

FILED
APR 10 2009
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the matter of
The Honorable Eileen Kato
Judge, King County District Court

CJC No. 5577-F-143

**STIPULATION, AGREEMENT
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and the Honorable Eileen Kato, Judge of the King County District Court, stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

Judge Kato has been represented in these proceedings by attorney Anne Bremner.

I. STIPULATED FACTS

A. Judge Eileen Kato (Respondent) is now, and was at all times referred to in this document, a judge of the King County District Court. Respondent has served in that capacity since 1994.

B. Under Washington law, a valid marriage requires, among other things, the parties to be married to assent or declare that they take each other to be husband and wife in the presence of the official solemnizing their marriage and "in the presence of at least two attending witnesses."¹ Although Respondent advised couples wanting to be wed of this two witness requirement, if a couple appeared to be wed and did not have two witnesses present, Respondent's practice was to

¹ RCW 26.04.070 Form of solemnization.

In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife.

1 perform the ceremony anyway and obtain witness signatures from people who were
2 not, in fact, present as witnesses. Some of these non-attending "witnesses" were
3 court staff in various capacities, all subordinate to the position of the judge. Such a
4 practice violates both the letter and the spirit of the law.

5 C. Respondent declares she discontinued this practice after being put on
6 notice that it was inappropriate, prior to contact by the Commission, and the
7 Commission investigation is consistent with that declaration.

8 9 II. AGREEMENT

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

11 1. Based upon the foregoing stipulated facts, Respondent agrees she
12 violated Canons 1, 2(A), and 3(A)(1) of the Code of Judicial Conduct.

13 2. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary
14 by avoiding impropriety and the appearance of impropriety and by acting at all times
15 in a manner that promotes public confidence in the integrity and impartiality of the
16 judiciary. Canon 3(A)(1) requires that judges be faithful to the law and maintain
17 professional competence in it.

18 3. Respondent's practice of asking people who were not, in fact, witnesses
19 to sign wedding licenses, thus falsely asserting that they were witnesses, violates
20 clear statutory requirements. It was particularly improper for a judge to ask
21 subordinate court employees, who reasonably rely (even more than the general public)
22 on the judge's integrity and compliance with the law. A judge expects scrupulous
23 honesty in official statements and documents of those who appear before her, and
24 should adhere to a high standard, herself, in this regard. Respondent's action in this
25 case erodes public confidence in the integrity of the judiciary.

1 **B. Imposition of Sanction**

2 1. The sanction imposed by the Commission must be commensurate to the
3 level of Respondent's culpability and must be sufficient to restore and maintain the
4 dignity and honor of the judicial position. The sanction should also seek to protect the
5 public by assuring that Respondent and other judges will refrain from similar acts of
6 misconduct in the future.

7 2. In entering this stipulation, the Commission takes into account the factors
8 set out in CJCRP 6(c).

9 A. Characteristics of Respondent's Misconduct. Respondent's acts
10 of misconduct were not isolated. The misconduct occurred at the courthouse, both in
11 and outside the courtroom, and while Respondent was acting in her official capacity.
12 The legal requirement Respondent repeatedly disregarded – that a wedding ceremony
13 be witnessed by at least two attending witnesses – is clear and unambiguous. By
14 ignoring the clear requirements of the law Respondent's actions undermine public
15 confidence in the integrity of, and respect for, the judiciary because members of the
16 public rightfully expect that judicial officers will scrupulously follow the law.
17 Respondent's casual attitude toward the legal requirements of wedding ceremonies
18 demonstrates an unacceptable lack of respect for the law.

19 B. Service and Demeanor of Respondent. Respondent has been a
20 judicial officer for almost 15 years and has had no prior disciplinary actions. She has
21 cooperated with the Commission's investigation. She acknowledges that the acts
22 occurred, that they were inappropriate and will not be repeated. Respondent
23 maintains that her failure to follow the law was not intentional, and that she simply
24 followed the practice she observed other judicial officers use. Nonetheless,
25 Respondent, when she became a judge, had a responsibility to determine for herself
26 what the law requires. Additionally, because judicial officers may charge for weddings
27 performed outside regular court hours, Respondent had an additional burden to
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1 determine that her conduct, for personal gain, rigorously comported with the law. Her
2 failure to do so reflects an insufficiently scrupulous attitude toward the legal
3 solemnization of the marriage.

4 3. Based upon the stipulated facts, upon consideration and balancing of the
5 aggravating and mitigating factors, Respondent and the Commission agree that
6 Respondent's stipulated misconduct shall be sanctioned by the imposition of a
7 reprimand. A "reprimand" is a written action of the Commission that requires a
8 respondent to appear personally before the Commission and that finds that the
9 conduct of the respondent is a violation of the Code of Judicial Conduct, but does not
10 require censure or a recommendation to the supreme court that the respondent be
11 suspended or removed. A reprimand shall include a requirement that the respondent
12 follow a specified corrective course of action. Reprimand is the intermediate level of
13 disciplinary action available to the Commission.

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

17 5. Respondent agrees that she will promptly read and familiarize herself
18 with the Code of Judicial Conduct in its entirety and certify within a month of entry of
19 this order that she has done so.

20 Standard Additional Terms and Conditions

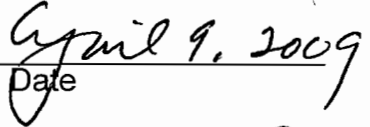
21 6. Respondent agrees that she will, at her own expense (or at the expense
22 of her court, should the court administration so choose), attend and satisfactorily
23 complete a judicial ethics program approved in advance by the Commission, within
24 one year of entry of this stipulation.

25 7. Respondent agrees that by entering into this stipulation and agreement,
26 she waives her procedural rights and appeal rights in this proceeding pursuant to the
27 Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the
28 **STIPULATION, AGREEMENT AND ORDER OF REPRIMAND- 4**

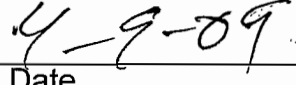
1 Washington State Constitution.

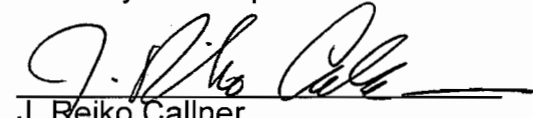
2 8. Respondent further agrees that she will not retaliate against any person
3 known or suspected to have cooperated with the Commission, or otherwise associated
4 with this matter.

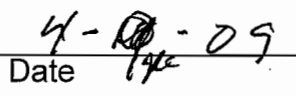
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6 _____
7 Honorable Eileen A Kato


Date

8 
9 _____
Anne Bremner
Attorney for Respondent


Date


10 
11 _____
J. Reiko Callner
Executive Director
Commission on Judicial Conduct


Date

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14 **ORDER OF REPRIMAND**

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16 Based on the above Stipulation and Agreement, the Commission on Judicial
17 Conduct hereby orders Respondent, Eileen A. Kato, REPRIMANDED for the above
18 set forth violations of the Code of Judicial Conduct. Respondent shall not engage
19 in such conduct in the future and shall fulfill all of the terms of the Stipulation and
20 Agreement as set forth therein.

21
22 DATED this 10 day of April, 2009

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John Sleeter, Vice-Chair
Commission on Judicial Conduct