you Nissa: Floral Traditions, for the beautiful bouquet and boutonniere [sic]! You are so talented!” Respondent also shared this as a memory on October 10, 2022.

On May 3, 2021, Respondent shared a post from the business Floral Traditions, which highlighted merchandise available for Mother’s Day. One of the photos contained a caption which read: “Order for Mother’s Day. We deliver!”

On October 20, 2021, Respondent created a post which included a photo of an arm with a bracelet and sweater and text which read, “It is awesome to be able to wear local purchases from years ago and know they are still in business!!!! Bracelet, circa 2012 Shanty. Sweater and jeans, JB Boutique, September.”

E. Pursuant to CJCRP 17(c), after independently investigating the complaint concerning Respondent’s Facebook posts, the Commission on Judicial Conduct initiated disciplinary proceedings against Respondent by serving her with a Statement of Allegations on

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<sup>1</sup> GoFundMe is a for-profit crowdfunding platform that allows people to raise money for events ranging from life events such as celebrations and graduations to challenging circumstances like accidents and illnesses.

December 15, 2022. The Statement of Allegations alleged that by posting advertisements and endorsements for businesses and soliciting monetary contributions to a GoFundMe account on her Facebook page, Respondent abused the prestige of judicial office to advance the economic interest of others, in violation of Canon 1 (Rules 1.1, 1.2, and 1.3) and Canon 3 (Rule 3.7(B)) of the Code of Judicial Conduct.

F. By letter dated January 13, 2023, Respondent answered the Statement of Allegations. Respondent stated that in creating and sharing the posts, she was acting on her own, and not in her official capacity. In sharing the GoFundMe post, Respondent explained to the Commission that her intent was not to solicit donations, but rather to update local friends about someone who was ill and had moved out of the area. In sharing posts from local businesses and in creating her own posts about them, Respondent explained that her intent was simply to express her pride in local businesses that were able to weather the pandemic. Specifically, as to the post regarding wedding flowers, Respondent indicated that it was her daughter's wedding, and she was relieved that they were able to find flowers during the pandemic, so she was expressing her appreciation of the flower shop. Respondent further indicated that there are no other flower shops in her community and told the Commission that she receives nothing in exchange for any of these posts. Respondent explained she believed that she was not violating the Code when she made any of the posts, but accepts the Commission's determination that a reasonable person would view a GoFundMe post as a request for monetary donations and as such, a solicitation which the Code prohibits.

## **II. AGREEMENT**

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

1. Based upon the above stipulated facts, Respondent and the Commission agree that the GoFundMe post on Respondent's Facebook page described above violated Canon 1 (Rules 1.1 and 1.3) and Canon 3 (Rule 3.7(B)), of the Code of Judicial Conduct.

2. Rule 1.1 requires judges to "comply with the law, including the Code of Judicial Conduct." Rule 1.3 provides "A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so." Rule 3.7(B) allows judicial officers to participate in charitable organizations, but states that judges may solicit contributions for such organizations ". . . only from members of the judge's family, or from judges over whom the judge does not exercise supervisor or appellate authority. . ." "The purpose of the prohibition in the solicitation of funds is to avoid misuse of judicial office. The rule addresses several concerns: one is that judges may intimidate potential donors into making contributions; a second, related to the first, is that judges may trade on the prestige of their office to raise funds on behalf of an organization, even if it does not rise to the level of intimidation; and third, that donors may expect future favors in return for their largesse."<sup>2</sup>

3. The January 14, 2022, GoFundMe post on Respondent's Facebook page (which identifies Respondent as a judge) operates as a solicitation for funds to support the person identified. The express purpose of GoFundMe, as the title indicates, is to raise funds. (From their website "How it Works" page: "GoFundMe is the best place to fundraise, whether you are an

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<sup>2</sup> Judicial Conduct and Ethics, 5<sup>th</sup> Edition, Alfani, Lubet, Shaman and Geyh, Section 9.04(2), Lexis-Nexis (2018).

individual, group, or organization.”) Respondent has described her subjective intent, but Respondent agrees a reasonable person would find her GoFundMe post to be a request for monetary donations, in violation of the Code.

4. Respondent’s Facebook posts promoting local businesses also raised concern that the judge could be seen as abusing the prestige of her judicial office by promoting advertisements for those businesses on her social media page, which identifies her as a judge. This advisory admonishment does not include a finding that Respondent violated the Code in this respect, but presents an opportunity to discuss potential problems with such posts. The advent of social media has not altered the Code of Judicial Conduct, but the reach of social media and its interactive nature amplifies and thus alters the impact of judges’ comments posted on social media. It is, for example, unlikely that a reasonable person would conclude that a judge was lending the prestige of her office to a local business if she commented in real life to friends or work associates that she had a wonderful meal last weekend at a specific restaurant, even though everyone listening knew she was a judge. The same comment posted on social media can link to the business in question and can be seen by hundreds or thousands of people, especially the people who are “friends” on that social media platform and who can respond and give positive reinforcement to that judge for all to see. Social media has been with us for almost two decades – the platform in question is about 19 years old and has 2.96 billion users. Yet it is still an evolving form of social interaction, and the antecedents of the Code of Judicial Conduct goes into antiquity, far before the internet was conceived. The application of the Code to social media is an evolving area of law.

The Commission has been directed in recent caselaw (*In re Disciplinary Proceeding Against Keenan*, 199 Wn.2d 87, 96, 502 P.3d 1271, 1277-1278, (2022)) to consider as a violation what a reasonable person viewing posts such as these “would” conclude, not what a reasonable person “could” believe. While a reasonable person certainly could believe the judge was promoting businesses with the prestige of the approval of a judicial officer, it does not follow that any reasonable person would believe that. Accordingly, this stipulation does not conclude that Respondent violated the Code by her posts praising local businesses. However, the Code is not only an enforceable set of standards, but is aspirational in nature, directing judges to be conscious that they should strive to maintain public trust and confidence in their independence, integrity, and impartiality in all their actions, and it is advisable for judges to be particularly thoughtful in what they post online.

#### **B. Imposition of Sanction**

The sanction imposed by the Commission must be commensurate to the level of Respondent’s culpability, sufficient to restore and maintain the public’s confidence in the integrity of the judiciary, and sufficient to deter similar acts of misconduct in the future. There are many mitigating factors for this type of Code violation – fundraising for a charity is generally inherently good, but judges must be scrupulous to avoid asking for money – that could be coercive or viewed as an opportunity to curry favor. The prohibitions against fundraising as a judge are peculiar to the special demands of the office of the judge.

In determining the appropriate level of discipline to impose, the Commission takes into consideration the aggravating and mitigating factors identified in CJCRP 6(c). In mitigation, the sharing of a GoFundMe account was an isolated incident, which occurred outside the courtroom,

though on a social media site that identified Respondent as a judge. There is no indication the conduct was injurious to others; in fact, the goal was to support a person undergoing medical care. Respondent has served as a judicial officer for five years and has had no prior discipline. She was entirely cooperative with the Commission's proceeding. On the other hand, there is an Ethics Advisory Opinion, EAO 16-05, that warns against the use of judicial office to promote a charitable fundraiser through social media and two prior Commission cases on the issue.

Taking into account the factors listed in CJCRP 6(c), Respondent and the Commission agree that an admonishment is the appropriate action in this matter. An "admonishment" is a written action of the Commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior, and is the least severe disciplinary action available to the Commission. As set forth in the Preamble, paragraph 4 above, the Code is intended to provide guidance to judges.

Respondent affirms that she will read the Code of Judicial Conduct in its entirety and affirm to the Commission that she has done so within 30 days of entry of this stipulation.

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

1. Respondent has represented herself in these proceedings. She affirms that she has had an opportunity to consult with an attorney and voluntarily chooses to represent herself in this matter and enter into this agreement. Respondent agrees that she will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter. Respondent further affirms that she will not repeat such conduct in the future.

2. By entering into this stipulation and agreement, Respondent waives her 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.



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Honorable Robin McCroskey  
Respondent

4/17/2023

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Date



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J. Reiko Callner  
Executive Director  
Commission on Judicial Conduct

4/18/2023

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Date



**ORDER OF ADMONISHMENT**

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Robin McCroskey Admonished for violating Canon 1 (Rules 1.1 and 1.3) and Canon 3 (Rule 3.7(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 21st day of April, 2023.



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Robert Alsdorf, Chair  
Commission on Judicial Conduct