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

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC NO. 11005-F-204

**COMMISSION DECISION  
AND ORDER**

Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

Code of Judicial Conduct – Preamble, Par. 2.

**I. INTRODUCTION**

This matter came before a panel of the Commission on Judicial Conduct for a hearing on October 21, 2024, based on the Commission on Judicial Conduct’s Statement of Charges alleging that Judge Tracy Flood (Respondent) violated Canon 1 (Rules 1.1, and 1.2), and Canon 2 (Rules 2.5(A) and 2.8(B)) of the Code of Judicial Conduct. Participating in the hearing were Presiding Officer Judge Erik Price (court of appeals judge), Ryan Archer (attorney member), Terrie Ashby-Scott (public member), Wanda Briggs (public member), Michael Evans (superior court judge member), Kristian Hedine (district court judge member), Tara Miller (public member), Marsha Moody (public member), and Gerald Schley (public member). Attorney Raegen Rasnic served as Disciplinary Counsel and Attorneys Anne Bremner and Nick Gross were Counsel for Respondent at the time of the hearing. From July 2023 to May 2024, Attorney Vonda Sargent represented Respondent. For some of that time,

1 Attorney Steve Fury also represented Respondent (October 2023 to May 2024). Respondent's  
2 current attorneys Anne Bremner and Ted Buck entered notices of appearance on behalf of  
3 Respondent in July 2024, as did attorney Nick Gross in October 2024.

## 4 II. CHARGES

5 The Commission found Probable Cause<sup>1</sup> to support a Statement of Charges which was  
6 served on Respondent on July 12, 2023. Respondent was charged with violating:

7  
8 Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.5(A) and 2.8(B), of the Code  
9 of Judicial Conduct by failing to treat court staff and attorneys appearing before  
10 her with patience, dignity and respect, and treating court staff in a demeaning  
11 and condescending manner. Respondent's mistreatment of attorneys and staff  
12 resulted in their departure from the court. As of this writing, at least a dozen  
13 staff members have resigned their positions, most recently the court  
14 administrator who resigned effective June 9, 2023. Those who have left  
15 employment at the court include every staff member who was employed at the  
16 court when Respondent took the bench in January of 2022, and at least four who  
17 were hired by Respondent. Numerous attorneys have ceased to practice in  
18 Bremerton Municipal Court. Each of these individuals cite Respondent's  
19 treatment of them as the sole or contributing factor in their departure.  
20 Respondent's inability to retain staff has negatively affected the functioning of  
21 the court, resulting in such failures that include hearings not being properly set,  
22 cases not being timely docketed, alleged victims of domestic violence not being  
23 able to access the court to request lifting No-Contact Orders, and probationers  
24 not being monitored.

## 25 III. PREHEARING PROCEDURAL HISTORY

26 The Commission has been admonished to address ongoing Code violations as promptly  
as possible to minimize harm to the court and to the public. (*In re Michels*, Wn.2d 159, 176-  
178, 2003 (Sanders, J., dissenting)). In this case, multiple actions on the part of Respondent  
resulted in delay of the process for more than two years, from the time she was initially put on  
notice of the Commission's concerns with the Statement of Allegations in November 2022 to the  
third and final scheduled hearing date of October 2024. The confidential initial proceedings

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<sup>1</sup> The documents supporting the Finding of Probable Cause are part of the record in this case and were published for access to the public on the first day of the contested hearing, pursuant to CJCRP 11(b)(2).

1 portion of the proceedings was extended based on the Commission’s need to investigate  
2 Respondent’s concerning allegation of racism in her amended response to the Statement of  
3 Allegations (contained in the Probable Cause documents that are part of the record in this case).  
4 The initial proceedings portion of the case was also extended as Respondent availed herself of  
5 coaching at the urging of Commission staff hoping to ameliorate the situation at the courthouse.  
6 Further delays at the instigation of Respondent are described below.

7       Upon service of the public Statement of Charges, Respondent was advised of CJCRP  
8 20(a), which sets a deadline of 21 days for a judge to respond to a Statement of Charges, and  
9 which also provides that failure to answer the charges “shall be deemed an admission of those  
10 charges and the Commission will proceed to determining the appropriate sanction.”  
11 Respondent’s response to the Statement of Charges consisted of a one-line general denial, “Judge  
12 Flood denies all allegations against her,” and was received on August 14, 2023, 12 days after the  
13 August 2, 2023, deadline. Disciplinary Counsel moved to strike the denial and deem the charges  
14 admitted pursuant to CJCRP 20(a). After briefing (in which Respondent’s counsel accused  
15 Commission staff and counsel of bad faith), the hearing panel deliberated and denied the motion  
16 to strike the general denial and deem the charges admitted. The order denying the motion  
17 acknowledged Respondent’s answer was late but held that there is a strong preference to  
18 resolving Commission cases on the merits, cautioning counsel to comply with the Commission’s  
19 rules of procedure (CJCRP) going forward. Unfortunately, that was not sufficient to ensure  
20 compliance with either subsequent scheduling orders or specific directives to cooperate with  
21 opposing counsel.

22       Twenty-two prehearing motions were filed in this case prior to the fact-finding hearing.  
23 Most of the pre-hearing motions filed in this case by both parties were based on Respondent’s  
24 defiance of routine litigant obligations. The early briefing, motions, and noncompliance with  
25 scheduling and discovery orders on the part of Respondent’s original counsel manifested unusual  
26 and elaborate disrespect for the presiding officer and the Commission’s process. To the extent

1 that it is fair to attribute acts of Respondent’s first set of counsel to Respondent, the defenses  
2 they presented were unusual in their overt disrespect for the Commission’s process, membership,  
3 and personnel. Both in writing and in a hearing, Respondent’s first counsel articulated the  
4 likelihood that the presiding officer’s rulings would “again be rubberstamping anything  
5 Commission counsel requests.” (Judge Flood’s Motion for Protective Order, February 9, 2024;  
6 Recording of Scheduling Conference, February 6, 2024.) In multiple motions and briefs,  
7 Respondent’s first set of counsel accused Disciplinary Counsel and Commission staff of  
8 unethical conduct and the Commission itself of acting unconstitutionally and intentionally  
9 unfairly, and referred to “Judge Flood’s well-founded belief that a decision has already been  
10 made, and this hearing is a sham” (Judge Flood’s Reply to Unconstitutional Hearing Panel, page  
11 6, lines 4-5), “nothing more than a railroad with a foregone conclusion before we start.” (Judge  
12 Flood’s Reply in Support of Motion to Strike Witnesses, page 6, lines 11-12, filed February 29,  
13 2024.) Notwithstanding criticism to the contrary, the Presiding Officer made rulings in which  
14 each side prevailed in whole or in part depending on the merits of the issue.

15 In addition, Respondent filed for an extraordinary writ of prohibition to the State  
16 Supreme Court, asking the court to order the Commission to end its proceedings on a variety of  
17 grounds without reaching the merits of the case.<sup>2</sup>

18 The hearing was originally set for December 4, 2023. This date was first continued by  
19 stipulation of the parties and reset for March 18, 2024. On March 5, 2024, while the parties and  
20 the Commission were preparing for the rescheduled fact-finding hearing, Respondent’s first set  
21 of counsel orally represented to the presiding officer in the gravest terms that Respondent’s  
22 physical health was so compromised and vulnerable that she could not comply with the schedule  
23 set out for the parties. See Order Sealing Documents, Continuing Hearing, and Setting Review  
24 Hearing Date filed March 7, 2024, (see Attachment B). These mostly unsubstantiated but  
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26 <sup>2</sup> The writ of prohibition was denied by order of the Commissioner of the State Supreme Court, whereupon Respondent petitioned a panel of the Court to revise the Commissioner’s ruling. Both the writ and motion to modify were denied (see Attachment A).

1 extremely dire claims required twice resetting the time for hearing from its second set date of  
2 March 18, 2024, to the week of October 21, 2024. The presiding officer had an obligation to  
3 balance the sensitive and personal representations of Respondent's health crises with the ongoing  
4 nature of the charges against her and the need to address the well-being of the court staff and the  
5 public. Respondent was ordered to provide some form of proof of the medical crises she was  
6 experiencing. The presiding officer was scrupulous to grant reasonable requests to seal personal  
7 medical documents and, after conducting a *Bone-Club*<sup>3</sup> analysis, to seal motion hearings where  
8 Respondent's right to privacy outweighed the public's right to be privy to a public hearing. She  
9 either did not comply with these reporting requirements or did so in a cursory and incomplete  
10 fashion. Having raised the issue of her own health to obtain a lengthy extension of the hearing  
11 date, Respondent vigorously resisted providing the required substantiating medical information,  
12 even though permitted to produce it under seal. When it was clear the Respondent's health  
13 provider, the Department of Veterans Affairs Puget Sound Healthcare System (VA) would not  
14 comply with a Commission subpoena under Federal health privacy laws, Respondent could have  
15 provided the ordered confirmation of her health status by waiving her confidentiality for the  
16 limited purpose of providing it under seal, but she chose not to do that, which raises serious  
17 questions about the credibility of her representations that her medical situation kept her from  
18 participating in the Commission's scheduled proceeding. Throughout that time, Respondent  
19 remained on the bench (despite the medical issues) with the harm alleged in the Statement of  
20 Charges filed on July 12, 2023, potentially ongoing. These motions, associated briefing, and  
21 attendant multiple orders are part of the record in this case. Illustrative of the scope of this  
22 conduct on the part of Respondent and her original counsel are orders issued on February 12,  
23 2024, May 2, 2024, July 31, 2024, and August 26, 2024 (see Attachment C).

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25 <sup>3</sup> In *State v. Bone-Club*, 128 Wn.2d. 254, 906 P.2d 325 (1995), the State Supreme Court held that a court  
26 must protect the competing right to public trial against a litigant's right to privacy by weighing these competing  
interests before ordering the temporary closure of a public hearing.

1 **IV. HEARING TESTIMONY AND OTHER EVIDENCE**

2 On the morning of the first day of hearing, Monday October 21, 2024,<sup>4</sup> the parties  
3 proffered a joint Stipulation to Facts and Code Violations (see Attachment D) and agreed to  
4 proceed to a hearing as to the appropriate sanction. Among other things, the parties stipulated  
5 that Respondent violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rule 2.8(B) of the Code of  
6 Judicial Conduct. The stipulation was silent as to the remaining charged rule violation, Rule  
7 2.5(A), and the stipulation did not ask the panel to dismiss that charge. The stipulation set forth  
8 agreed facts, and further provided that up to six written witness declarations could be also  
9 considered as evidence by the panel; that each party could present the testimony of up to five  
10 live witnesses, with the addition of Respondent, should she choose not to testify in her case in  
11 chief. The panel agreed to accept the stipulation as reflected in many of the findings of fact  
12 below. (Where live testimony or other evidence was inconsistent with stipulated facts, the panel  
13 assessed all available evidence to arrive at its findings after the conclusion of the hearing.) The  
14 hearing was recessed until Wednesday morning so that the parties could create and exchange  
15 their respective declarations and submit objections thereto. Disciplinary Counsel agreed that she  
16 would not recommend the sanction of Censure with removal. Further, both parties agreed that  
17 Respondent should be ordered to complete training approved in advance by the Commission.

18  
19 **V. FINDINGS OF FACT**

20 1. The findings of fact in the Stipulation are accepted except as contradicted by or  
21 expanded upon below, based upon testimony and other evidence presented at the hearing.  
22 Respondent is the first Black woman Bremerton Municipal Court Judge; elected in November  
23 2021 and serving since January 2022. At that time, the court was fully staffed with a Court  
24 Administrator, Assistant Court Administrator, Senior Legal Technician, three Legal  
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<sup>4</sup> Although all the other participants signed in at 8:00 am as directed in case of technical issues, Respondent chose to attend a court matter and signed in at 8:41 am, whereas all else in attendance had been waiting for close to an hour.

1 Technicians, and a Probation Officer, most of whom were long-time employees of the court.  
2 Respondent succeeded a white male judge who had been in the position for 21 years until his  
3 retirement. Respondent retained the staff she inherited and invited them to her swearing-in  
4 ceremony. She was aware of only two staff members who attended and took that as a slight by  
5 the others. However, at the hearing, staff members testified that six court workers attended, and  
6 those who were absent were unable to attend because of their work schedules. The staff members  
7 Respondent presumed absent had attended the standing-room only ceremony from the overflow  
8 room with the ceremony broadcast on monitors.

9         2.       Complaints regarding Respondent’s treatment of court staff and attorneys began  
10 to be received by the Commission in July 2022. By February of 2023, all the original staff  
11 members had left the court, in part or entirely because of Respondent’s conduct toward them and  
12 general mismanagement. The replacement staff members hired under Respondent’s authority  
13 were less experienced and by the time of the hearing, all of them had left the court; except for  
14 new administrator Christina Rauenhorst, who was herself looking for different work at the time  
15 of the hearing. The court staff who were called to testify by Disciplinary Counsel, whether in  
16 person or through declarations, testified that Respondent was abrupt with them, confusing,  
17 inconsistent, demeaning, and made them question whether it was even possible to satisfy  
18 Respondent’s inconsistent and sometimes legally incorrect directives. The result was a chaotic,  
19 dysfunctional court run by an inexperienced and demoralized staff that failed the public in  
20 multiple significant respects. These staff members included women and people of color. By  
21 September 29, 2023, all but one of the first set of replacement staff left the court.

22         3.       Although Respondent signed a stipulation that said she accepted responsibility  
23 for being “impatient, disrespectful and discourteous to staff and attorneys,” that these actions  
24 “showed poor judgment,” and that “multiple staff left the employment of Bremerton Municipal  
25 Court because of her changes and communication,” her testimony and defense abundantly  
26

1 demonstrated that she does not actually accept responsibility for her actions or the consequences  
2 to the court and the public. (See below for examples.)

3 4. Respondent caused the complete turnover of two entire sets of court staff (but for  
4 one individual seeking alternative employment at the time of the hearing), with attendant  
5 catastrophic loss of expertise and experience. The consequent failures of the Bremerton  
6 Municipal Court under Respondent's tenure are significant and injurious to the competent  
7 operation of the court – which is a judge's fundamental responsibility. These failures include:

- 8
- 9 • Mismanagement of court funds. On multiple occasions, the safe at the  
10 court was left open with funds inside, and there was no clerk present who  
11 knew how to close the accounts out for the day. Receipting for funds  
12 received was far overdue. People posting bond would not be reimbursed  
13 those funds even after the defendants' obligations to appear had been  
14 satisfied.
- 15 • In at least one instance Respondent ordered court staff to accept funds  
16 from a defendant at the counter when his account had already gone to  
17 collection, despite a binding legal contract with the collection agency  
18 requiring the defendant to satisfy their obligation with collections, rather  
19 than the court, once payments in arrears were referred to collections.  
20 This not only embarrassed the overworked court employee but required  
21 her to take extra time to undo the court's contract violation ordered by  
22 Respondent<sup>5</sup>.
- 23 • Docket entries were routinely not kept up to date and were sometimes  
24 three to four weeks late – stakeholders could not rely on the court record  
25 to know case status. Hearings were mislabeled.
- 26 • Law enforcement was not timely or accurately informed of court actions, such  
as ordering or lifting the requirement for an ignition interlock device and  
mandatory license suspension or revocation; issuance and rescission of warrants  
and no contact orders.
- Longtime personnel were stripped of duties without arrangements for their  
duties to be fulfilled otherwise. Probation officer Ian Coen, who had served in  
that position for 22 ½ years, was forbidden by Respondent to notify the  
prosecution of alleged probation violations and was required to send them to  
Respondent, instead.<sup>6</sup> Mr. Coen, who has training and certification in mental  
health counseling and had been awarded statewide recognition as Probation

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25 <sup>5</sup> Respondent, when questioned about this at the hearing, maintained her position that she had done the  
26 right thing, without making reference to the court's contract. See below and Transcript of Proceedings, Vol. IV,  
Page 721.

<sup>6</sup> Mr. Coen and a court staffer who also left Respondent's court, Cindy Hope, had previously kept the  
prosecution promptly advised of noncompliant active probationers, including those who committed new offenses  
while on probation. Mr. Coen was ordered to stop reporting to the prosecution by Respondent.



1 Officer of the Year in both 2008 and 2016, was no longer permitted by  
2 Respondent to prepare documents for Western State Hospital to provide  
3 necessary information for the time-sensitive completion of competency and  
4 sanity evaluations. Consequently, multiple competency orders were not timely  
5 fulfilled, including Henri Daniels whose competency restoration was ordered  
6 but that order was not conveyed to Western State, so he languished in custody  
7 for almost a month with no action. Similarly, Respondent took over from the  
8 court administrator reviewing staff requests for leave or permission to work  
9 remotely but did not assure there was coverage for the people who were granted  
10 leave, which resulted in crucial positions being left vacant on a haphazard basis.

- 11 • Bench warrants that were recalled were not processed in a timely fashion. In  
12 addition, bench warrants ordered were not processed and sent to police. In one  
13 example, a defendant, Albert Glover, came to court and had a warrant quashed.  
14 The court did not get that information to police, so he was wrongly arrested on  
15 the quashed warrant. Stop sticks were placed behind his car during the arrest to  
16 prevent him from fleeing and his tires were damaged when an officer moved his  
17 car. He also had to pay a bondsman for the wrongful arrest to avoid being jailed  
18 that day. Defendant Nicholas Braden's life may have been saved by being taken  
19 into custody on a warrant that languished without processing for months.  
20 Instead, he was released from a hold in another jurisdiction, as the Bremerton  
21 warrant was not in the system, and he died of an overdose within days of his  
22 release.
- 23 • Multiple no contact orders were not processed, nor was the rescission of some  
24 no contact orders, which either stripped victims of the court's protection or  
25 subjected defendants to wrongful arrest. These failures required extra time on  
26 the part of the prosecutor's office to institute the practice of emailing law  
enforcement to safeguard against the potentially deadly consequences. Many  
times crime victims would not receive a certified copy of no contact orders  
granted on their behalf.
- Restitution payments received by the court were frequently not timely  
disbursed. Crime victims went for as long as five months without receiving the  
restitution that had been paid into the court by defendants

### 19 Offers to Train or Assist Respondent

20 The confidential initial proceedings stage of this case was extended after Respondent  
21 alleged the complaints against her were the product of racism against her as a Black woman, so  
22 that the Commission could focus on investigating the merits of that allegation. During the  
23 confidential stage of the proceeding, prior to and again after the urging of Commission staff,  
24 Respondent engaged in coaching and training with an expert of her own choosing.  
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1 Early on, problems began to manifest, Respondent reached out for help to many people  
2 who came to her assistance, including LaTricia Kinlow, a highly experienced and well-respected  
3 African American district court administrator with 26 years of court experience. Ms. Kinlow is  
4 active in multiple national and state professional organizations for court managers, facilitates  
5 and participates in training for court administrators and judges, as well as the Center for Court  
6 Innovation in New York. Ms. Kinlow participates with the District and Municipal Court  
7 Managers' Courts Helping Courts committee. Because of her reputation with that committee  
8 Respondent requested Ms. Kinlow's assistance and support, telling Ms. Kinlow some of the  
9 problems Respondent was experiencing were due to her race, though she did not specify to Ms.  
10 Kinlow – or to the panel during the course of this entire proceeding – specifically who she  
11 believed targeted her because of her race. Ms. Kinlow testified she was concerned by this, being  
12 herself a Black woman, aware the geographic area of Bremerton is not very diverse. Ms. Kinlow  
13 reached out to another municipal court administrator with decades of experience, Jennefer  
14 Johnson (who self-identified during the hearing as African American and Mexicana), with whom  
15 Ms. Kinlow had a close working relationship, and recruited her assistance to try to help  
16 Respondent and her court.

17 Both women personally visited Respondent's court to do an assessment of the situation  
18 and see how they could help. Ms. Kinlow stated as she prepared to assist, she anticipated they  
19 would find “macro-aggressions, micro-aggressions...anything that supported what Judge Flood  
20 believed she was dealing with at the court at the time.” (Transcript of Proceedings, Vol II, page  
21 224.) She testified what they in fact found were multiple administrative duties that were in  
22 disarray and had fallen far behind, such as collections, receipting of parking payments, and  
23 improper use of the OCourt system, the electronic document system that allows parties and court  
24 authorities to promptly view, sign, and otherwise manage court documents. She said they were  
25 short-staffed, and of the staff many of them were new to any court, and did not know what needed  
26 to be done. Those new staffers had been there under six months doing the best they could. Over

1 a period of four months, Ms. Kinlow returned repeatedly in person to the court, as did Ms.  
2 Johnson. In addition, Ms. Kinlow recruited other courts to allow their staff to provide remote  
3 assistance and do virtual clerking for hearings and similar tasks. The court was without a court  
4 administrator, and essential court functions were not being performed, such as the daily close of  
5 business accounting of funds received; and the monthly accounting of the receipts from specific  
6 individuals in specific cases, and the apportionment of those funds to the city, county, and other  
7 entities required by law to receive a portion of those funds. Though assistance from Courts  
8 Helping Courts is typically short-term, Bremerton Municipal Court required the program's help  
9 from September 2022 to May of the following year.

10 Ms. Kinlow testified about one occasion when she was present and witnessed the judge  
11 harshly yelling at one of the new staff members, Amber, who was at the front desk, reducing  
12 Amber to tears. Ms. Kinlow testified that she comforted Amber, who was sobbing from  
13 Respondent's treatment of her. Ms. Kinlow testified that when she told Respondent later that  
14 they could not afford to lose more staff, that Amber was working as hard as she could, but said  
15 the judge's response was "she did not yell at anybody." Ms. Kinlow further testified Respondent  
16 did not accept any of her suggestions and gave the specific example of establishing a cutoff time  
17 with prosecutors for placing matters on the court jail calendar so the clerks could properly  
18 prepare those files for the hearings. Such coordination is necessary because the jail personnel  
19 have to bring the prisoners to the court or have them available to attend court remotely, and the  
20 judge must have the relevant files ready to conduct the hearings in a meaningful manner.  
21 Significantly, when reminded of her testimony that she was alert to any instances of macro or  
22 micro-aggressions or things associated with institutional racism or workplace racism, Ms.  
23 Kinlow testified "I did not witness anything like that." (Hearing Transcript Volume II, page  
24 235.)

25 Ms. Kinlow testified she met with Steven Desrosier, the first therapeutic court  
26 coordinator in Bremerton. Part of his job was setting up the systems and processes for the

1 therapeutic court, and he showed Ms. Kinlow an intake form he had designed that greatly  
2 impressed her. She said he should show it to Respondent because it was “amazing.” Ms. Kinlow  
3 was present when he tried to share the document with Respondent, but when he tried to share it,  
4 Respondent held up her hand to stop him and said “I told you, e-mail me stuff. Don’t tell me  
5 stuff. E-mail me.” Ms. Kinlow testified Mr. Desrosier replied “Yes, ma’am,” slumped, and  
6 walked away. Ms. Kinlow also testified that she attended a staff meeting at Respondent’s  
7 invitation, and was struck that Respondent did all the talking, and that when staff attempted to  
8 ask questions or give input they were usually cut off by Respondent in dismissive fashion and  
9 not heard. Ms. Kinlow noted Respondent was particularly dismissive to Ian Coen, the probation  
10 officer, who was trying to ask questions. Respondent told Ms. Kinlow afterward that Respondent  
11 felt the meeting “went fine.” (Transcript of Proceedings Vol. II, Page 238, line 25.)

12 Before a new court administrator was hired, Ms. Kinlow testified she was present to assist  
13 in Bremerton almost every other day. For a length of time, Ms. Kinlow received permission  
14 from her presiding judge to loan Bremerton two clerks to assist Respondent’s court. Those clerks  
15 were made uncomfortable by Respondent’s demeanor in court towards attorneys and asked  
16 permission to no longer assist (that permission was granted). Through Ms. Kinlow’s ongoing  
17 efforts to assist Bremerton’s court, and at the time a new administrator, Christina Rauenhorst,  
18 was hired, Ms. Kinlow became aware around the spring of 2024 that court hearings were being  
19 mislabeled. In at least one instance, Respondent specifically ordered a case that was in pretrial  
20 status to be set for an arraignment (which is an earlier, preliminary hearing at which time-  
21 sensitive matters different from a pretrial hearing must be addressed).

22 Ms. Kinlow testified that she became aware Respondent planned to attend the National  
23 Judicial College out of state during the time Ms. Kinlow and others were helping the court  
24 through its troubles. She advised Respondent not to leave for this discretionary training because  
25 the court was in crisis, but Respondent opted to attend, nonetheless. (See Respondent’s  
26 description of this decision, below.) The panel found Ms. Kinlow’s testimony highly credible,

1 in part because of her personal and professional background, and because of the very evident  
2 neutrality with which she approached the problems at the court.

3           Witness Maurice Baker testified by sworn declaration (see Attachment E). Mr. Baker is  
4 a retired, highly qualified and experienced court administrator who volunteered to get the court  
5 back on track for months, working unpaid for eight or nine hours daily. During his time with  
6 the court, he scrutinized the court operations and each position closely to find what the  
7 deficiencies were and how they could be addressed. Despite literally having greeted him with  
8 open arms and tears of relief, Respondent ultimately rejected his suggestions, and he ended his  
9 time with the court. He concluded in his letter of resignation to Respondent that “the Court’s  
10 current level of functioning is as good as it will get under your chain of command.” Although  
11 Mr. Baker’s testimony was given by written declaration, his background, motivation and  
12 experience are such that the panel found his testimony highly credible.

13           The misconduct that is the subject of this proceeding continued unabated after all efforts  
14 at assistance.

### 15 16           Ill-Treatment of Court Staff and Attorneys

17           Oral testimony and written declarations that were admitted into evidence showed that  
18 multiple court staff were reduced to anxiety, tears, panic attacks, and other manifestations of  
19 stress and trauma, and were made to feel fearful, frustrated, and powerless, as many of  
20 Respondent’s actions and inactions were detrimental to the court – causing confusion and delay  
21 at best and risking injury and expense to individuals as well as liability to the City.

22           Unlike some other judges whom the Commission has sanctioned for failing to treat court  
23 staff and attorneys with courtesy, dignity and respect, Respondent’s violations were less overt in  
24 that she did not use foul language, usually did not raise her voice, and did not specifically call  
25 people names. Rather she consistently condescended to, undermined, and confused both staff  
26 and attorneys. She would over-talk anyone else present in a meeting, refuse to listen to input,

1 decline to give written instructions and thereafter deny the oral instructions she had given, and  
2 when she cut off other speakers, would often do so with a dismissive hand gesture and/or  
3 vocalization. Former staff member Ian Coen testified Respondent’s treatment toward him was

4 Demeaning, belittling, treating me as though I was a child, treating  
5 me as though I had no clue what I was doing after doing the job  
6 for 22 years.

7 Mr. Coen testified at length about the manner in which he felt invalidated by Respondent,  
8 and that his distress was so evident that multiple people checked on him: “Coworkers,  
9 defendants, police officers, attorneys, defendants that didn’t like me.” (Transcript of Proceeding,  
10 Vol. III, Page 447, lines 24-25.) He testified to the impact on his physical and mental/emotional  
11 health – that he lost sleep and experienced depression and anxiety, as he absorbed the loss of a  
12 job he said he had loved - “everything [I] had worked for for 20 years.” (Transcript of  
13 Proceedings, Vol. III, Page 449, lines 8-18.) He described the impact upon him as worse than  
14 the death of a close family member and described an occasion his wife found him crying on the  
15 floor of their garage. He described that he searched and was able to find another job with the  
16 City, although out of his field. The panel found Mr. Coen’s testimony highly credible. In  
17 addition to the substance of his testimony and his recognized professionalism in his field, his  
18 demeanor while testifying was sincere – more sorrowful than telegraphing any agenda and  
19 therefore highly persuasive.

20 Respondent would mock and scold staff members, sometimes for questioning or  
21 sometimes even for complying with her own orders. She expected staff to start hours before  
22 court opened and to be available for electronic communications from her after hours and on  
23 weekends. She would not take any responsibility for her poor choices, lack of clarity, or  
24 unwillingness to listen. Multiple staffers reported being made to feel inadequate and as though  
25 there is nothing they could possibly do to please Respondent or to at least avoid her displeasure.  
26 Witnesses testified that Respondent would cut off or ignore their advice, that her changes to

1 established court procedure were not just different but sometimes contrary to law; and that when  
2 they did try to comply with Respondent’s changes to court processes, Respondent would often  
3 deny directing the change. At least five attorneys refused to practice in her court because of its  
4 inefficiency and the way Respondent treated them, including “[P]ersistent interruptions, eye  
5 rolls, glares, condescension.” (Transcript of Proceedings, Vol. II, page 271, lines 9-11; Exhibit  
6 285, Declaration of Jacob Murphy, attached.) For example, see the declarations of Serena  
7 Daigle, Steven Desrosier, Dawn Williams, Jacob Murphy, and Maurice Baker (see Attachments  
8 F, G, H, and I). The panel observed that the witnesses testifying for Disciplinary Counsel,  
9 particularly former court staff, were solemn, stressed, and sad, at times coming to tears or near  
10 tears. Similarly, they testified that either they or other court staff under Respondent were  
11 frequently despondent and cried during the workday.

12 Although Respondent highlighted her compassion for defendants in therapeutic court and  
13 for defendants in general, she is notably lacking in compassion for some of her own court staff  
14 who complained of her treatment of them, including those who shared with her that they were  
15 living with disabilities, like Serena Daigle. Ian Coen disclosed he suffers from dyslexia, yet she  
16 consistently chided him for minor spelling and punctuation errors.

17 Serena Daigle testified by Declaration. She originally worked with Bremerton Municipal  
18 Court through the Courts Helping Courts program. She had 17 years’ experience at the time in  
19 courts of limited jurisdiction and took a pay cut to join and assist the Bremerton Court. Ms.  
20 Daigle disclosed to Respondent that she has a disability stemming from a traumatic brain injury  
21 and that she would sometimes need to ask clarifying questions. Rather than acknowledge and  
22 accommodate that, Ms. Daigle’s sworn declaration notes she would see Respondent respond to  
23 Ms. Daigle’s questions for clarification of Respondent’s rulings by clenching her jaw, apparently  
24 holding back anger, and stepping away from the bench – later that same day snapping at Ms.  
25 Daigle that if she did not know she was expected to fill out Respondent’s court orders that she  
26 should ask, though she had manifested anger at Ms. Daigle earlier for asking questions. In Ms.

1 Daigle’s declaration and attachment, she details the humiliation and stress she experienced from  
2 Respondent to the point that Ms. Daigle was considering self-harm and left the court to preserve  
3 her well-being.

4 Dawn Williams’ declaration and exhibits describe her optimism and willingness to work  
5 with Respondent when she first took office. Ms. Williams was the court administrator at  
6 Bremerton since 2011 and had 27 years’ experience in various courts. In her declaration, Ms.  
7 Williams noted the judge made changes without explaining the purpose, to the point “it began to  
8 seem she wanted to make change just for the sake of exerting her authority, rather than for a  
9 reason she could explain.” Ms. Williams described how Respondent would not clarify her  
10 instructions and “would not take responsibility for having made a mistake or given me unclear  
11 instruction,” and that when Ms. Williams tried to give input on a problem Respondent’s proposed  
12 change might cause, Respondent “...would shut me down. I would characterize the way she  
13 acted toward me as condescending, belittling, and bullying. She used a mocking, scolding tone  
14 of voice, as though talking to a child. By the end of February 2022, I felt like I could not do  
15 anything right in Judge Flood’s eyes. I cried in the car on the way home from work.” Ms.  
16 Williams left the court in May 2022, taking an alternative job with a large pay cut and forfeiting  
17 930 hours of sick leave.

18 Many of the staff who left Bremerton Court because of the stressful and debilitating  
19 environment created by Respondent testified they had loved their jobs before Respondent’s  
20 tenure, and some who had worked there for decades accepted lower pay and/or conditions simply  
21 to get away from the atmosphere and conditions Respondent created. Bremerton Municipal  
22 Court has a small staff, ranging between seven and nine employees during the time in question.  
23 In all, 19 employees and volunteers left the Bremerton Municipal Court during Respondent’s  
24 tenure in part or in whole because of her conduct. This number does not include the clerks from  
25 other courts who had assisted through Courts Helping Courts who were allowed to stop assisting  
26 because of their concerns about Respondent.



1           Witnesses on behalf of Respondent

2           Testimony favorable to Respondent, in addition to her own, came from three live  
3 witnesses called at the hearing by her counsel. Keyera Gaulden is a Black woman who  
4 introduced herself at the hearing as a full-time student seeking her Ph.D. in clinical psychology  
5 who recently gave birth to her first child. Ms. Gaulden testified she knew Respondent first  
6 through community organizations, and that she had been invited by the then Bremerton  
7 Municipal Court administrator, Jennefer Johnson, to help with the therapeutic court and then  
8 with a community outreach effort she called a youth and law forum. Ms. Gaulden joined the  
9 therapeutic court and was there for about six months, (two years prior to the hearing). The  
10 therapeutic court was created by Respondent and court was held weekly on Tuesday mornings;  
11 Ms. Gaulden worked about 15-20 hours a week.

12           Ms. Gaulden’s impression of the judge was that she was both professional and kind, and  
13 that other court staff gossiped about Respondent behind her back, “rolled their eyes” at her words  
14 and actions, and “pushed back” against Respondent’s efforts to make the court operate smoothly.  
15 Ms. Gaulden has limited knowledge of the actual chain of authority in the court, which  
16 unequivocally places the judge at the top. Ms. Gaulden testified in answer to questions that the  
17 court administrator, not the judge, was “in charge” of the courthouse and the court staff. She  
18 was unaware of who, if anyone, the court administrator answered to. She acknowledged only  
19 having had exposure to the half day a week therapeutic court and was not familiar with the rest  
20 of the court’s operations. She characterized the Commission’s investigation and prosecution as  
21 “ridiculous.”

22           Therapeutic Court Coordinator Faymous Tyra has an associate’s degree as a paralegal  
23 and has worked previously in court-adjacent work such as being a parole officer for the  
24 Department of Corrections in Georgia and in some capacity associated with public defense in  
25 the State of Oregon. He self-described as Black. He had been disillusioned with the demeaning  
26 and oppressive conditions in prisons and in the corrections systems where he worked. He was

1 hired by Respondent in September of 2023. He was interviewed for the Bremerton Court  
2 position by Respondent alone, and was excited and inspired as Respondent described her vision  
3 of reforming the court system into a rehabilitative and empowering institution. Part of his  
4 testimony recounted his surprise that he was not met upon arrival on his first day by the court  
5 administrator nor by any other coworker and that there was not an on-boarding process in place  
6 for him and he basically had to find his own way. This lack of preparation is explained by  
7 reference to the declaration of Maurice Baker. Mr. Baker's sworn declaration outlines how  
8 Respondent chose to replace Mr. Coen without coordinating with anyone else in the process or  
9 decision, giving the human resources department about one day's notice of the hire.

10 In Mr. Tyra's position with Bremerton Court, he is present in therapeutic court for its  
11 court sessions that take place on Tuesday mornings; assists the (new) probation officer as needed;  
12 helps therapeutic court participants find treatment and housing; and conducts outreach on behalf  
13 of the therapeutic court such as assisting with the court's thrice annual resource fairs. Mr. Tyra  
14 testified his experience with Respondent was that she was supportive, patient, and helped him to  
15 achieve a higher level of job satisfaction than he previously had achieved. Mr. Tyra had the  
16 impression that the probation officer and other court staffers disliked Respondent and hoped she  
17 would be "out of here." He testified he had never seen Respondent yell at anyone or even speak  
18 with them inappropriately. He testified that the other staffers' criticisms of Respondent were so  
19 incessant and inconsistent with his own experience that he took to eating lunch in his office  
20 rather than in the lunchroom to avoid them. Mr. Tyra testified that he felt the impact of racism  
21 at the court himself, that he had to "walk on eggshells" (Transcript of Proceedings, Vol. III, Page  
22 608) and had the impression that two other former employees had also. Mr. Tyra testified he  
23 had observed two prosecutors and various clerks in therapeutic court, who treated Respondent  
24 disrespectfully.

1 William Kohn works 19 hours a week as the security officer for the Bremerton Court,  
2 having started there in August of 2023. He is African-American. He testified he perceives  
3 Respondent's interactions with people to be very professional, patient and courteous.

4 The commonality between Respondent's live witnesses is that they had limited  
5 background or knowledge in the practical operation of a court and were not required to perform  
6 in ways that affected the daily workings of the regular court. These witnesses all had limited  
7 exposure to the judge and limited opportunity to observe the general operation of the court. Mr.  
8 Tyra and Ms. Gaulden were deeply inspired by Respondent's generally stated goals of reforming  
9 the criminal justice system. Their testimony all supported Respondent's allegation that she was  
10 ill-treated by others at the court, and not accorded the respect that she was due, impliedly because  
11 of her minority status. Testimony that some staff disliked Respondent is not inconsistent with  
12 testimony that Respondent treated some staff poorly. Each of Respondent's live witnesses noted  
13 above presented as entirely sincere, but their limited exposure to the relevant issues did not give  
14 the panel reason to give much weight to their testimony regarding the charges.

15 Two court staffers hired by Respondent testified by declaration (see Attachments J and  
16 K). Jennifer Riley is a Legal Technician 2 who was trained in part by Maurice Baker. She feels  
17 Respondent treats court staff fairly, although Ms. Riley did note that Respondent  
18 "Sometimes...says things that others might perceive as rude, but I do not believe she intends  
19 that." Ms. Riley recalled an incident when Respondent interrupted Ms. Riley during a  
20 therapeutic court staff meeting, and Respondent thereafter placed Ms. Riley on administrative  
21 leave. Ms. Riley stated the court "functions well for the most part," though she acknowledged  
22 not everyone, including herself, is fully trained. She declared Respondent supports the  
23 functioning of the court and is blamed for some issues, like recording failures, that are not her  
24 fault.

25 Sarah Nettleton is Legal Technician for the court, hired in March 2024, who wrote a  
26 declaration on behalf of Respondent. She has not worked for a court before. She declared

1 Respondent often exhibits genuine concern for the staff as a team, as well as for defendants and  
2 the public. Ms. Nettleton declared Respondent is not to be blamed for mistakes made by mostly  
3 new staff, that they are understaffed, and that Respondent is being blamed for “some things she  
4 is not aware of.” Ms. Nettleton did describe an incident early on in her tenure where Respondent  
5 talked over her and later apologized. Ms. Nettleton disclosed that she is living with Multiple  
6 Sclerosis, and that the judge has been very accommodating and is a good judge.

7 Leslie Weber is a former coworker of Respondent at the U.S. Department of Labor who  
8 was a union representative. In that capacity she declared she would have been aware had  
9 Respondent been the subject of complaints, and that she did not hear of any. Ms. Weber declared  
10 Respondent had been very nice, friendly, organized fun activities, did a good job, and was neither  
11 unprofessional nor reported as rude when they worked together.

12 Sarah Dryfoos is the co-founder and principal at Revolution Lab, which consults with  
13 companies regarding workplace culture, organizational structure, governance, evaluation, and  
14 strategic planning. Mx. Dryfoos has worked for over 20 years in public health and related fields,  
15 and a primary focus for their Masters in Public Health was on race and racism’s impact on health  
16 disparities. Mx. Dryfoos’ declaration on behalf of Respondent (see Attachment L) described a  
17 “Race Forward” model of racism existing on multiple levels: internalized, interpersonal,  
18 institutional, and structural, and their opinion that “[i]t is reasonable to question” whether the  
19 charges against Respondent are in fact, “implicit biases and attempts to tone police Judge Flood  
20 as [her accusers] encounter their own discomfort around her positionality [as a judge].”

#### 21 Respondent’s Testimony

22 Respondent testified as to her life history, background, and approach to work. She  
23 testified about her background in the military, her role in supporting her family members, and  
24 her education, recognitions and honors and other credentials. She testified her goal in seeking  
25 the position of Bremerton Municipal Court was “to make a change,” and how her background in  
26 the military (Bremerton has a high military population) and the existence of a one-tenth of one

1 percent local tax to address mental health and substance abuse was auspicious for her to start the  
2 city’s first therapeutic court. She testified about the grants she applied for and received for the  
3 therapeutic court, which operates for a half day once a week.

4       Regarding her own conduct, Respondent testified she had never, as a judge, yelled at  
5 anybody at the courthouse. She testified that so long as she agreed with others, “things are  
6 perfect,” but “[a]s soon as I say not, I disagree, I’m then told that I can’t do things, that that’s not  
7 how it’s done. Straight out blanket, ‘You can’t do that.’” Her perspective was that the conflict  
8 she experienced with staff and attorneys was because she chose to try different approaches from  
9 the way things had historically been done.

10  
11       And I understand that historically things may have been done a particular  
12 way, but when you ask the question why have you historically done it this  
13 way so that I can understand why it's being done this way and the response is  
14 no answer, it's the sense of just because. Okay. So my thoughts and practices  
15 is, okay, let's try it. Let's do it a different way. It doesn't hurt anything if we  
16 try it a different way. If it doesn't work, we'll try it a different way, but the  
17 system, the criminal justice system is broken. I didn't break it. The criminal  
18 justice system has been inherently broken for a while.

19 (Transcript of Proceedings Volume IV page 703.)

20       Respondent testified, in regard to Disciplinary Counsel’s witnesses, that “It is my opinion  
21 that the things that are being said by everyone is their personal impression of me because they  
22 didn’t like me and they do not like me. Some people came in, I believe, with motivations other  
23 than to help.” She testified regarding the time frame in which Ms. Kinlow told her it was unwise  
24 to leave the court amid its crisis.

25       “[T]here was never enough time that passed between fires to allow for there to  
26 be an opportunity to truly address any issues. When [original court  
administrator] Dawn left, I was not present for the...final two weeks as it was  
the month of July....During my anniversary so we had plans to travel to Atlantic  
City, and in the month of November is also an annual CLE conference that I  
attend.

(Transcript of Proceedings Volume IV page 718)

1           Regarding her ongoing communication issues with staff and the city attorney, Respondent  
2 referred to interactions with them as “pushback,” and said she experienced the same from “the  
3 entire city council.” In regard to her own treatment of staff, she denied ever belittling Ian Coen  
4 or speaking to him in a condescending tone. In regard to the vocalization Mr. Coen testified to  
5 in the hearing as he described how Respondent would silence him, she gave her interpretation of  
6 his testimony:

7  
8           And to say that I made some type of eeking sound, am I being called -- and  
9 that's racist in tone -- am I being called a monkey by your implication that I'm  
10 making some sound or I'm looking some way?

11           (Transcript of Proceedings, Vol. IV, page 741.)

12           Respondent testified she was unable to control how other people reacted to her, and did  
13 not connect his crying in her presence to her treatment of him, testifying that she had “no idea”  
14 (Transcript of Proceedings, Vol. IV, Page 728, line 22) why Mr. Coen came to tears or got  
15 emotional upon interacting with her at the courthouse. Her perspective was that the people who  
16 were critical of her are all white, with the exception of Jennefer Johnson, and their motivation  
17 was entirely or in part racist. She denied ever using a rude or condescending tone with any  
18 defendant, lawyer, probation officer, court clerk, employee, or member of public during her  
19 entire tenure at the court. She testified to feeling beset and isolated.

20           By way of impeachment, Disciplinary Counsel questioned Respondent about her tenure  
21 as president of the board of a non-profit organization, Kitsap Community Resources.  
22 Respondent was shown a letter wherein the staff members of that organization complained to  
23 the board that Respondent had created a hostile work environment through her bullying and  
24 intimidation tactics, including cutting off staff midsentence during presentations and discussions,  
25 lack of communication, singling out staff members for unprofessional and degrading discussion,  
26 and violating bylaws. The panel did not rely on this document as substantive evidence regarding

1 Respondent’s conduct at the community organization, but did rely on it to assess Respondent’s  
2 credibility when denying outright that she had ever treated court staff and attorneys in a  
3 degrading or belittling fashion.

4 The hearing panel found Respondent’s demeanor while listening to other witnesses’  
5 testimony, and her own demeanor, significant in its assessment of this case, particularly her lack  
6 of apparent reaction or smiling when witnesses cried or came close to tears when testifying about  
7 her treatment of them. When asked by Disciplinary Counsel

8  
9 Q. Do you remember seeing Mr. Coen break into tears a couple of  
times while he was testifying?

10 A. I saw him wiping his face.

11 Q. You just sort of smiled a little bit. Why did you smile when I asked  
you about Mr. Coen breaking into tears?

12 A. Because your description is breaking into tears. I saw him wiping  
13 his face, so that's a difference of your opinion is that he broke into tears.  
My opinion is that I saw him wiping his face. I wasn't watching his every  
14 move.

15 The panel also found Respondent’s combatively evasive and sometimes condescending  
16 replies to Disciplinary Counsel’s questions helpful in assessing the testimony. (See Transcript  
17 of Proceedings, Volume IV, page 757, line 10 through page 761 line 10.) For example, when  
18 asked “You have admitted that you verbally admonished your staff for not following instructions,  
19 is that right? Respondent answered “I have admitted to what’s in the stipulation,” and “I believe  
20 there’s language in the stipulation. If you want to refer to that, you should bring it up.”  
21 Respondent gave the same or similar response (e.g., “I believe the document speaks for itself”)  
22 to multiple questions. (See Transcript of Proceedings, Vol. IV, pages 746-755, Attachment M).  
23 Under questioning, Respondent specifically stated she disagreed with multiple facts agreed to in  
24 the stipulation.

25 A panel member asked Respondent if she had changed her demeanor toward staff since  
26 she was first apprised of the Commission’s concerns with a Statement of Allegations during the

1 confidential portion of the proceedings. Respondent answered she had actively sought out  
2 training, brought in a speaker regarding “stress and protein and being healthy and eating and how  
3 that stress can be in the workplace,” (Transcript of Proceedings Vol. IV page 809) and she  
4 testified she brought in a conflicts trainer, as well as attending a change management course.  
5 (These are in addition to the personal coach Respondent engaged referred to above.)

### 6 7 The Role of Institutionalized and Specific Racism in this Case

8 Respondent has consistently and vociferously asserted that the complaints against her  
9 and the Commission proceeding are premised almost exclusively in institutional and overt racism  
10 against her as the first Black woman judge in a predominantly white community, where she  
11 succeeded a popular white male judge in a one-judge court. She further alleged the complaints  
12 stemmed from a small group of detractors who disliked her personally and because of her  
13 demographic identity.

14 There is no rational basis to deny the toxic and pervasive role that racism has historically  
15 played and continues to play in the American justice system, and the State of Washington and  
16 the City of Bremerton are no exceptions to this reality. The Commission panel members for this  
17 hearing include Black, biracial, and Native American members, and all the members  
18 acknowledge the existence of both targeted and systemic racism in our culture and acknowledge  
19 that it is inevitable that as a Black woman, Respondent experiences racism and sexism. It is also  
20 true that Respondent bears the responsibility, as part of the great power that she holds as a judge,  
21 of conducting herself in a fashion that ensures the greatest possible public confidence in her  
22 independence, impartiality, integrity, and competence, and in these regards she has failed. The  
23 reality of racism neither explains nor excuses the failings found here.

24 Despite concerns over the allegations of significant ongoing harm, the Commission  
25 extended the investigative phase of this case upon receiving Respondent’s supplemental  
26



1 response to the confidential Statement of Allegations<sup>7</sup>, to focus on her allegation that the  
2 complaints were based on racism. The Commission’s independent investigation did not  
3 substantiate her contention. LaTricia Kinlow and Jennefer Johnson, highly experienced and  
4 competent Black women court administrators, first engaged with Respondent in her court as part  
5 of Courts Helping Courts, ready to identify and address her contention that the court’s problems  
6 stemmed from racism, but that is not what they found. Institutional racism does not cause a  
7 judge to belittle, demean, and drive away two full sets of court staff<sup>8</sup>, notwithstanding the  
8 assistance of multiple highly qualified volunteers and multiple types of training and coaching.  
9 Many of the staffers who complained about Respondent’s conduct were unacquainted with each  
10 other and interacted with Respondent at different time periods.

11 The specific instances of racism presented and argued by Respondent are few. They  
12 include an allegation that one former employee persisted in using her first name rather than  
13 addressing Respondent as “Judge.” This was undoubtedly annoying and quite possibly  
14 disrespectful, though not an uncommon experience for women judges and other professional  
15 women. Her interpretation that Mr. Coen’s testimonial description of her shushing him as though  
16 he were a small child as “racist in tone” is not reasonable, in context. He was testifying to her  
17 dismissive and belittling manner of addressing him, not the reverse. The actual power dynamic  
18 in that relationship was that Mr. Coen was submissive, vastly overpowered, and ultimately forced  
19 by Respondent’s actions to abandon his beloved life’s work. Some of Respondent’s witnesses  
20 testified generally, that she was sometimes treated with disrespect by some attorneys or staff, but  
21 specific incidents were not described, nor was there testimony that this treatment was universal  
22 nor even typical.

23 Historical and current racism in the judicial system in Washington State and throughout  
24 the country are real and constitute a betrayal of all that the Constitution and the judiciary should  
25

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26 <sup>7</sup> Included in the Finding of Probable Cause.

<sup>8</sup> See Exhibit 282 (see Attachment N) containing a chart showing the hire and departure dates of court employees under the prior judge and under Respondent up to the time of the hearing.

1 protect. There was not sufficient evidence in this case to substantiate Respondent's defense that  
2 her conduct, and the accusations against her, were the product of racism.

## 4 VI. CONCLUSIONS OF LAW

5 As noted above, the Commission panel accepted Respondent's stipulation that she  
6 violated three of the four Rule violations in the Commission's Statement of Charges: Canon 1,  
7 Rules 1.1 and 1.2, and Canon 2, Rule 2.8(B). These stipulated violations are supported by the  
8 evidence and accepted as committed by the panel. The stipulation was silent as to the remaining  
9 charged violation of Rule 2.5(A).

### 10 **RULE 2.5 *Competence, Diligence, and Cooperation***

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

12 (B) A judge shall cooperate with other judges and court officials in the administration  
13 of court business.

### 14 **COMMENT**

15 [1] Competence in the performance of judicial duties requires the legal knowledge, skill,  
16 thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of  
judicial office.

17 [2] In accordance with GR 29, a judge should seek the necessary docket time, court staff,  
expertise, and resources to discharge all adjudicative and administrative responsibilities.

18 [3] Prompt disposition of the court's business requires a judge to devote adequate time  
19 to judicial duties, to be punctual in attending court and expeditious in determining matters under  
20 submission, and to take reasonable measures to ensure that court officials, litigants, and their  
lawyers cooperate with the judge to that end.

21 [4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard  
22 for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay.  
A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices,  
avoidable delays, and unnecessary costs.

23 Based on the foregoing Findings of Fact, the Commission panel concludes that it has  
24 been proven by clear, cogent and convincing evidence that Judge Flood violated Canon 2,  
25

26

1 Rule 2.5(A) of the Code of Judicial Conduct as charged.<sup>9</sup> Respondent’s failure of competence  
2 resulted in a devastating loss of personnel and a dysfunctional court which is directly traceable  
3 to Respondent’s inability to manage and cooperate with others in a system in which she is the  
4 most powerful and responsible player.

## 5 6 **VII. DISCIPLINE**

### 7 **Application of CJCRP 6(c) “Deming Factors”**

8 In determining an appropriate sanction, the Commission on Judicial Conduct and the  
9 State Supreme Court must consider a non-exclusive list of aggravating and mitigating factors  
10 for a judge who has violated the Code. *In re Deming*, 108 Wn. 2d 82 (1987), CJCRP 6(c).

11 The following factors were considered important in determining discipline:

12 CJCRP 6(c)(1)(A): The misconduct was a pattern consisting of condescending,  
13 belittling ill-treatment of multiple staff members and attorneys that drove them to leave the  
14 court. The conduct was repeated toward specific individuals and directed at multiple people  
15 over time.

16 CJCRP 6(c)(1)(B) and (F): The nature, extent, and frequency of occurrence of the acts  
17 of misconduct and the nature and extent to which the acts of misconduct have been injurious to  
18 other persons. These factors are most concerning. Multiple people who worked at the court  
19 were humiliated and personally and professionally undermined in ways that impacted their  
20 physical and emotional health to the point that more than one person contemplated self-harm.

21  
22 \_\_\_\_\_  
23 <sup>9</sup> In a motion filed on October 28, 2024, after the conclusion of the proceedings, Respondent’s Counsel  
24 filed a motion to dismiss the charge of violation of Rule 2.5(A). The Statement of Charges was brought by the  
25 members of the Commission in conjunction with their constitutional duties. The Commission hearing panel  
26 accepted the stipulation of the parties on the first day of the hearing. The stipulation made no reference to Rule  
2.5(A) and did not include a request to dismiss or remove that charge. In closing argument Respondent’s counsel,  
who actively raised objections throughout the contested hearing, made no objection to Disciplinary Counsel’s  
argument that a Rule 2.5(A) violation was proven. The duty of the Commission is fundamental to the well-being  
of the judiciary, and charges are broadly allowed, as illustrated in CJCRP 19(b), which allows amendments to be  
made to a Statement of Charges “at any time prior to ...decision...to conform to the proof or set forth additional  
facts, whether occurring before or after the commencement of the hearing.” Again, the Rule 2.5(A) violation was  
included in the original charge, served July 12, 2023, more than 15 months before the hearing.

1 People who had worked in the court system for decades and were dedicated to the work took  
2 cuts in pay and forewent benefits to which they were entitled to escape Respondent's abuse. No  
3 court can operate without a competent staff consistently and promptly serving the public on a  
4 daily basis. Respondent's misconduct toward staff resulted in the loss of experienced staff who  
5 were replaced by staff who were not adequately trained or knowledgeable in the basic aspects  
6 of the court such as the handling of the courts funds, docketing, and other fundamental aspects  
7 of court operation crucial to fulfilling its role in our democracy. The failures of the operation  
8 of the court meant that not only those with direct contact with the court, but the entire  
9 community was harmed by the failure of this iteration of the judicial branch of local  
10 government. Particularly because this is a one-judge court, without other judicial officers  
11 available to ameliorate the consequences of Respondent's actions, the combination of damage  
12 done to individuals and the wide-ranging harm to the operation of this court is some of the most  
13 serious addressed in the Commission's history.

14 CJCRP 6(c)(1)(C): Whether the conduct occurred in or out of the courtroom. The  
15 conduct occurred both in and out of the courtroom, but all of it at the courthouse in the context  
16 of Respondent's judicial duties.

17 CJCRP 6(c)(1)(D): The misconduct occurred in the judge's official capacity, not in her  
18 private life, which is an aggravating factor. There is no indication that the judge flagrantly or  
19 intentionally violated the oath of office, so CJCRP 6(c)(1)(E) is not a salient consideration in  
20 this case. (CJCRP 6(c)(1)(F) was addressed above.)

21 CJCRP 6(c)(1)(G): There is no indication the judge exploited her official capacity to  
22 satisfy personal desires. She has consistently told others and testified her intention is to improve  
23 the justice system to better serve the whole community.

24 CJCRP 6(c)(1)(H): The effect the misconduct has had upon the integrity of and respect  
25 for the judiciary is extremely negative and harmful. At a minimum, a court must operate  
26 competently, and this court has been operated by Respondent with a possibly unparalleled litany

1 of failures, outlined above. A judge stands atop an extreme hierarchy of authority in the court  
2 and the community, and the damage done to the individual court workers, attorneys practicing  
3 in the court, and litigants by Respondent's failures would reasonably cause anyone to lose  
4 confidence in the court's integrity and competence. The therapeutic court, which is a modest  
5 portion of the court's operation, may be accomplishing success toward Respondent's stated  
6 goals of addressing the inequities and failings of the criminal justice system. However, the  
7 record in this case is silent as to how many people participated in that court and how many, if  
8 any, have successfully graduated from the program.

9 CJCRP 6(c)(2)(A): Whether the judge has acknowledged or recognized that the acts  
10 occurred. Until the first day of the hearing, Respondent's posture toward this case has been that  
11 it was an illegitimate and corrupt proceeding borne out of unfair and racist allegations. On the  
12 first day of the hearing, she stipulated to violation of all but one of the charges, purportedly to  
13 take responsibility, but in her own testimony she consistently denied responsibility for any  
14 aspect of her troubles at Bremerton Municipal Court. This is a serious aggravating factor.

15 CJCRP 6(c)(2)(B): Whether the judge has evidenced an effort to change or modify the  
16 conduct. There was a great deal of testimony and other evidence that Respondent has been  
17 offered the assistance of qualified experts, such as Ms. Kinlow, Ms. Johnson, and Mr. Baker,  
18 and that she rejected their suggestions. The evidence similarly demonstrates that she has  
19 undergone coaching, conferences, training, and other remedial measures, but that she remains  
20 certain that she is and was correct in her conduct and that she is being unfairly maligned.

21 CJCRP (6)(c)(2)(C): the Respondent's comparatively short length of service in a judicial  
22 capacity could arguably be considered a mitigating factor, but that is negated by the fact that  
23 the misconduct began almost immediately upon the judge attaining her position and has  
24 continued throughout her tenure.

25 CJCRP 6(c)(2)(D): Whether there has been prior disciplinary action concerning the  
26 judge. Respondent has not previously been sanctioned, but complaints about her conduct that

1 is the subject of this proceeding began almost immediately and were ongoing and multifaceted,  
2 with severe consequences. This potentially mitigating element is negated because of the long-  
3 term nature and multiplicity of the violations, which began in the early part of her tenure and  
4 continued throughout.

5 CJCRP 6(c)(2)(E): Whether the judge cooperated with the commission investigation  
6 and proceeding. The history of this case demonstrates that Respondent consistently attempted  
7 to delay and derail the proceeding: moving to disqualify Disciplinary Counsel; refusing to  
8 cooperate in basic discovery obligations, including canceling a scheduled deposition of  
9 Respondent two days before the deposition, rejecting all proffered alternate deposition dates,  
10 and refusing to answer even the most basic questions at the deposition. Respondent moved to  
11 dismiss the proceeding on multiple occasions, wrongly asserting the Commission did not abide  
12 by its constitutionally-mandated structure and process.<sup>10</sup> The fact-finding hearing in this case  
13 was extended multiple times at the behest of Respondent. The second fact-finding hearing date  
14 set for March 18, 2024, was continued on March 7, 2024, based on Respondent's representation,  
15 without documentation, that she had dire health issues making it impossible for her to participate  
16 in Commission proceedings. Due to the sensitive and private nature of these representations,  
17 the Presiding Officer granted Respondent's counsel's requests that discussion of these matters  
18 take place off the record. The Presiding Officer ultimately required interim reports updating  
19 the status of Respondent's medical issues, requiring proof that would be allowed to be sealed  
20 from public inspection, together with requiring an accounting of whether Respondent was able  
21 to continue to function as a judge.

22 In response to the order to provide status reports, Respondent failed to produce  
23 documentation, offering instead vaguely worded general statements that she was undergoing  
24 evaluations. In an order granting Disciplinary Counsel's motion for a subpoena for the relevant  
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26 <sup>10</sup> Respondent took the matter to the State Supreme Court seeking to persuade the Court to order the Commission not to undertake its core obligations in her case, alleging the Commission had acted unconstitutionally and unfairly. The Court dismissed the writ.

1 records, the presiding officer noted he had entered multiple orders requiring Respondent to  
2 produce documentation her counsel had promised would be forthcoming. The July 31, 2024,  
3 order noted

4 Respondent has failed to comply with these orders on every occasion.  
5 Despite the passage of four months and multiple orders, nothing actually  
6 substantiating the March oral representations of these health conditions  
7 has been provided....The unfortunate and unavoidable conclusion is that  
8 Respondent is intentionally not cooperating with the Commission’s  
9 proceeding as required under the Code....”

10 Legal representatives of Respondent’s health provider, the Department of Veterans  
11 Affairs Puget Sound Healthcare System, declined to comply with the Commission’s subpoena  
12 duces tecum as it is not the form of court order that permits them to release medical information,  
13 but made it clear that Respondent was able to sign a release of her records for the limited purpose  
14 of substantiating her representations to the Commission. She declined to do so, raising questions  
15 as to the credibility of her assertions, and compounding her lack of cooperation with the  
16 Commission’s process.<sup>11</sup>

17 There is no ethics advisory opinion that relates to this conduct, so CJCRP 6(c)(2)(F) is  
18 not relevant here.

19 The factors in this case lead the panel to the imposition of a Censure with the  
20 recommendation that the State Supreme Court remove Respondent from the bench. The  
21 Commission panel deliberated hard and long in considering the factors available to reluctantly  
22 reach this result. The panel considered other options, including some kind of “second chance,”  
23 but when contemplating what kind of support or guard rails could be put in place to support  
24 Respondent, it became clear that high caliber, focused supporting training measures had been  
25 offered and failed, both in terms of personal coaching and in the details of court administration.

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26 <sup>11</sup> CJC 2 Rule 2.16 requires judicial officers to cooperate with the Commission’s proceedings. That violation has not been separately charged in this case, but Respondent’s obstruction and lack of cooperation is properly considered, nonetheless, under CJCRP 6(c)(2)(E).

1 Remedial measures and guidance from experienced and motivated experts have been offered to  
2 and rejected by Respondent. The panel struggled to imagine what alternative or additional steps  
3 it would take for this Respondent to be a successful judicial officer.

4         None of the panel members were persuaded that Respondent truly understands the  
5 magnitude and impact of her misconduct, or even that she believes she has engaged in  
6 misconduct at all, given her testimony. There was no persuasive evidence that she felt any  
7 remorse for her treatment of others. Therefore, there was no basis to believe that Respondent has  
8 the capacity or motivation to change. The possibility of returning a judge to the bench who will  
9 likely continue in conduct that harms court staff, the operation of the court, attorneys, the city,  
10 and the public, is not an acceptable outcome; and if past conduct is a predictor of future behavior,  
11 any further commission proceedings to address further misconduct would be protracted and exact  
12 an unfairly heavy toll on all involved, if indeed witnesses could be persuaded to come forward.

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**ORDER**

Based on the foregoing Decision, the Commission finds that Judge Flood violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.5(A) and 2.8(B) of the Code of Judicial Conduct, and for the reasons stated above, is hereby CENSURED with a recommendation that the State Supreme Court remove her from office. Under Article IV §31, Paragraph (8) of the State Constitution, this sanction operates to suspend Respondent from office immediately, with salary, from her judicial position until a final determination is made by the Supreme Court.

DATED this 10th day of January, 2025.

*Ryan Archer*

\_\_\_\_\_  
Ryan Archer

*Terrie Ashby-Scott*

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Terrie Ashby-Scott

*Wanda Briggs*

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Wanda Briggs

*Michael H. Evans*

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Michael Evans

*Kristian Hedine*

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Kristian Hedine

*Tara Miller*

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Tara Miller

*Marsha Moody*

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Marsha Moody

*Erik Price*

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Erik Price

*Gerald Schley*

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Gerald Schley

# ATTACHMENT - A

# THE SUPREME COURT OF WASHINGTON

In re the Matter of the	)	No. 103065-7
	)	
HONORABLE JUDGE TRACY S. FLOOD,	)	<b>ORDER</b>
JUDGE OF THE BREMERTON	)	
MUNICIPAL COURT,	)	
	)	
Petitioner.	)	
	)	
	)	

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Department I of the Court, composed of Justices Johnson, Madsen, Stephens, and Justices Pro Tempore Fearing and Ferrera, considered this matter at its October 8, 2024, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioner's motion to modify the Commissioner's ruling and motion for oral argument are both denied.\*

DATED at Olympia, Washington, this 9th day of October, 2024.

For the Court



Acting Chief Justice

\*J.P.T. Fearing would have preferred oral argument

**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

In re the Matter of:

The Honorable Judge TRACY S.  
FLOOD, Judge of the Bremerton  
Municipal Court.

No. 1 0 3 0 6 5 - 7

**RULING DISMISSING ORIGINAL  
ACTION AGAINST STATE OFFICER**

An investigation and proceeding concerning alleged judicial misconduct are solemn matters solely within the jurisdiction of the Commission on Judicial Conduct, and a commission decision imposing discipline upon a judicial officer is subject to de novo review by way of an appeal filed directly in this court. Relying on this court's original jurisdiction under article IV, section 4 of the Washington Constitution and the court's concurrent jurisdiction under RCW 7.16.290, Bremerton Municipal Court Judge Tracy Flood seeks issuance of a writ of prohibition directing the commission to shut down its pending disciplinary proceedings concerning Her Honor and dismiss the case against her. Because a writ of prohibition is not an appropriate means for seeking such relief, the original action is dismissed, as explained below.

The following facts appear to be undisputed. Judge Flood was elected to the Bremerton Municipal Court bench in 2021. She is the only municipal court judge in that community. She is the first Black person elected to that position. In the second half

of 2022, the commission received a series of complaints concerning Judge Flood's behavior toward attorneys appearing before her and court staff. After an investigation by its in-house investigator, the commission initiated disciplinary proceedings against Judge Flood and mailed her a statement of allegations, asserting that Judge Flood violated Canon 1, Rules 1.1 (compliance with the law) and 1.2 (promoting confidence in the judiciary); and Canon 2, Rules 2.5(A) (performing judicial and administrative duties competently and diligently) and 2.8(B) (judge shall be patient, dignified, and courteous toward others) of the Code. Judge Flood denied the allegations generally.

After further consideration of the allegations against Judge Flood and after a meeting of 10 of its members in executive session, the commission made a finding that probable cause existed to believe that Judge Flood violated the above-described provisions of the Code. The commission issued a statement of charges accordingly, advising Judge Flood that she must submit a written answer to the charges or they would be deemed admitted. Judge Flood answered with a written one-sentence denial of all allegations made against her.

Disciplinary counsel moved to strike Judge Flood's denial and deem the charges admitted. The commission denied that motion. Judge Flood moved to disqualify the commission's counsel. The commission denied that motion and partly granted Judge Flood's motion for discovery. The commission denied both of Judge Flood's motions to dismiss the proceeding and denied her objection to a fact-finding before a commission panel (rather than the full commission). The fact-finding hearing was continued multiple times and is now set for October 21, 2024, before nine of the commission's members. The commission has disclosed 25 witnesses who may testify in the matter.

As indicated, Judge Flood filed in this court an amended petition for writ of prohibition.<sup>1</sup> Her Honor suggests she is being targeted because of her race, based in part on the stereotypical racist trope known as the “angry Black woman.” Petition at 5. She further suggests that racial bias affects the commission’s work, noting for instance an alleged lack of diversity, equity, and inclusion (DEI) training at the commission. Judge Flood asserts her disciplinary case has “overtones” of “judicial system racism.” *Id.* at 6. She alleges some commission members are conflicted and challenges the commission’s authority to conduct hearings with less than all of its members and the presence of commission staff at such hearings. Judge Flood alleges she is not being permitted to build a record for a potential appeal. Her Honor further alleges by way of an affidavit that workplace animosity toward her has become more pronounced after the commission lodged misconduct charges against her. The commission filed an answer urging dismissal of the petition on multiple grounds. Judge Flood filed a reply.

The matter was argued before me at a videoconference hearing held on July 10, 2024.<sup>2</sup> Now before me for determination is whether to refer this original action to the court for further proceedings, refer it to an appropriate superior court, or dismiss it outright. RAP 16.2(d).

One of the ancient writs dating from 12th century England, the writ of prohibition is an extraordinary remedy intended to prevent government officials from exceeding their jurisdiction and/or the powers of their positions. *Riddle v. Elofson*, 193 Wn.2d 423, 428-29, 439 P.3d 647 (2019). To obtain such a writ, Judge Flood must establish (1) the commission lacked or exceeded its jurisdiction, *and* (2) she lacks a plain, speedy, and adequate remedy in the ordinary course of legal proceedings. *Riddle*, 193 Wn.2d at 430; *Skagit County Pub. Hosp. Dist. No. 304 v. Skagit County Pub. Hosp. Dist. No. 1*,

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<sup>1</sup> The Clerk of the Court granted Judge Flood’s motion for leave to file an overlength petition.

<sup>2</sup> <https://www.tvw.org/watch/?clientID=9375922947&eventID=2024071056>.

177 Wn.2d 718, 722-23, 305 P.3d 1079 (2013); *Kreidler v. Eikenberry*, 111 Wn.2d 828, 838, 766 P.2d 438 (1989).

In seeking a writ of prohibition, Judge Flood cites RCW 7.16.290, which defines such a writ as follows: “The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.” The commission urges dismissal, asserting it is not a “state officer” for such a writ, citing article IV, section 4 of the constitution and RAP 16.2.

The constitution states that this court “shall have original jurisdiction in ... mandamus as to all state officers[.]” CONST. art. IV, § 4. This constitutional provision applies with equal force to writs of prohibition. *Ladenburg v. Henke*, 197 Wn.2d 645, 650, 486 P.3d 866 (2021); *State v. Taylor*, 101 Wash. 148, 150-51, 172 P. 217 (1918). And while Judge Flood relies mainly on RCW 7.16.290, which applies to all state courts above the limited jurisdiction level without mentioning the requirement that the petition name a state officer, she chose to file her action in this court, where original jurisdiction is controlled by article IV, section 4 of the constitution, not statutes. *Ladenburg*, 197 Wn.2d at 650.<sup>3</sup>

State officers for purposes of a mandamus or prohibition action filed in this court “are limited to those elected officials from whom the state controls through appointment, salary, and impeachment, and who in turn, wield some state-level authority.” *Id.* at 653. In this instance, the individual commission members are not elected to that body; rather, they are appointed by various authorities (fellow judges, the bar association, and the governor) according to the members’ status as judges, lawyers, and members of the public. RCW 2.64.030. They cannot be impeached but can

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<sup>3</sup> Neither party has argued that this case should be transferred to a superior court for a decision on the merits. *See* RAP 16.2(d) (commissioner may transfer petition to superior court); RCW 7.16.300 (writ of prohibition may be issued by superior court).

be removed for good cause by the appointing authorities. *Id.* Board members receive no state salary, but rather, as part-time commission members are compensated \$100 per day when participating in the commission's official business. RCW 2.64.040; RCW 43.03.250(2). The commission has jurisdiction over individual judicial officers accused of misconduct, but does not wield state-wide authority over judicial officers generally. CONST. art. IV, § 31(4); RCW 2.64.055. It is highly doubtful the commission and its members are state officers under the rule explicated in *Ladenburg*.

Aside from the "state officer" problem, Her Honor's petition is profoundly flawed in relation to its stated purpose. The commission exists "as an independent agency of the judicial branch." CONST. art. IV, § 31(1); RCW 2.64.120. It has 11 members: one of them is a Court of Appeals judge selected by their colleagues, another is a superior court judge selected by fellow judges, a third member is a judge of a limited jurisdiction court (such as a district or municipal court) selected the same way, two members are practicing lawyers selected by the state bar association, and the remaining six members are nonlawyers selected by the governor. CONST. art. IV, § 31(1); RCW 2.64.020. The constitution directs the commission to "establish rules of procedure for commission proceedings include due process and confidentiality of proceedings." CONST. art. IV, § 31(10). Under the commission's procedural rules, six members—a majority of the commission's members—constitute a "quorum" for purposes of conducting business. Comm'n on Jud. Conduct Rules of Proc. (CJCRP) 3(c).

Whenever the commission receives a complaint about a judge, it investigates the matter and then conducts "initial proceedings for the purpose of determining whether probable cause exists for conducting a public hearing or hearings to deal with the complaint" and notifies the judge of those proceedings. CONST. art. IV, § 31(2). "A finding of probable cause shall require the concurrence of six members of the



commission.” CJCRP 3(c). In Judge Flood’s case, 10 members of the commission presided over the probable cause determination.

If the commission concludes, based on the initial proceeding, that there is probable cause that the judge has violated the code of judicial conduct, the commission shall conduct a public hearing on the matter and make public related records. CONST. art. IV, § 31(3). “At least six members, or their alternates, must continually be present during presentation of testimony at the hearing.” CJCRP 24(b)(9). As indicated, the fact-finding hearing scheduled for October will be heard by a nine-member panel. The presiding officer for that hearing is a Court of Appeals judge. The other members of the panel are a superior court judge, two lawyers, and five members of the public. The nonparticipating members are one judge from a limited jurisdiction court and one member of the public. The panel also exceeds a quorum as defined under the commission’s rules. CJCRP(3)(c). After the public hearing, the commission in open session “shall either dismiss the case, or shall admonish, reprimand, or censure” the judge, and if censuring the judge, recommend to this court that the judge be suspended, removed, or recommend that the judge be forced into retirement. CONST. art. IV, § 31(4). As indicated, it requires the concurrence of six members—a majority—“to make a decision in a proceeding.” CJCRP 3(c).

If the commission admonishes, reprimands, or censures a judge, the judge may timely seek de novo review in the supreme court. CONST. art. IV, § 31(6). As indicated in this matter, the commission has made a probable cause determination and has set a date for a fact-finding hearing. Judge Flood now asks this court to exercise its power to issue a writ of prohibition to command dismissal of the commission’s case “for violation of her constitutional rights to due process and for failure to comply with Washington Constitution art. IV, § 31.” Petition at 22.

This court has the power to issue a writ of prohibition, “but in so doing it must be guided by the rules of law applicable to such extraordinary proceedings, and must not in any case overstep the bounds of necessity, in any spirit of zeal for the redress of what it deems an injustice.” *State ex re. Nooksak River Boom Co. v. Superior Court of Whatcom County*, 2 Wash. 9, 13-14, 25 P. 1007 (1891). Of particular relevance here, a writ of prohibition is preventative, not corrective, in effect, intended to “arrest execution of a future, specific act and not to undo an action already performed.” *Riddle*, 193 Wn.2d at 429 (citing *County of Spokane v. Local No. 1553, Amer. Fed’n of State, County & Mun. Emps.*, 76 Wn. App. 765, 769-70, 888 P.2d 735 (1995)). “A writ of prohibition will not issue to prevent the commission of error, take the place of an appeal, or serve as a writ of review for the correction of an error.” *Riddle*, 193 Wn.2d at 429 (citing *State ex rel. N.Y. Cas. Co. v. Superior Court*, 31 Wn.2d 834, 838-39, 199 P.2d 581 (1948)).

In this instance, Judge Flood seeks a writ to prevent the commission from doing work that falls within its constitutional and statutory jurisdiction and is central to its purpose: investigating and determining the validity of allegations of judicial misconduct. CONST. art. IV, § 31; chapter 2.64 RCW. The petition is based largely on claims of procedural irregularities in the disciplinary proceeding, such as the number of commission members sitting on the panel, the presence of commission staff at meetings and hearings, and a claim that Judge Flood is being prevented from developing a record for appeal. But as noted, a writ of prohibition is not a proper vehicle for error correction or judicial review of past actions. *Riddle*, 193 Wn.2d at 429. As for future actions, Her Honor contends a nine-member panel for the fact-finding hearing would be “ultra vires” and unconstitutional. But the commission’s procedural rules allow for such a panel, the constitution is silent on whether all members of the commission must sit on the panel deciding a fact-finding hearing, and there is no authority that I am aware of supporting

the proposition that a nine-member panel deprives the commission of jurisdiction over a fact-finding hearing. Judge Flood cites an attorney general's opinion cautioning against the use of separate investigative and adjudicatory panels on the basis they might not include a balance of representatives of the different communities mandated by the constitution and because such panels might not include a quorum of members. 1999 Op. Att'y Gen. No. 4; [Auth. of Comm'n on Judicial Conduct to separate investigative & adjudicatory functions | Wash. State](#). That will not be the situation when the commission conducts the fact-finding hearing in this case, as the panel will include two members of the judiciary, two of the legal profession, and five of the public, well exceeding the requirement of a quorum. Judge Flood has not shown that a writ of prohibition is an appropriate mechanism for shutting down a proceeding falling squarely within the commission's jurisdiction.

As indicated, Judge Flood argues with some force that she is the victim of racial animus or actual or implied racial bias. These are serious allegations and not to be taken lightly, and they bring to mind this court's powerful and unprecedented letter of June 4, 2020, addressing racial injustice, which Her Honor cites in her petition. But Judge Flood's assertions of bias do not establish that the commission lacks or exceeds its jurisdiction in this disciplinary proceeding. Rather, they are issues that can be explored during the fact-finding hearing and potentially on de novo review in this court in the event of an adverse commission decision. Stated another way, Her Honor's assertions of racial bias go to the merits of the allegations against her and the disciplinary proceedings arising from them. Again, there is no showing here that the commission has acted without or beyond its jurisdiction as to justify a writ of prohibition.

Looking aside from Judge Flood's failure to show that the commission is acting without or beyond its jurisdiction, Her Honor still must show that she has no plain, speedy, and adequate remedy at law in the ordinary course of legal procedure. *Riddle*,

193 Wn.2d at 433; *Eikenberry*, 111 Wn.2d at 838; RCW 7.16.300. This inquiry turns on the unique facts of each case, resting in the sound discretion of the court. *Riddle*, 193 Wn.2d at 433-34; *State ex rel. O'Brien v. Police Court of Seattle*, 14 Wn.2d 340, 348, 128 P.2d 332 (1942). “A remedy is not inadequate merely because it is attended with delay, expense, annoyance, or even some hardship.” *Riddle*, 193 Wn.2d at 434 (citing *O'Brien*, 14 Wn.2d at 347-48). “Something in the nature of the action must make it apparent that the rights of the litigants will not be protected or full redress will not be afforded without the writ.” *Riddle*, 193 Wn.2d at 434 (*O'Brien*, 14 Wn.2d at 347-48). The adequacy of the alternative remedy is of particular importance in this inquiry, depending on the facts of the case. *Riddle*, 193 Wn.2d at 434.

Judge Flood has an alternative remedy available to few litigants: direct review in this court should the commission impose discipline. CONST. art. IV, § 31(5)-(7); *see generally In the Matter of Keenan*, 199 Wn.2d 87, 502 P.2d 1271 (2022). Such review is de novo and has the potential to address and remedy the procedural questions Judge Flood raises in her petition for a writ, as well as the thorny issues of racial bias asserted by Her Honor. *See id.* at 94. It is the only appropriate forum for adjudicating these issues. Such judicial review will necessarily take time to resolve, but not nearly as much time as litigating through the superior court and the Court of Appeals, which is the route the vast majority of aggrieved litigants must trek.

In light of the foregoing observations, there is no persuasive showing that Judge Flood is entitled to a writ of prohibition, or that transferring this matter to a superior court or referring it to the justices of this court for a resolution on the merits is justified. The better use of judicial resources is to dismiss the petition pursuant to RAP 16.2(d). If the commission ultimately imposes discipline, Judge Flood may exercise her right to direct de novo review in this court.

The original action is dismissed.

*Michael E. Whiston*  
COMMISSIONER

July 16, 2024

# ATTACHMENT - B

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

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC No. 11005-F-204

**ORDER SEALING DOCUMENTS,  
CONTINUING HEARING, AND  
SETTING REVIEW HEARING  
DATE**

On March 5, 2024, both parties made the Presiding Officer Judge Erik Price aware of medical issues arising with Respondent that could affect the fact-finding hearing currently scheduled to begin on March 18, 2024, in Kitsap County. The parties jointly requested an emergency scheduling conference by Zoom. At the request of the Presiding Officer, Respondent forwarded an email about the medical issues containing two attachments and a screenshot. Respondent requested the information be treated confidentially.

On March 7, 2024, the Presiding Officer conducted an emergency scheduling hearing via Zoom. Respondent’s Counsels Vonda Sargent and Steve Fury, Disciplinary Counsel Raegen Rasnic, Commission Case Manager Aimee Baldoz and Commission Executive Director J. Reiko Callner attended the emergency scheduling hearing.

Confidentiality of Medical Information.

To facilitate a discussion of the details of Respondent’s medical issues, the Presiding Officer conducted an analysis under *State v. Bone-Club*, 128 Wn.2d. 254 (1995) and determined that a partial closure of the Zoom scheduling hearing was appropriate. The Presiding Officer determined that Respondent had a compelling interest in the privacy of her personal medical information; that no one present objected to the closure; and that partial closure of the scheduling hearing was the least restrictive means available for protecting the Respondent’s interests and the interest of the public in an open hearing. Thereafter, the recording of the scheduling hearing

1 was paused and details of the Respondent's medical concerns and the resulting effect on her  
2 current ability to assist in her own defense were discussed off the record.

3 After resuming on the record, the Presiding Officer summarized, in general terms, the  
4 nature of the off-the-record discussion, including that Respondent had requested that the  
5 documents outlining medical information be filed under seal. Respondent agreed that the  
6 documents could be shared with Disciplinary Counsel.

7 Thereafter, the Presiding Officer conducted another *Bone-Club* analysis on the record  
8 regarding the documents and determined that they could appropriately be sealed in the  
9 Commission's proceeding file, but available for appellate review. The documents are marked as  
10 Item 86 in the official record of this proceeding (Item 86 Documents). Disciplinary Counsel is  
11 directed to maintain her copy of the Item 86 Documents securely with no dissemination to any  
12 other individual. If the documents are inadvertently disclosed to any other individual,  
13 Disciplinary Counsel shall promptly notify Respondent's Counsel. Either party may then raise  
14 the issue with the Presiding Officer. No Commission staff except Ms. Callner and Ms. Baldoz  
15 shall have access to the Item 86 Documents. And Ms. Baldoz's access is limited to facilitating  
16 the production and custody of the official record.

17 Respondent's Request for a Continuance.

18 Respondent's Counsel requested that the currently scheduled fact-finding hearing be  
19 continued to a date-uncertain until the severity and consequences of Respondent's medical issues  
20 can be more fully evaluated. Disciplinary Counsel did not object, but she requested the prompt  
21 setting of a review hearing via Zoom considering that the evaluation of the medical issues should  
22 progress over the next few weeks.

23 Based on the Respondent's request and the information supplied, including the Item 86  
24 Documents, and the absence of objection from Disciplinary Counsel, the Presiding Officer  
25 believes a sufficient basis has been shown to continue the fact-finding hearing. Under these  
26 circumstances, the Presiding Officer is concerned that Respondent's health issues could affect



1 her attendance and, importantly, her counsels' ability to conduct her defense. (With the  
2 understanding that the medical issues have not yet been fully evaluated, the Presiding Officer  
3 expresses his sympathy to Respondent and hopes for the best possible outcome.)

4 However, an extended continuance is not envisioned. There is urgency to these  
5 proceedings both because of the Commission's interests and because of Respondent's interest in  
6 her defense and potential exoneration. This urgency, of course, would be affected by whether  
7 Respondent continues serving on the bench and performing her official duties.

8 Based on the foregoing, it is hereby ORDERED that

- 9 (1) The Item 86 Documents shall be filed under seal, available for purposes of potential  
10 appellate review, but otherwise unavailable to the public. Disciplinary Counsel is  
11 ordered to secure the documents in her possession as outlined above;
- 12 (2) The fact-finding hearing in this matter is CONTINUED from the currently scheduled  
13 start date of March 18, 2024, to a date to be determined. The March 11, 2024,  
14 deadline for Trial Briefs and a "Joint Statement of Evidence" (*See* October 18, 2023,  
15 Order) shall be stricken; and
- 16 (3) A review hearing shall be conducted at 10:00 am on Tuesday, April 16, 2024, via  
17 Zoom. At least 24-hours prior to the review hearing, Respondent shall file a status  
18 report of the progress of the medical issues. Such status report may be filed under  
19 seal (with the request that the Presiding Officer conduct a *Bone-Club* analysis at the  
20 review hearing). New deadlines for trial briefs and evidence preparation shall be  
21 reset when the future fact-finding hearing date is selected. Any deadlines that have  
22 passed will not be reset.

23 DATED this 7th day of March, 2024.

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26 Judge Erik Price, Presiding Officer

# ATTACHMENT - C

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

In Re the Matter of  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC No. 11005-F-204

**ORDER DENYING  
RESPONDENT’S MOTION FOR  
PROTECTIVE ORDER RE:  
DEPOSITION OF JUDGE FLOOD**

Disciplinary Counsel moved on February 8, 2024, for an expedited order regarding Respondent’s Deposition. On February 9, 2024, Respondent moved for a Protective Order regarding her deposition.

**FACTS**

The two motions were precipitated by Respondent’s Deposition that briefly occurred on February 7, 2024, for approximately 20 minutes before being suspended by Respondent. See attached Feb 7 Transcript.

Respondent Answers Charges with a “General Denial.”

On July 12, 2023, the Commission filed and served a Statement of Charges against Respondent alleging violation of Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.5(A) and 2.8(B).

On August 14, 2023, Respondent filed her answer to the Statement of Charges with a document entitled “General Denial of All Charges Against Judge Flood.” The one-sentence document stated “Judge Flood denies all allegations against her.”

1           Chronology of the Attempts to Schedule Respondent’s Deposition

2           A chronology of the attempts to schedule Respondent’s deposition is as follows:

3           The Presiding Officer’s initial scheduling order was issued on September 28, 2023, and  
4 set a discovery cut-off for October 13, 2023.

5           On October 10, 2023, Disciplinary Counsel brought a motion for Respondent’s  
6 deposition and to extend the discovery cutoff. In the motion, Disciplinary Counsel represented  
7 that the parties had been unable to agree on a date for Judge Flood’s deposition. Two days later,  
8 on October 12, Respondent filed a short document in which they “stipulated” to the deposition.

9           October 18, 2023, Scheduling Order

10           Consistent with the stipulation, the Presiding Officer granted the motion on October 18  
11 and ordered Respondent’s deposition to be taken. The October 18<sup>th</sup> order covered multiple  
12 issues, and specifically provided that

13           The parties will agree on a date to depose Respondent by October 23, 2023. If a  
14 deposition has not been agreed by October 23, 2023, a date shall be set by the  
15 presiding officer.

16           (Oct. 18 Order.) The deposition did not take place as ordered.

17           On October 30, Disciplinary Counsel filed another motion, “Motion to Set Deposition  
18 and Require Production of Expert Reports.” In the motion, Disciplinary Counsel wrote:

19           Despite email exchanges, counsel have been unable to reach agreement [to schedule  
20 Judge Flood’s deposition]. Recent communication from Judge Flood’s counsel  
21 appears to question whether the judge ... can be required to sit for deposition at all.

22           (Oct. 30 Mot. p. 1.)

23           On November 6, despite the earlier “stipulation,” Respondent filed a complete objection  
24 to the deposition. Respondent argued that there was no ‘good cause’ shown for the deposition  
25 and that it was an unnecessary and unjustified expense. (Nov. 6 Resp. at 1-4.)

26           On November 20, the Presiding Officer granted Disciplinary Counsel’s motion and, for  
a second time, ordered Respondent’s deposition to be taken. The order optimistically provided

1 for a window for counsel to agree to a date, but if not, set a date-certain on January 10, 2024. It  
2 also limited the duration of the deposition to six (6) hours:

3 The date of Respondent Judge Flood's deposition shall be agreed to by both parties  
4 by Monday, November 27, 2023. If an agreed date cannot be reached, the  
deposition will take place Wednesday, January 10, 2024.

5 The deposition of Respondent Judge Flood shall be for a duration of six (6) hours  
6 to include one 15-minute a.m. break, one 15-minute p.m. break, and a one-hour  
lunch break. Additional deposition time may be granted for good cause shown.

7 (Nov. 20 Order.)

8 Notwithstanding the Presiding Officer's expectation that counsel would cooperate to find  
9 a mutually agreeable date for the deposition well before the end of 2023, no agreement was  
10 apparently reached.

11 Then, on January 8, 2024, the Presiding Officer became aware that Respondent would  
12 not be made available for the deposition set on the date-certain of January 10, 2024. Through  
13 correspondence, both between counsel and with the Presiding Officer (see attachments to  
14 Disciplinary Counsel's January 10, 2024, Motion re: setting deposition), Respondent represented  
15 that certain events in her personal life made her attendance on January 10 impossible. In the  
16 correspondence, Disciplinary Counsel offered multiple alternative dates for the deposition.  
17 Respondent would not agree to any alternatives, nor propose a time-period after which  
18 Respondent would be available.

19 On January 10, 2024, Disciplinary Counsel filed yet another motion to set Respondent's  
20 deposition and offered twelve separate days for rescheduling prior to the February 2, 2024,  
21 discovery cut-off date.

22 On January 12, 2024, the Presiding Officer ordered that the deposition would be required  
23 to be rescheduled. The order stated:  
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1 The Commission has a primary responsibility to assure that judges fulfil their  
2 judicial duties with integrity, independence, and competence, for the benefit of the  
3 public and the judiciary at large. Although Respondent’s difficult family  
4 circumstances are acknowledged, an indefinite extension of Respondent’s  
5 deposition is unworkable — this matter must continue to move forward so that the  
6 pending charges are resolved with either exoneration or accountability as soon as  
7 reasonably possible. In the context of Disciplinary Counsel’s Motion to Reset  
8 Respondent’s Deposition, the Presiding Officer will receive input from the parties  
9 about new dates in the reasonably near future and then reset Respondent’s  
10 deposition.

11 (Jan. 12 Order.)

12 On January 17, 2024, Respondent filed a response in which she committed to full-day  
13 deposition, not on any of the dates proposed by Disciplinary Counsel, but on February 7, 2024,  
14 a date of her choosing. But on February 6, 2024, during the Presiding Officer’s Scheduling  
15 Conference with counsel, Respondent’s Counsel stated that Judge Flood would *not* be available  
16 for a full day deposition on February 7. Rather she would only be available in the afternoon, and  
17 any further deposition time would have been continued until February 14, 2024.

18 The February 7 Deposition.

19 The February 7th deposition did not last long. Respondent initially objected to the  
20 presence of Commission Investigator Slotemaker, claiming that Ms. Slotemaker was named as  
21 a witness by Respondent and therefore “not entitled” to be at the deposition under ER 615.

22 When the questioning began, Respondent was only allowed to answer three questions:  
23 (1) *[A]re you currently the sole judge of Bremerton Municipal Court?* (2) *And are you at the*  
24 *courthouse this afternoon?* and (3) *[I]s anyone present with you in the room right now?*

25 Respondent’s counsel prevented Respondent from answering any further questions.  
26 Disciplinary Counsel attempted three more questions, specifically:

*When did you begin your position as judge of Bremerton Municipal Court?*

*Had you practiced in Bremerton Municipal Court before you became a judge?*

*As the sole judge of Bremerton Municipal Court ..., what is your role in overseeing court operations?*

1 Respondent's Counsel objected to each of these questions and alleged that they went  
2 "beyond [the] claimed basis for good cause" for taking the deposition. Transcript, 12:12-13.  
3 Invoking CR 33(d), Respondent's counsel then alleged Disciplinary Counsel was acting in bad  
4 faith, going beyond the basis for the deposition and "suspended" the deposition merely 20  
5 minutes after it began.

6 Respondent's Motion for Protective Order.

7 Respondent moves for a protection order by alleging that "the evidence sought by  
8 [Disciplinary] Counsel ... was neither relevant to the proceedings nor was it material to the  
9 judge's claimed defenses." Resp. Mot at 2. Respondent claims "the manner in which  
10 [Disciplinary] Counsel conducted the deposition is proof of bad faith and evidence that  
11 [Disciplinary] Counsel misrepresented its good cause basis to the Commission." *Id.* According  
12 to Respondent, the questions were "in bad faith and requested information for which it already  
13 knew the answers; which were readily available in the public domain; and which did not provide  
14 the Commission with the factual basis of Judge Flood's defenses." *Id.*

15 **DECISION**

16 Respondent's Counsel's conduct in both objecting to the questioning and in suspending  
17 the deposition under CR 33(d) was unreasonable.

18 Consistent with Commission's rules, the Presiding Officer ordered that Respondent's  
19 deposition be taken. In balancing the interests of the parties, the deposition was limited in time  
20 to one (1) day with prescribed breaks. The order included no express limitation on the scope of  
21 the deposition. The Presiding Officer expected, as a matter of course, that the parties would  
22 govern themselves in accordance with the rules generally applicable to conduct at depositions,  
23 including CR 33(h), which provides:

24 **CR 33(h). Conduct of Depositions.** The following shall govern deposition  
25 practice:

26 (1) Conduct of Examining Counsel. Examining counsel will refrain from asking  
questions he or she knows to be beyond the legitimate scope of discovery, and from  
undue repetition.

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(2) Objections. Only objections which are not reserved for time of trial by these rules or which are based on privileges or raised to questions seeking information beyond the scope of discovery may be made during the course of the deposition. All objections shall be concise and must not suggest or coach answers from the deponent. Argumentative interruptions by counsel shall not be permitted.

(3) Instructions Not To Answer. Instructions to the deponent not to answer questions are improper, except when based upon privilege or pursuant to rule 30(d). When a privilege is claimed the deponent shall nevertheless answer questions related to the existence, extent, or waiver of the privilege, such as the date of communication, identity of the declarant, and in whose presence the statement was made.

(4) Responsiveness. Witnesses shall be instructed to answer all questions directly and without evasion to the extent of their testimonial knowledge, unless properly instructed by counsel not to answer.

(5) Private Consultation. Except where agreed to, attorneys shall not privately confer with deponents during the deposition between a question and an answer except for the purpose of determining the existence of privilege. Conferences with attorneys during normal recesses and at adjournment are permissible unless prohibited by the court.

(6) Courtroom Standard. All counsel and parties shall conduct themselves in depositions with the same courtesy and respect for the rules that are required in the courtroom during trial.

A close review of the transcript shows no violation of this rule by Disciplinary Counsel or the questions to Judge Flood. There is no reasonable argument that the following three questions are made in bad faith or are beyond the legitimate scope of the deposition:

*When did you begin your position as judge of Bremerton Municipal Court?*

*Had you practiced in Bremerton Municipal Court before you became a judge?*

*As the sole judge of Bremerton Municipal Court ..., what is your role in overseeing court operations?*

While Respondent suggests that the deponent *would have* answered questions regarding “the factual basis of her defenses,” (Resp. Mot. for Protective Order at 2), the transcript shows that Respondent’s Counsel has an unreasonable view of what that means. The Respondent has



1 filed a “General Denial” supported with one sentence. Under such circumstances, Disciplinary  
2 Counsel is entitled to explore the denial with more breadth than if the defense was expressly  
3 limited to discrete issues. Even so, the three questions that provoked Respondent’s unilateral  
4 suspension of the deposition were well within any bounds of permissible questions that should  
5 have been expected and not remotely close to any reasonable limits on scope.

6 As made clear by the transcript and the questions that precipitated the suspension of the  
7 deposition, Respondent’s Counsel’s invocation of CR 33(d) was improper. The Rule states:

8 **CR 33(d). Motion To Terminate or Limit Examination.** At any time during the  
9 taking of the deposition, on motion of a party or of the deponent and upon a showing  
10 that the examination is being conducted in bad faith or in such manner as  
11 unreasonably to annoy, embarrass, or oppress the deponent or party, the court in  
12 which the action is pending or the court in the county where the deposition is being  
taken may order the officer conducting the examination to cease forthwith from  
taking the deposition, or may limit the scope and manner of the taking of the  
deposition as provided in rule 26(c).

13 If the order made terminates the examination, it shall be resumed thereafter only  
14 upon the order of the court in which the action is pending. Upon demand of the  
15 objecting party or deponent, the taking of the deposition shall be suspended for the  
16 time necessary to make a motion for an order. The provisions of rule 37(a)(4) apply  
17 to the award of expenses incurred in relation to the motion.

18 There is no possible reasonable justification for Respondent’s Counsel to take the  
19 extraordinary step of suspending a deposition under CR 33(d) for the three questions that were  
20 asked. Again, the questions were:

21 *When did you begin your position as judge of Bremerton Municipal Court?*

22 *Had you practiced in Bremerton Municipal Court before you became a judge?*

23 *As the sole judge of Bremerton Municipal Court ..., what is your role in overseeing court  
24 operations?*

25 Despite Respondent having been previously ordered to sit for a deposition, this  
26 unreasonable action of invoking CR 33(d) causes concern that there will be willing participation  
in a deposition absent a strict and detailed order.

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Scheduling and Conduct at Respondent’s Deposition.

Respondent’s motion to terminate the deposition of Judge Flood is DENIED.

Disciplinary Counsel shall be entitled to one full day of deposition time with Judge Flood as previously ordered. No time shall be subtracted from Disciplinary Counsel’s time as a result of the events of February 7, 2024.

The deposition shall go forward on the afternoon of Wednesday, February 14, 2024, as previously scheduled. The deposition shall continue for an additional one-half (1/2) day, *and shall be completed no later than* the afternoon of Tuesday, February 20, 2024.

Respondent’s deposition will be conducted in accordance with CR 33. Based on the transcript of the February 7, 2024, deposition, the following expectations are set forth specifically:

Respondent shall answer each question presented. Given the breadth of Respondent’s general denial, the permissible scope of the questioning is equally broad.

Objections. All objections shall be concise and must not suggest or coach answers from the deponent. Argumentative interruptions by counsel shall not be permitted.

Instructions not to answer. Respondent’s Counsel may only instruct the deponent not to answer in response to questions that clearly invoke a legally recognized privilege. But if a privilege is claimed, the deponent shall nevertheless answer questions related to the existence, extent, or waiver of the privilege, such as the date of communication, identity of the declarant, and in whose presence the statement was made. Instructions not to answer shall not be made based on the allegation that the question is outside the scope of the deposition or seeks information that is already known to Disciplinary Counsel.

Courtroom Standard. All counsel and parties shall conduct themselves in depositions with the same courtesy and respect for the rules that would be required in the courtroom during trial.

1           CR 33(d) Suspension of Deposition.

2           Respondent’s Counsel had no reasonable basis to invoke CR 33(d) to suspend the  
3 deposition on February 7, 2024. Thus, Respondent is precluded hereafter from invoking the rule  
4 and suspending another session of Respondent’s deposition prior to its completion. The  
5 Presiding Officer will rule on any objection to Disciplinary Counsel’s conduct or scope of  
6 questioning based on the transcript only after the full duration of the deposition.

7           The Presence of Ms. Slotemaker.

8           Respondent’s counsel invoked ER 615 related to precluding the presence of witnesses at  
9 trial, arguing that the rule prevented Ms. Slotemaker from attending the deposition. Notably, the  
10 rule is not self-executing; it requires an order of the court. No order has been issued. Ms.  
11 Slotemaker is the Commission’s representative working with Disciplinary Counsel. Since the  
12 Statement of Charges, she has been entirely screened from any discussions with the hearing panel  
13 about these proceedings. Unless and until an order is issued by the Presiding Officer, it is  
14 expected that Ms. Slotemaker is entitled to be present at depositions and witness interviews at  
15 the discretion of Disciplinary Counsel.

16           Cooperation and Professionalism is Required in these Proceedings.

17           Finally, it is unfortunately necessary to underscore the following exchange from the  
18 February 7, 2024, deposition transcript that causes concern:

19           [Disciplinary Counsel]: ... I hope that we will be able to move through the questions in  
20 a little bit more cooperative fashion.

21           [Respondent’s Counsel]: This is – we’re not cooperating with one another. This was a  
22 deposition that you had to move and we objected to, so this is not a cooperative venture.

23           ...  
24 (Dep. Tr. 11:12-15.)

25           Whether narrowly conducted under the Civil Rules or not, these proceedings (and our  
26 legal system generally) require counsel to be professional and cooperative, consistent with their  
obligations to their client. Counsel for Respondent have repeatedly expressed dissatisfaction  
with both the structure of these proceedings and obligations imposed by the Presiding Officer.

1 Nevertheless, this dissatisfaction is not a license to disregard their duties of professionalism,  
2 good faith, and cooperation. *See Copper Creek Homeowners v. Kurtz*, 1 Wn.3d 711, 726-28  
3 (2023) (failure to cooperate with good faith in discovery and with candor toward the tribunal is  
4 sanctionable misconduct). Indeed, the Code of Judicial Conduct requires cooperation with  
5 investigations. Rule 2.16 (A) states “A judge shall cooperate and be candid and honest with  
6 judicial and lawyer disciplinary authorities.” The Comment to Rule 2.16 further explains  
7 “Cooperation with investigations and proceedings of judicial and lawyer disciplinary agencies,  
8 as required in paragraph (A), instills confidence in judges’ commitment to the integrity of the  
9 judicial system and protection of the public.” And the level of cooperation is a consideration for  
10 the determination of the level of discipline, if discipline is found to be warranted. *See CJCRP*  
11 *Rule 6 (c)(2)(E)* (a nonexclusive factor to be considered if grounds for discipline is found  
12 includes “Whether the judge cooperated with the commission investigation and proceeding.”).  
13 Counsel for both sides are expected to conduct themselves consistently with their obligations of  
14 professionalism, good faith, cooperation, and respect.

15  
16 It is SO ORDERED.

17  
18 DATED this 12th day of February 2024.

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20 /s/ Erik Price  
21 Judge Erik Price  
22 Presiding Officer  
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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

---

IN RE THE MATTER OF:	)	No.
	)	
The Honorable Judge Tracy S.	)	11005-F-204
Flood, Judge of the Bremerton	)	
Municipal Court	)	
	)	

---

REMOTE DEPOSITION OF JUDGE TRACY S. FLOOD, VOLUME I  
February 7, 2024  
Witness Location: Port Orchard, Washington

Reported by:  
Connie Recob, CCR, RMR, CRR  
Washington CCR No. 2631  
Oregon CCR No. 15-0436  
Utah CCR No. 1133171-7801  
Idaho CCR No. SRL-1220

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## APPEARANCES

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For Investigative Counsel:

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KURT TWITTY

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COMMISSION ON JUDICIAL CONDUCT  
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ktwitty@cj.c.state.wa.us

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EXAMINATION INDEX

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EXAMINATION BY:

PAGE NO.

4

BY MS. RASNIC

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EXHIBIT INDEX

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EXHIBIT NO.

DESCRIPTION

PAGE NO.

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Exhibit 1

11/23/22 Statement of  
Allegations

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Exhibit 2

1/9/23 Flood Response to  
Statement of Allegations

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Exhibit 3

Flood Supplemental Response to

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WITNESS INSTRUCTED NOT TO ANSWER

(None)

INFORMATION REQUESTED

(None)

3



1 BE IT REMEMBERED that on Wednesday,  
2 February 7, 2024, at Port Orchard, Washington, at 1:31 p.m.,  
3 before Connie Recob, CCR, RMR, CRR, remotely appeared JUDGE  
4 TRACY FLOOD, the witness herein;

5 WHEREUPON, the following proceedings were  
6 had, to wit:

7  
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9

10 (Exhibit Nos. 1-3 marked  
11 for identification.)

12

13 JUDGE TRACY FLOOD, having been first duly sworn,  
14 deposited and testified as  
15 follows:

16

17 MS. SARGENT: Before we get started,  
18 Ms. Rasnic, I want to object to Ms. Slotemaker's presence  
19 here. She's listed as a witness in this matter and under ER  
20 615 she's not entitled to be at this deposition. So we can  
21 do one of two things: We can ask Ms. Slotemaker to remove  
22 herself or we can suspend this deposition under CR 30(d).

23 MS. RASNIC: If you will allow me to  
24 confer with Ms. Slotemaker for a second, I will get back to  
25 you about that. This is the first I've heard of that

4



1 objection, so let's go off the record for a second and let me  
2 discuss it with her.

3 MS. SARGENT: Before we go off the  
4 record, I want to put on the record that was the first that I

5 knew Ms. Slotemaker would be attending this deposition.

6 MS. RASNIC: All right. Let's go off the  
7 record.

8 (Recess 1:31-1:33.)

9 MS. RASNIC: Okay. Ms. Slotemaker is  
10 going to get off the call and another attorney from her  
11 office may be substituting in joining us for the dep in a  
12 little bit, but Ms. Slotemaker is going to absent herself.

13 MS. SARGENT: Well, for the record, if  
14 any other attorney aside from the attorney from your office  
15 joins this, we will move to suspend the deposition under  
16 CR 30(d).

17 MS. RASNIC: And what's the basis under  
18 CR 30(d) for moving to suspend if another attorney from her  
19 office attends?

20 MS. SARGENT: Because it's the CJC. They  
21 are not entitled to have someone come to this deposition.

22 MS. RASNIC: I'm sorry?

23 MS. SARGENT: They are the party that is  
24 bringing this action against Ms. Flood, so you're entitled to  
25 have any attorney from your office. The CJC who is a party



1 to this, they are the actual party in this matter.

2 MS. RASNIC: Yes, right.

3 MS. SARGENT: They're not entitled to be  
4 at this deposition.

5 MS. RASNIC: You believe that as parties  
6 they are not entitled to be at this deposition?

7 MS. SARGENT: Who do you propose to come  
8 to the deposition?

9 MS. RASNIC: There is another attorney  
10 who works with Ms. Slotemaker whose first name is Kurt. I  
11 don't remember his last name as I sit here, but he is the  
12 person I believe would be attending on behalf of the  
13 Commission. I think his last name is Twitty, Kurt Twitty.

14 Are you objecting to Mr. Twitty attending?

15 MS. SARGENT: Yes, I would be objecting  
16 to anyone aside from parties that are here and anyone else in  
17 their office.

18 MS. RASNIC: Well, I disagree with your  
19 position and would be very upset to have to suspend the  
20 deposition today, but let me just go off the record for  
21 another moment and confer with my client and I will be right  
22 back.

23 (Recess 1:34-1:36.)

24 MS. RASNIC: Again, Ms. Sargent, I just

25 have a clarifying question about your position. So you

6

↑

1 referenced CR 30(d), so is it your position that the  
2 deposition is being conducted in bad faith or in a manner  
3 calculated to annoy, embarrass or oppress the deponent?

4 MS. SARGENT: What I want to do,  
5 Ms. Rasnic, is if Mr. Twitty appears that you stipulate that  
6 he won't be testifying, we won't have any problem.

7 MS. RASNIC: Correct. Mr. Twitty won't  
8 be testifying. So there will be no objection to having  
9 Mr. Twitty attend?

10 MS. SARGENT: So long as you stipulate  
11 that he's not going to testify.

12 MS. RASNIC: I believe that will be fine,  
13 but let me just go off the record for a second and get  
14 confirmation. I apologize, Connie. We will get this cleared  
15 right up.

16 (Recess 1:37-1:38.)

17 (Ms. Slotemaker disconnects.)

18 MS. SARGENT: Just so we're clear,  
19 Mr. Twitty will not be testifying; is that correct?

20 MS. RASNIC: That is correct. That is

21 correct.

22 MS. SARGENT: And in response to your  
23 question about whether I believe this deposition is intended  
24 to harass, oppress my client, yes, I do. We have been  
25 opposed to the deposition from the beginning.

7



1 MS. RASNIC: All right. Thank you.

2 MS. SARGENT: So the response is yes.

3 MS. RASNIC: All right. I believe we're  
4 ready to proceed.

5

6 EXAMINATION

7 BY MS. RASNIC:

8 Q. Good afternoon, Judge Flood. I'm Raegen Rasnic. I'm the  
9 disciplinary counsel in this matter. Can you hear me okay?

10 A. I can. It's a little staticy.

11 Q. Okay. I will try to adjust so that I can be a little  
12 clearer. Please let me know if anything I'm saying is not  
13 clear and I can certainly repeat.

14 Have you had your deposition taken before?

15 A. No.

16 Q. So you're likely familiar with this, but I just wanted to go  
17 over a couple of ground rules at the outset. It is important  
18 that we don't speak over one another so that the court  
19 reporter can have a clear recording of the -- of the  
20 deposition and also it's important that you let me know if  
21 you don't understand a question. If you respond to a  
22 question, then I'm going to assume you did understand it.

23 Does that make sense?

24 A. Yes.

25 Q. Okay. And it's also important for you to respond "yes" or

8



1 "no" and not with a shake of the head or a nod because we  
2 need to have audible responses again so that the court  
3 reporter can get a clear record.

4 Does that make sense?

5 A. Yes.

6 Q. Terrific. So are you currently the sole judge in Bremerton  
7 Municipal Court?

8 (Mr. Twitty joins.)

9 MS. SARGENT: Before we go any further  
10 I'm going to ask that Mr. Twitty turn on his camera, please.

11 MR. TWITTY: Let me see if I can try. Am

12 I on?

13 MS. RASNIC: It does not appear your  
14 video is on.

15 MR. TWITTY: I'm hitting okay but it's  
16 not picking up for some reason.

17 MS. RASNIC: I'm going to ask that we  
18 continue while Mr. Twitty is trying to get his video  
19 activated because we have limited time this afternoon.

20 BY MS. RASNIC:

21 Q. Judge Flood, are you currently the sole judge of Bremerton  
22 Municipal Court?

23 A. Yes.

24 Q. And are you at the courthouse this afternoon?

25 A. No.

9



1 Q. Can I ask is anyone present with you in the room right now?

2 A. No.

3 Q. Okay. When did you begin your position as judge of Bremerton  
4 Municipal Court?

5 MS. SARGENT: I'm going to object. This  
6 question goes beyond your claimed good cause for taking Judge

7 Flood's deposition. Your claimed basis to examine Judge  
8 Flood was to determine what her defenses to these claims are,  
9 so the claims, the allegations, so anything beyond that we're  
10 going to object. So if you could get to what your claim, the  
11 cause for taking the judge's deposition, we'd greatly  
12 appreciate that.

13 MS. RASNIC: Okay. Your objection is  
14 noted.

15 MS. SARGENT: With that said, if you  
16 continue with this line of questioning that is not going to  
17 Judge Flood's defenses of the allegations, we will suspend  
18 the deposition under CR 30(d).

19 MS. RASNIC: You believe that I am  
20 harassing Judge Flood by asking her when she became judge of  
21 Bremerton Municipal Court?

22 MS. SARGENT: Your claimed good cause,  
23 Ms. Rasnic, was to examine Judge Flood's defenses to the  
24 allegations. When she became the judge has absolutely  
25 nothing to do with her defenses, and in fact, it is bad faith

10



1 because your argument to the Court, to the Commissions judge,  
2 was that this was not a discovery deposition. You didn't



3           need to discover any facts aside from the judge's defenses to  
4           the allegations.

5                           MS. RASNIC: Okay. I hear you and I note  
6           your objection, Ms. Sargent. I'm going to move on from that  
7           question, but if this is the way we're going to proceed this  
8           afternoon, then I think it will be best that we get some  
9           rulings from the presiding officer before we proceed. I hope  
10          that we will be able to move through the questions in a  
11          little bit more cooperative fashion.

12                          MS. SARGENT: This is -- we're not  
13          cooperating with one another. This was a deposition that you  
14          had to move and we objected to, so this is not a cooperative  
15          venture. Your claimed basis --

16                          MS. RASNIC: I heard you. And I noted  
17          your objection.

18                          MS. SARGENT: -- was to examine her under  
19          defenses --

20                          MS. RASNIC: There's no need to restate  
21          that. That's on the record.

22                          MS. SARGENT: What I'm telling you --

23                          MS. RASNIC: I'm going to move on and ask  
24          another question. I'm going to move on and ask another  
25          question.



1 MS. SARGENT: What I'm telling you,  
2 Ms. Rasnic, is that if you want to suspend this to go and get  
3 some rulings from the Court, then I think that would be  
4 appropriate because if you're going to ask any other line of  
5 questioning that doesn't deal specifically with your claimed  
6 basis for taking Judge Flood's deposition, I will object and  
7 we will suspend the deposition.

8 MS. RASNIC: I hear you saying that. Are  
9 you instructing her not to answer the question about when she  
10 became judge of Bremerton Superior -- Municipal Court?

11 MS. SARGENT: What I am telling you,  
12 Ms. Rasnic, is that that question goes beyond your claimed  
13 basis for good cause for taking Judge Flood's deposition.  
14 What you said to the Court was that what the sole purpose for  
15 this deposition was to examine Judge Flood's defenses to the  
16 allegations. That's it.

17 MS. RASNIC: Thank you. Are you  
18 instructing her not to answer the question?

19 MS. SARGENT: What we will do is suspend  
20 the deposition not instruct her to not answer the question.

21 MS. RASNIC: Okay. I'm going to move on.

22 BY MS. RASNIC:

23 Q. Had you practiced in Bremerton Municipal Court before you  
24 became judge?

25 MS. SARGENT: That is the same objection,

12



1 Ms. Rasnic. So if we're going to continue down that --

2 MS. RASNIC: That is noted, and I'm going  
3 to put all the questions on the record so that we can get a  
4 ruling.

5 MS. SARGENT: Well, so what we're going  
6 to do is instead is we're just going to suspend the  
7 deposition and you can send the questions to the judge.

8 MS. RASNIC: We -- I do not agree to  
9 suspend the deposition.

10 MS. SARGENT: You don't have to agree.

11 MS. RASNIC: I'm going to go through  
12 these questions.

13 MS. SARGENT: No, we're not going to do  
14 that. No, we're not going to do that. What we can do  
15 instead of doing that is you can get to the -- your claimed  
16 basis for good cause and not waste the time of Judge Flood,  
17 myself and Mr. Fury and the cost that's going to be incurred  
18 for you wanting to go through questions that you know are not

19 ended -- are not based on your claimed good cause. So if you  
20 don't have any questions --

21 MS. RASNIC: Are you finished?

22 MS. SARGENT: -- related to your -- no,  
23 I'm not finished. I'm still talking.

24 So if you have questions that are related to what you  
25 claim was good cause for taking Judge Flood's deposition and

13

↑

1 that was to examine her defenses, I would ask for you to go  
2 to them now or we will suspend the deposition.

3 MS. RASNIC: Okay. Thank you.

4 BY MS. RASNIC:

5 Q. As the sole judge of Bremerton Municipal Court, Judge Flood,  
6 what is your role in overseeing court operations?

7 MS. SARGENT: So at this point in time,  
8 Ms. Rasnic, we are going to suspend the deposition and we'll  
9 get a ruling from the Court.

10 (Judge Flood disconnects.)

11 MS. RASNIC: May I ask one more question?

12 MS. SARGENT: Is it related to your  
13 claimed basis for good cause?

14 MS. RASNIC: Ms. Sargent, I disagree that  
15 the questions that have been asked so far are unrelated to  
16 the basis for good cause, and I can see from your behavior  
17 that your intent is simply to object to every question I  
18 would ask, so if you are --

19 MS. SARGENT: And I can see from your  
20 conduct and your behavior that you intend --

21 MS. RASNIC: If you're going to give me  
22 an opportunity -- now, I didn't talk over you so I'm going to  
23 finish now.

24 MS. SARGENT: I'm sorry. Go ahead.

25 MS. RASNIC: I have a number of questions

14



1 that I am ready to ask Judge Flood this afternoon and you  
2 seem to have prejudged that all of them are going to be  
3 objectionable and that there are going to be no questions  
4 that you would deem to be related to why you think this  
5 deposition is happening. You are unwilling to allow me to  
6 put the questions on the record so that we can get a ruling  
7 on them?

8 MS. SARGENT: No. Ms. Rasnic, what I  
9 asked for you to do was to ask questions that are related to

10 your claimed good cause for taking Judge Flood's deposition  
11 and it seems to me from your behavior that you intend to have  
12 a full on discovery deposition when in fact, you told the  
13 Court in your pleadings that this was not a discovery  
14 deposition for anything other than the basis -- for you to  
15 examine the basis of Judge Flood's defenses to the  
16 allegations.

17 MS. RASNIC: And I believe that's what  
18 I'm doing.

19 MS. SARGENT: That is what you told the  
20 judge.

21 MS. RASNIC: I believe that's what I'm  
22 doing.

23 MS. SARGENT: Okay. So I don't. I don't  
24 believe asking her whether she's the sole judge on the court  
25 has anything to do with whether or not these allegations, her

15



1 defense of these allegations and we have the allegations  
2 here. So I don't know whether asking her what her role is on  
3 the court has anything to do with infringing upon a criminal  
4 defendant's right against self-incrimination, whether or not

5 she failed to treat court staff and attorneys appearing  
6 before her with patience, dignity and respect, whether she  
7 implied that an attorney was being untruthful, whether or not  
8 she claimed that another attorney was snide and whether or  
9 not she ordered an interpreter to violate their -- their code  
10 so...

11 MS. RASNIC: May I ask her about her  
12 response to the statement of allegations? Would you agree  
13 that her response to the statement of allegations is  
14 probative of her defenses?

15 MS. SARGENT: Her response to the  
16 statement of allegations?

17 MS. RASNIC: Yes.

18 MS. SARGENT: Just a general flat  
19 question about her response?

20 MS. RASNIC: I plan to ask a number of  
21 questions about Judge Flood's response to the statement of  
22 allegations. Would you agree that those are probative of her  
23 defenses? That's the only thing we have in writing that  
24 represents her statement of her position in this matter is  
25 her response to the statement of allegations.



1           Is it your position that if I ask her questions about  
2 her response to the statement of allegations that that is not  
3 probative of her defenses?

4           MS. SARGENT: So at this point in time,  
5 Ms. Rasnic, according to Rule 30(d) it says, "Upon demand of  
6 the objecting party or the deponent, the taking of deposition  
7 shall be suspended." We're demanding, so we don't agree.

8           MS. RASNIC: I understand.

9           MS. SARGENT: We're not going to agree in  
10 advance to any question. You can ask the question. We'll  
11 see if it's appropriate when you ask it, but we've already  
12 demanded. We've objected, so it's not a matter of whether  
13 you agree or not. It says, "it shall be suspended."

14          MS. RASNIC: So you are not willing to  
15 allow me to put the proposed questions regarding the response  
16 to the statement of allegations on the record?

17          MS. SARGENT: So, Ms. Rasnic, the  
18 deposition is suspended.

19          MS. RASNIC: Okay. So just so I  
20 understand your position, Ms. Sargent, and I'm really not  
21 trying to be difficult, but your position is that I cannot  
22 put on the record the questions that I intend to ask the  
23 deponent about her response to the statement of allegations?

24          MS. SARGENT: So the deposition is  
25 suspended, Ms. Rasnic.





1 MS. RASNIC: All right. I understand  
2 your position. I'm sorry to have taken up everyone's time  
3 this afternoon. Ms. -- Connie, we will certainly let you  
4 know when we're ready to resume. Thank you.

5 (Signature was reserved.)

6 (Deposition suspended at 1:51 p.m.)

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REPORTER'S CERTIFICATE

I, CONNIE A. RECOB, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was requested; that I am in no way related to any party

17 to the matter, nor to any counsel, nor do I have any  
18 financial interest in the event of the cause.

19 WITNESS MY HAND and SIGNATURE this 8th day of February,  
20 2024.

21

22

23 \_\_\_\_\_  
24 CONNIE A. RECOB, RMR, CRR  
25 Washington Certified Court Reporter, CCR 2631

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FEBRUARY 8, 2024

6 To: VONDA SARGENT  
7 THE LAW OFFICES OF VONDA M. SARGENT  
8 119 First Avenue South, Suite 500  
9 Seattle, Washington 98104

9 Re: IN RE THE MATTER OF: The Honorable Judge Tracy S.  
10 Flood, Judge of the Bremerton Municipal Court  
11 Deposition of: JUDGE TRACY FLOOD  
Date Taken: February 7, 2024  
Cause No.: 11005-F-204

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Enclosed are the Correction & Signature page.  
Instruct the deponent to review the deposition, record any corrections on the Correction page, and sign it.

The above referenced transcript must be read and the Correction & Signature page signed within 30 days of this notice or before the trial date, whichever occurs first.

If the Correction & Signature page are not signed within that time period, signature will be deemed waived for all purposes.

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Thank you,  
Connie A. Recob, RMR, CRR  
CCR No. 2631

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CORRECTION & SIGNATURE PAGE

Re: IN RE THE MATTER OF:  
The Honorable Judge Tracy S. Flood, Judge of the Bremerton  
Municipal Court  
Deposition of: JUDGE TRACY FLOOD  
Date Taken: February 7, 2024  
Cause No.: 11005-F-204

I, JUDGE TRACY FLOOD, have read the within transcript taken February 7, 2024, and the same is true and accurate, except for any changes and/or corrections, if any, as follows:

8	PAGE/LINE	CORRECTION	REASON
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22	Signed at _____, Washington,		
23	on this date: _____.		
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25	JUDGE TRACY FLOOD		

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

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC No. 11005-F-204

**ORDER REGARDING JUDGE  
FLOOD’S MOTION TO  
CONTINUE REVIEW HEARING**

A Review Hearing is currently set for May 8, 2024, at 1:30. On April 23, 2024, Respondent Judge Flood moved to continue this Review Hearing. Respondent claims that she has multiple medical appointments and requests the review hearing be continued for over three weeks, until either May 30 or May 31. Respondent accompanied her motion with a declaration, but no supportive documentation was supplied. Disciplinary Counsel objected unless Respondent supplies actual documentation of the conflicts. As shown by the following brief chronology, this matter has been overly delayed.

**FACTS**

Respondent Answers Charges with a “General Denial.”

On July 12, 2023, the Commission filed and served a Statement of Charges against Respondent alleging violation of Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.5(A) and 2.8(B). Pursuant to Commission on Judicial Conduct Rule of Procedure (CJCRP) 20(a), Respondent’s answer was due August 2, 2023.

On August 14, 2023, Respondent filed her answer to the Statement of Charges with a document entitled “General Denial of All Charges Against Judge Flood.” The one-sentence document stated “Judge Flood denies all allegations against her.”

1           Chronology of the Attempts to Schedule Respondent’s Deposition

2           Prior to scheduling a fact-finding hearing on the allegations, discovery was necessary,  
3 including the deposition of Respondent. This deposition was overly delayed. A chronology of  
4 the attempts to schedule Respondent’s deposition is as follows:

5           The Presiding Officer’s initial scheduling order set a discovery cut-off for October 13,  
6 2023, and the fact-finding hearing date of December 4, 2023.

7           On October 10, 2023, Disciplinary Counsel brought a motion for Respondent’s  
8 deposition and to extend the discovery cutoff. In the motion, Disciplinary Counsel represented  
9 that the parties had been unable to agree on a date for Judge Flood’s deposition. Two days later,  
10 on October 12, Respondent filed a short document in which they “stipulated” to the deposition.

11           October 18, 2023, Scheduling Order

12           Due to these delays, it became clear that the December 4, 2023, fact-finding hearing date  
13 would have to be continued. Therefore, consistent with the stipulation, the Presiding Officer  
14 granted the joint motion—resetting the fact-finding hearing date to March 18, 2024, and ordering  
15 Respondent’s deposition to be taken. The Presiding Officer’s order covered multiple issues, and  
16 specifically provided that

17           The parties will agree on a date to depose Respondent by October 23, 2023. If a  
18 deposition has not been agreed by October 23, 2023, a date shall be set by the  
19 presiding officer.

20           (Oct. 18 Order.) The deposition did not take place as ordered.

21           On October 30, Disciplinary Counsel filed another motion “Motion to Set Deposition  
22 and Require Production of Expert Reports.” In the motion, Disciplinary Counsel wrote:

23           Despite email exchanges, counsel have been unable to reach agreement [to schedule  
24 Judge Flood’s deposition]. Recent communication from Judge Flood’s counsel  
25 appears to question whether the judge ... can be required to sit for deposition at all.

26           (Oct. 30 Mot. p. 1.)

1 On November 6, despite the earlier “stipulation,” Respondent filed a complete objection  
2 to the deposition. Respondent argued that there was no ‘good cause’ shown for the deposition  
3 and that it was an unnecessary and unjustified expense. (Nov. 6 Resp. at 1-4.)

4 On November 20, the Presiding Officer granted Disciplinary Counsel’s motion and, for  
5 a second time, ordered Respondent’s deposition to be taken. The order optimistically provided  
6 for a window for counsel to agree to a date, but if not, set a date-certain on January 10, 2024. It  
7 also limited the duration of the deposition to six (6) hours:

8 The date of Respondent Judge Flood’s deposition shall be agreed to by both parties  
9 by Monday, November 27, 2023. If an agreed date cannot be reached, the  
deposition will take place Wednesday, January 10, 2024.

10 The deposition of Respondent Judge Flood shall be for a duration of six (6) hours  
11 to include one 15-minute a.m. break, one 15-minute p.m. break, and a one-hour  
lunch break. Additional deposition time may be granted for good cause shown.

12 (Nov. 20 Order.)

13  
14 Notwithstanding the Presiding Officer’s expectation that counsel would cooperate to find  
15 a mutually agreeable date for the deposition well before the end of 2023, no agreement was  
16 apparently reached.

17 Then, on January 8, 2024, the Presiding Officer became aware that Respondent would  
18 not be made available for the deposition set on the date-certain of January 10, 2024. Through  
19 correspondence, both between counsel and with the Presiding Officer (see attachments to  
20 Disciplinary Counsel’s January 10, 2024, Motion re: setting deposition), Respondent represented  
21 that certain events in her personal life made her attendance on January 10 impossible. In the  
22 correspondence, Disciplinary Counsel offered multiple alternative dates for the deposition.  
23 Respondent would not agree to any alternatives, nor propose a time-period after which  
24 Respondent would be available.  
25  
26



1 On January 10, 2024, Disciplinary Counsel filed yet another motion to set Respondent's  
2 deposition and offered twelve separate days for rescheduling prior to the February 2, 2024,  
3 discovery cut-off date.

4 On January 12, 2024, the Presiding Officer ordered that the deposition would be required  
5 to be rescheduled. The order stated:

6  
7 The Commission has a primary responsibility to assure that judges fulfil their  
8 judicial duties with integrity, independence, and competence, for the benefit of the  
9 public and the judiciary at large. Although Respondent's difficult family  
10 circumstances are acknowledged, an indefinite extension of Respondent's  
11 deposition is unworkable — this matter must continue to move forward so that the  
12 pending charges are resolved with either exoneration or accountability as soon as  
13 reasonably possible. In the context of Disciplinary Counsel's Motion to Reset  
14 Respondent's Deposition, the Presiding Officer will receive input from the parties  
15 about new dates in the reasonably near future and then reset Respondent's  
16 deposition.

17 (Jan. 12 Order.)

18 On January 17, 2024, Respondent filed a response in which she committed to full-day  
19 deposition, not on any of the dates proposed by Disciplinary Counsel, but on February 7, 2024,  
20 a date of her choosing. But on February 6, 2024, during the Presiding Officer's Scheduling  
21 Conference with counsel, Respondent's Counsel stated that Judge Flood would *not* be available  
22 for a full day deposition on February 7. Without supportive documentation that a pro tem judge  
23 was unavailable or that rescheduling was not possible, Respondent claimed that a court matter  
24 in her municipal court required her attendance. She claimed she would only be available in the  
25 afternoon, and any further deposition time would have been continued until February 14, 2024.

26 The February 7 Deposition.

The February 7 deposition did not last long because of the behavior of Respondent's  
counsel. This unreasonable conduct was the subject of the Presiding Officer's February 2024

1 Order denying Respondent’s motion for a protective order, compelling the continuation of the  
2 deposition, and imposing restrictions on the behavior of Respondent’s counsel. *See* February  
3 12, 2024, Order.

4 The March 18 Fact-Finding Hearing is Stricken.

5 Even though the difficulties surrounding Respondent’s deposition jeopardized the March  
6 18, 2024, fact-finding hearing, the parties committed to maintaining the hearing date. However,  
7 on March 6, less than two weeks prior to the start of the hearing, Respondent requested an  
8 emergency hearing for requesting a continuance. On March 7, the Presiding Officer held an  
9 emergency hearing during which Respondent’s counsel conveyed that Respondent had certain  
10 sensitive health issues that made it impossible to hold the hearing on March 18, 2024. Limited  
11 supportive documentation was supplied, but it was sufficient for the Presiding Officer to continue  
12 the hearing, notwithstanding the hardships created by the late cancelation of the hearing.

13 Based on Respondent’s health issues, the March 18 hearing date was stricken. But, with  
14 the understanding that further information would be available on the seriousness of these health  
15 issues, the Presiding Officer set Review Hearing for April 16, 2024. The Order setting the  
16 hearing *required* Respondent to provide a written status report of Respondent’s health issues at  
17 least 24 hours prior to the April 16 Review Hearing. Despite it being ordered, no status report  
18 was provided.

19 At the April 16, 2024, Review Hearing, Respondent’s counsel represented that they had  
20 no further written documentation to provide to the Presiding Officer about Respondent’s health  
21 issues, and that records were difficult to obtain, without elaborating on what efforts had been  
22 made to obtain them. However, both of Respondent’s counsel then notified the Presiding Officer  
23 that they would be withdrawing from their representation of Judge Flood. Thus, they asked for  
24 another continuance and said Judge Flood was typically available on Wednesday afternoons.  
25 Respondent’s counsel also represented that, notwithstanding her health issues, Judge Flood  
26 remains actively attending to her duties on the bench. With the understanding that counsel would

1 be withdrawing, the Presiding Officer reset the Review Hearing for May 8, 2024, over three  
2 weeks later. (Respondent’s counsel later filed their withdrawal from representation, effective  
3 May 6, 2024).

4 Then, as noted above, on April 23, 2024, Judge Flood moved to continue the Review  
5 Hearing again for another three-week period until either May 30 or May 31. Disciplinary  
6 Counsel objected to any further continuance unless Respondent supplies actual documentation  
7 of conflicts.

### 8 DECISION

9 As noted in his Order initially continuing the March 18, 2024, fact-finding hearing, the  
10 Presiding Officer is sensitive to the health issues described in Respondent’s declaration. But the  
11 Presiding Officer also notes that Respondent apparently remains actively conducting her official  
12 judicial duties on a daily basis. Considering Respondent remains able to conduct these duties, it  
13 is unreasonable for Respondent to be unavailable to attend to this disciplinary matter. Further  
14 extended continuances without proof of substantive cause are unacceptable.

15 Nevertheless, based on representations made in Respondent’s April 22, 2024,  
16 Declaration (albeit without written supportive documentation), the Review Hearing currently  
17 scheduled for May 8, 2024, will be stricken. But given the multiple delays set forth above,  
18 Respondent’s request for a lengthy continuance is unacceptable. The Review Hearing shall take  
19 place the week of May 13. (The Presiding Officer notes that Respondent’s April 22, 2024,  
20 Declaration only mentions a conflict on May 15 during that week).

21 The Review Hearing shall be reset for May 14, 2024, at 8:30 a.m. If either party has a  
22 conflict, the Review Hearing shall take place later that same day, May 14, 2024, at 4:00 p.m. If  
23 Respondent has court calendar responsibilities during both of those times, a pro tem judge *shall*  
24 be obtained. If Respondent has medical appointments during *both* of those times, supporting  
25 written documentation shall be provided. (Respondent and her previous counsel have, at times,  
26 represented that written documentation of her health issues and appointments is difficult to

1 obtain, suggesting that most documentation are contained in texts or emails. “Written  
2 documentation” can include screenshots of texts and emails). If medical appointments conflict  
3 with both times on May 14, the Review Hearing shall be conducted two days later, on May 16,  
4 2024, at 1:30 p.m. (As with May 14, a pro tem judge shall be obtained if there are any court  
5 calendar responsibilities). If both Respondent and Disciplinary Counsel agree to an alternative  
6 time or day, *so long as it is the week of May 13*, the Presiding will consider the alternative time.  
7 At least 24 hours prior to the date of the hearing, Respondent shall provide a written status report,  
8 with documentation, of her health issues. Although the Presiding Officer will consider the scope  
9 of any sealing of documents provided by Respondent during the Review Hearing, it is anticipated  
10 that Respondent’s medical records shall be sealed and, in addition to Disciplinary Counsel,  
11 Investigative Counsel for the Commission shall have access to those and other records provided  
12 in the course of this proceeding.

13  
14 It is SO ORDERED.

15  
16 DATED this 2<sup>nd</sup> day of May 2024.

17  
18 /s/ Erik Price  
19 Judge Erik Price  
20 Presiding Officer  
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**BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON**

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC No. 11005-F-204

**ORDER ON MOTION FOR  
ISSUANCE OF SUBPOENA**

On July 3, 2024, Disciplinary Counsel filed a Motion for Issuance of Subpoena for Respondent's medical records. Disciplinary Counsel contends that Respondent has failed to comply with the Presiding Officer's order requiring that Respondent supply medical information substantiating her representations about her medical conditions. Disciplinary Counsel argues that Respondent has failed to comply with this obligation on numerous occasions.

Respondent's counsel filed a Response to the motion on July 10, 2024. Respondent's counsel objected, contending that (1) HIPAA prevents disclosure of Respondent's health information, (2) the records are privileged, (3) production of the records imposes an undue burden, (4) the records are irrelevant to the underlying allegations against Respondent and these proceedings, and (5) the subpoena would violate Respondent's right to privacy.

Disciplinary Counsel refuted each of these points in her Reply, filed July 18, 2024.

Also awaiting resolution is Respondent's request to have three of her submissions filed under seal: (1) June 18 Update Submission; (2) July 15 Update Submission; and (3) July 19, 2024, Supplemental Declaration of Judge Flood.

For the reasons explained below, Disciplinary Counsel's motion for a subpoena is granted and Respondent's request for sealing is denied in part, and granted in part.

The chronology of these proceedings, including the history of long delays, has been set forth by the Presiding Officer in previous orders. *See* Orders dated May 2, 2024, and May 17, 2024.

1 Relevant to the Disciplinary Counsel’s Motion for a Subpoena, the following facts bear  
2 repeating. Merely days from the fact-finding hearing (long-scheduled for March 18, 2024, after  
3 having been continued from the original date in December 2023), Respondent contended that  
4 she had potentially dire medical conditions which made it impossible to participate in the  
5 hearing. No specific substantiating documents were provided, but after listening to the  
6 presentations from her then-counsel, the presiding officer understood that these health issues  
7 were extremely serious and that it would be difficult, if not impossible, for Respondent to be  
8 adequately represented. *The potential seriousness of the medical issues as it was orally conveyed*  
9 *to the Presiding Officer cannot be over-stated.* Moreover, based on the seriousness of the  
10 purported medical issues, and the impact on her representation (as reported by her counsel), there  
11 was also serious concern that Respondent could be rendered incapable of continuing to carry out  
12 her official duties. It was explained that no documents supporting the extent or seriousness of  
13 these medical issues could be provided because of the recency of the medical issues and the  
14 difficulty of retrieving records from the Veterans Affairs Administration. However, supporting  
15 documentation was promised.

16 Accordingly, with the clear understanding that supporting documentation would be  
17 provided, the Presiding Officer struck the scheduled fact-finding hearing in an Order dated  
18 March 7, 2024. The hearing was continued to a time uncertain, contingent on the outcome of  
19 further medical diagnosis of Respondent.

20 A review hearing was set for April 16, 2024, and Respondent was required in that Order  
21 to “file a status report of the progress the medical issues” (with permission to file the report under  
22 seal based on a *Bone-Club* analysis.) prior to the review hearing. Respondent did not comply  
23 with the Order—no status report of any kind was filed prior to the April 16 review hearing.

24 At the April 16 review hearing, both counsel for Respondent announced their intention  
25 to withdraw from the case. Thus, the Presiding Officer set a new review hearing for May 8,  
26 2024. Respondent, pro se, moved to reset the May 8, 2024, review hearing claiming multiple

1 medical appointments but, again, no supporting medical documentation was provided.  
2 Disciplinary Counsel objected in the absence of such documentation, and the Presiding Officer's  
3 Order dated May 2, 2024, noted the case had been overly delayed, stating:

4           ...the Presiding Officer is sensitive to the health issues described in  
5           Respondent's declaration. But the Presiding Officer also notes that  
6           Respondent apparently remains actively conducting her official  
7           judicial duties on a daily basis. Considering Respondent remains  
8           able to conduct these duties, it is unreasonable for Respondent to be  
9           unable to attend to this disciplinary matter. Further extended  
10           continuances without proof of substantive causes are unacceptable.

11           The May 2, 2024, Order gave strict and narrow directions to the further scheduling of the  
12           review hearing, now set for May 14, 2024. Again, the Presiding Officer required supporting  
13           documentation of health issues to be filed "At least 24 hours prior to the date of the hearing."

14           The review hearing took place on May 14, 2024. No supporting medical documentation  
15           of any kind was submitted.

16           Respondent, now unrepresented, appeared at the May 14 hearing. Respondent requested  
17           that no fact-finding date be set, but instead, another review date be scheduled. Respondent also  
18           requested that the hearing be closed to the public so she could orally present her sensitive  
19           personal medical information. At that point, the Presiding Officer conducted a *Bone-Club*  
20           analysis. At least one member of the public expressed concern about closing the proceedings,  
21           concern about further continuances, and the interests of the community in the ultimate resolution  
22           of the case. At the conclusion of the hearing, which was partially sealed, the Presiding Officer  
23           issued a detailed order on May 17, 2024, ruling that in order to accommodate Respondent's  
24           potential health issues and search for new counsel while balancing the need for resolution of the  
25           case, the fact-finding hearing be set for October 21, 2024. Notably, Respondent had still not  
26           submitted any documentation supporting her serious health conditions.

          Thus, given that Respondent continued to underscore her need for a delay based on her  
          serious health conditions while, at the same time, suggesting she intended to continue her official

1 duties, the May 17, 2024, Order required Respondent to “**provide monthly Update**  
2 **Submissions on the progress of her health and work status**” [emphasis in original]. The May  
3 17 Order went on to specify that

4 Each Update Submission shall be in writing and shall include (A) a summary  
5 of her health issues, including written documentation substantiating  
6 appointments, tests, procedures, and treatment plans; and (B) an update on  
7 performance of official work duties, including an estimate of hours expended  
8 on these duties. (Respondent is reminded that the Presiding Officer has twice  
9 previously ordered a written update of her health issues (March 7, 2024,  
10 Order and May 2, 2024, Order). On neither occasion was the order complied  
11 with.)

12 Update submissions were required for June 17, 2024, July 15, 2024, August 12, 2024,  
13 September 9, 2024, and September 20, 2024.

14 Respondent’s June Update Submission was filed a day late on June 18, 2024. The  
15 Submission contained no information about Respondent’s health, diagnosis, or treatment,  
16 beyond noting, without documentation, the dates of several appointments (without any  
17 description of the nature of the appointments). The Submission included a letter from a Nurse  
18 Practitioner that provided only general information confirming that Respondent was a patient at  
19 the clinic with multiple (unspecified) appointments that would require her to miss work and  
20 unspecified procedures that were being scheduled. Respondent also provided her own  
21 declaration attaching her motion for a Writ of Prohibition to the State Supreme Court, seeking  
22 to terminate the Commission’s proceeding and stating, without motion, “I believe these  
23 proceedings should be stayed pending the outcome of the Writ of Prohibition.” Respondent  
24 requested the Submission be sealed.

25 On July 15, 2024, Respondent timely filed her second Update Submission. This  
26 Submission included the Declaration of Judge Tracy Flood and attached a three-page “Continuity  
of Care Document” from an eye doctor (that appeared to already contain redactions for  
Respondent’s DOB and home address). Respondent requested the Submission be sealed in its  
entirety.



1           On July 19, 2024, Respondent filed a “Supplemental Declaration of Tracy Flood.” In  
2 this declaration, Respondent argued against Disciplinary Counsel’s Motion for Subpoena,  
3 contending that “the CJC request for a subpoena is harassing because of my unforeseen medical  
4 issues that took me to the emergency room and warranted a continuance. Discovery is  
5 completed. This case is two years old.” The Supplemental Declaration attached two exhibits:  
6 (1) the Presiding Officer’s May 17, 2024, Order, and (2) a two-page screenshot of an apparent  
7 unidentified medical appointment without further explanation. Respondent requested the  
8 Supplemental Declaration be sealed in its entirety.

9                           DECISION

10           It bears repeating—the March hearing date was originally continued based largely on the  
11 oral representations of extremely serious medical conditions that were affecting Respondent’s  
12 ability to participate in the proceedings and, critically, her counsel’s representations that these  
13 conditions were affecting their ability to represent her. Although the Presiding Officer agreed  
14 to continue the long-scheduled fact-finding based on these oral representations, supporting  
15 documentation was promised and, more importantly, ordered to be provided.

16           Respondent has failed to comply with these orders on every occasion. Despite the  
17 passage of four months and multiple orders, nothing actually substantiating the March oral  
18 representations of these health conditions has been provided. The only concrete information that  
19 has been provided is that Respondent appears to be fully performing her official duties in contrast  
20 to the hardships she represented when she sought a continuance of these proceedings. The  
21 unfortunate and unavoidable conclusion is that Respondent is intentionally not cooperating with  
22 the Commission’s proceeding as is required under the Code, and is a potential aggravating factor  
23 in the event of a finding of misconduct. (*See* Canon 2, Rule 2.16 (A) Cooperation with  
24 Disciplinary Authorities, “A judge shall cooperate and be candid and honest with judicial and  
25 lawyer disciplinary agencies” and CJCRP 6(2)(E) Whether the judge cooperated with the  
26 commission investigation and proceeding.)

1 Disciplinary Counsel’s Motion for a Subpoena will be granted.

2 Respondent’s request to seal her Update Submissions and Declarations will be denied in  
3 part and granted in part, as follows:

4 June 18 Update Submission:

5 Bearing in mind the objection articulated on behalf of members of the public to complete  
6 sealing of documents mentioning Respondent’s health concerns and balancing the rights of the  
7 public with Respondent’s right to privacy, no part of the June 18 Update Submission will be  
8 sealed. The Presiding Officer finds no aspect of this document to be sufficiently private to justify  
9 its sealing.

10 July 15 Update Submission:

11 This Submission consists of the Declaration of Tracy Flood and an attached three-page  
12 “Continuity of Care” Document. Balancing the rights of the public with Respondent’s right to  
13 privacy, the Presiding Officer finds no aspect of Declaration of Tracy Flood to be sufficiently  
14 private to justify its sealing. The Presiding Officer reaches a different conclusion for the three-  
15 page “Continuity of Care” Document that is attached to the Declaration. On balance, this three-  
16 page attachment contains private medical information that outweighs the public’s rights – the  
17 document will be sealed.

18 July 18 Supplement Declaration of Tracy Flood:

19 This document consists of the Supplemental Declaration of Tracy Flood and two  
20 attachments, (1) the Presiding Officer’s May 14 Order and (2) a two-page screenshot of an  
21 unidentified medical appointment without further explanation. Balancing the rights of the public  
22 with Respondent’s right to privacy, no part of the July 18 Supplemental Declaration of Tracy  
23 Flood will be sealed. The Presiding Officer finds no aspect of this document to be sufficiently  
24 private to justify its sealing.

25 Collectively, the information included in these submissions fails to comply with the  
26 Presiding Officer’s orders. Respondent has been ordered to provide detailed documentation

1 substantiating the oral representations made to the Presiding Officer on multiple occasions.  
2 Respondent ignored these orders at first, and now, although Update Submissions have been  
3 provided, they are devoid of meaningful information that remotely comports with the Presiding  
4 Officer's orders.

5 Accordingly, Disciplinary Counsel's Motion for a Subpoena will be GRANTED.  
6 Respondent's position that her medical condition is irrelevant to these proceedings and her  
7 characterization of attempts to obtain her compliance with the Presiding Officer's orders as  
8 "harassing," given this foregoing history, are not well-taken. She has placed her medical  
9 condition directly at issue in delaying the course of this proceeding. Moreover, the Presiding  
10 Officer is persuaded by the arguments raised in Disciplinary Counsel's Reply and concludes  
11 there is no viable privilege, privacy right, or HIPAA prohibition to the Subpoena under these  
12 circumstances.

13 Three more Update Submissions have been ordered—August 12, 2024, September 9,  
14 2024, and September 20, 2024. If these Submissions are equally deficient, the Presiding Officer  
15 will consider the issuance of further Subpoena as needed.

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

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court

CJC No. 11005-F-204

**ORDER ON MOTION TO  
REQUIRE RELEASE OF  
RECORDS AND FOR ENTRY OF  
PROTECTIVE ORDER**

On August 16, 2024, Disciplinary Counsel filed a Motion to Require Respondent to Authorize Release of Records and for Entry of Protective Order. The Presiding Officer has considered (1) Disciplinary Counsel’s motion, (2) Respondent’s Response (filed August 20, 2024), (3) Disciplinary Counsel’s Reply (filed August 22, 2024), and Respondent’s Surreply permitted based on alleged new issues raised in Disciplinary Counsel’s Reply (filed August 26, 2024).

In her responses to the motion, Respondent restates an argument made previously that her medical records and condition are not relevant to this proceeding. Again, this argument is not well taken. As noted in the Presiding Officer’s Order on Motion for Issuance of Subpoena filed July 31, 2024, Respondent has placed her medical condition directly at issue in delaying the course of this proceeding. Her repeated failure to comply with orders to substantiate her oral representations of a substantial medical basis for extending the time for hearing in this case is serious, and is a potential aggravating factor for sanction in the event of a finding of misconduct. A Commission case is not bifurcated into proof of a Code violation and a separate sanctions hearing, so evidence regarding aggravating and mitigating factors in the fact-finding is relevant. *See CJCRP 6(c), In re Deming*, 108 Wn. 2d 82 (Wash. 1987). A judge’s candor and truthfulness are of utmost importance, particularly in a judicial disciplinary proceeding, and Disciplinary Counsel has raised valid concerns in that respect. Accounts in the media of Respondent’s alleged

1 public statements that purport to deny that Respondent conveyed the fear of extremely serious  
2 health conditions to the Presiding Officer when she requested a continuance of these proceedings  
3 are, at a minimum, very concerning. (See attachment to Disciplinary Counsel's Reply, filed  
4 August 22, 2024). Nevertheless, it is recognized that these statements are second-hand accounts  
5 and not the equivalent of Respondent's testimony under oath.

6 Notwithstanding those observations, Respondent's analysis regarding the Presiding  
7 Officer's potential authority to compel Respondent to execute a release of her medical records  
8 is persuasive. Respondent has been ordered to provide medical records that substantiate her  
9 representations of a potential serious health condition. Respondent's failure to comply with these  
10 orders could lead to consequences that result from a failure to cooperate with proceedings of the  
11 Commission. But these consequences do not include an order to force Respondent to execute a  
12 medical record release. Nor do these consequences include authority for the Presiding Officer  
13 to convert the current motion into a CR 34 motion. (Voluntary execution of a medical record  
14 release would, of course, be relevant to the imposition of potential consequences for a failure to  
15 cooperate.)

16 Respondent's failure to provide medical records may be relevant to the upcoming fact-  
17 finding hearing, but the relief sought by Disciplinary Counsel cannot be granted.

18 For the above stated reasons, it is hereby

19 ORDERED that Disciplinary Counsel's Motion to Require Release of Records and Entry  
20 of a Protective Order is DENIED.

21 DATED this 26th day of August 2024.

22  
23  
24 /s/ Erik Price  
25 Judge Erik Price  
26 Presiding Officer

# ATTACHMENT D

Note: Counsel for the parties agreed that there is a typographical error on page 8 of the stipulation. (Transcript of Proceedings, Vol. I Pages 40-41.) Section "S" is mislabeled and should be titled Section "R."

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

IN RE THE MATTER OF

The Honorable Judge Tracy S. Flood,  
Judge of the Bremerton Municipal Court.

CJC NO. 11005-F-204

STIPULATION TO FACTS AND  
CODE VIOLATIONS

Disciplinary Counsel and Tracy S. Flood, Judge of the Bremerton Municipal Court (“Respondent”), stipulate and agree to the following facts and Code of Judicial Conduct Violations and agree to proceed to a hearing as to the appropriate sanction. The Commission is represented in these proceedings by Disciplinary Counsel Raegen N. Rasnic, and Respondent is represented by attorneys Anne Bremner, Ted Buck, and Nick Gross.

**I. STIPULATED FACTS**

A. Respondent Judge Tracy Flood was elected to serve as sole judge of Bremerton Municipal Court in November 2021. Respondent replaced Judge James Docter, a white male, who had held the position for 24 years before retiring in 2021.

B. Respondent is the first woman and first Black judge to hold the position. This fact has always weighed heavily on Respondent, and in every decision she makes she is mindful she is the first.

STIPULATION TO FACTS AND  
CODE VIOLATIONS- 1

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- C. When Respondent took the bench in January 2022, Bremerton Municipal Court was fully staffed (after changes in December 2021) with a Court Administrator, Assistant Court Administrator, Senior Legal Technician, three Legal Technicians, and a Probation Officer. Most of these individuals were long-term employees of Bremerton Municipal Court.
  - D. Respondent did not know any of the court staff before she was elected but retained them all and invited them to her swearing in ceremony. Only two staff members attended.
  - E. Respondent dealt with numerous issues in her first few months on the bench. In addition to being a new judge, the court was vandalized, they dealt with inclement weather issues, and the court had to be closed when court staff were exposed to COVID-19.
  - F. From the beginning of Respondent’s term, staff noticed clear differences in philosophy and approach between Respondent and Judge Docter. Respondent is a veteran of the United States Navy, where she served from 1986 to 1994 and, due in part to that experience, saw the court as a top-down hierarchy, and had a military service philosophy. Judge Flood had a vision for her court and expected her staff to help her execute it. Judge Flood’s approach was different from Judge Docter’s. This difference in approach caused consternation among court staff.
  - G. A byproduct of Respondent’s approach was that several staff members felt Respondent did not respect their knowledge and experience. Some staff members in particular were hurt by this. For example, Probation Officer Ian Coen, who had worked for the court for over 20 years and had played a significant role in developing the court’s program for monitoring and supervision, felt that Respondent did not credit his expertise, causing him frustration and anxiety.

1 H. In 2022, Respondent, facing health issues, instituted COVID-19 protocols including a mask  
2 mandate. This was not a popular decision, and Respondent was told some staff may quit,  
3 and at least one staff member openly flouted protocols.  
4

5 I. Respondent quickly began to believe that the court staff were a team and she wasn't on it.  
6 On one occasion, Respondent confided in then-Court Administrator Dawn Williams that  
7 she felt unwelcomed at the court.

8 J. Respondent believed court staff were resistant to her direction and resistant to change.  
9 Respondent believed racial bias – including microaggressions, implicit bias, and tone  
10 policing<sup>1</sup> – was a substantial factor in the attitudes of some staff. Respondent believed some  
11 staff did not like being told what to do by a Black woman. One staff member refused to  
12 call Respondent “Judge” or “Your Honor,” instead calling her “Tracy,” despite being  
13 repeatedly asked not to. This staff member went on leave several months after Judge Flood  
14 took the bench and resigned by the end of 2022 without returning from leave.

15 K. Tone policing predominantly happens to Black women. They are asked to remove any  
16 emotion as they speak, make a suggestion, or recommendation in a meeting. Black women  
17 are asked to tailor their message, so the recipient is “able” to hear them and what they are  
18

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19 <sup>1</sup> Respondent's expert Sarah Dryfoos, MPH,CPH, defines these as:

- 20 • **Microaggressions:** a statement, action, or incident regarded as an instance of indirect,  
21 subtle, sometimes unintentional, discrimination against members of a marginalized  
22 group such as a racial or ethnic minority.
- 23 • **Implicit Bias:** also known as implicit prejudice or implicit attitude, is a negative  
attitude, of which one is not consciously aware, against a specific social group.
- **Tone Policing:** the action or practice of criticizing the manner in which a person has  
expressed a point of view, rather than addressing the substance of the point itself.

1 trying to say. Tone policing is a microaggression against Black women that propagates the  
2 “angry Black woman” stereotype.

3  
4 L. Put simply, Respondent felt some staff did not respect or trust her, and some staff felt  
5 Respondent did not respect or trust them. This created a problematic dynamic.

6  
7 M. At times, Respondent verbally admonished staff for not following her instructions or for  
8 making mistakes. Though Respondent rarely raised her voice, her communication could be  
9 pointed and harsh. Respondent had high expectations for her staff and wanted tasks done  
10 in a specific way. When that did not happen, Respondent could be condescending, which  
11 made some staff members feel humiliated, embarrassed, and anxious. Some staff believed  
12 that Respondent did not clearly communicate her expectations of them, particularly  
13 regarding changes to previous processes and procedures, and chastised them if they did not  
14 understand what she wanted or if they asked clarifying questions. Staff experienced that  
15 Respondent at times met their questions and concerns with impatience and defensiveness,  
16 interrupted them, and denied having given unclear instructions. Staff often heard  
17 Respondent respond “that’s not what I said” or “I didn’t say that” in response to their  
18 concerns. Some staff who experienced this and saw their colleagues experiencing it became  
19 increasingly wary of engaging with Respondent.

20  
21 N. The following examples illustrate Respondent’s Code violations:

- 22  
23 a. During an 8 a.m. in-custody calendar in October 2022, Respondent was in court at  
the start of the Zoom jail video calendar. Respondent was waiting to be let into  
Zoom by clerk Amber Dodge, who was working on another floor. However, Ms.  
Dodge was not letting Respondent in and Respondent grew frustrated. Eventually,

1 Respondent walked out of the courtroom and went downstairs to the clerks' office.  
2 Ms. Dodge, whom Respondent had hired in August 2022, was interacting with  
3 LaTricia Kinlow, Administrator of Tukwila Municipal Court, who had just arrived  
4 to provide assistance through "Courts Helping Courts."<sup>2</sup> Standing in the doorway  
5 at the other end of the room, Respondent, in a raised voice, shouted at Ms. Dodge,  
6 "I have been waiting in the Zoom waiting room for over 10 minutes! Will someone  
7 please let me in!" Ms. Dodge apologized and Respondent went back upstairs to the  
8 courtroom.

- 9
- 10 b. In December 2022, the court was preparing for a trial with an in-custody defendant.  
11 Respondent stated that the Bremerton Police Department would transport the  
12 defendant for his trial. Serena Daigle, Senior Legal Technician, asked about a  
13 transport order. Bremerton Police Department did not require an order, only an  
14 email to their warrants department was needed. Respondent replied in a  
15 condescending manner that she had never signed a transport order in the past.
- 16 c. In February 2023, Respondent called Jennefer Johnson, whom she had hired as  
17 Court Administrator in November 2022, and Brian Knowles, a Legal Technician  
18 whom Respondent had hired in December 2022, into Ms. Johnson's office.  
19 Respondent asked Mr. Knowles about an issue with a judgment and sentence he  
20 had completed while working with a remote Pro Tem Judge. Mr. Knowles began  
21 to stand up. Respondent told him firmly to sit down. Respondent admonished Mr.

22  
23 <sup>2</sup> "Courts Helping Courts" is a joint program of the District and Municipal Court Judges' Association and  
the District and Municipal Court Management Association which helps courts with operational, procedural,  
or efficiency issues. Respondent had contacted the program in fall 2022.

1 Knowles, then remarked that the admonishment had been a “teaching moment” for  
2 him. Respondent now recognizes that she talked to Mr. Knowles in an impatient  
3 and discourteous manner.  
4

5 d. On occasions, Respondent has treated attorneys appearing before her with  
6 discourtesy and impatience , and, during some Zoom hearings, has interrupted  
7 attorneys during argument or when they attempted to request clarification of a  
8 ruling. For example, during a lengthy pretrial calendar, attorney Ryan Witt  
9 believed his case had been called. Respondent told him in a condescending manner,  
10 in open court and in front of others on the Zoom, that no, she did not call his case.  
11 Mr. Witt felt embarrassed.

12 e. Court Administrator Dawn Williams, who had been in her position since 2011 and  
13 had worked for the court since 2003, experienced Respondent as constantly critical  
14 of her and believed that nothing she could do would satisfy Respondent’s  
15 expectations. Ms. Williams was aware that some other court staff also believed this.  
16 Ms. Williams resigned her position in July 2022 for a job at a lower salary and  
17 forfeited significant accrued leave.

18 f. Probation Officer Mr. Coen also experienced Respondent as constantly critical of  
19 him and believed that nothing he could do would satisfy Respondent’s expectations.  
20 Mr. Coen believed that many of Respondent’s instructions were unclear and at odds  
21 with his training. Respondent pointed out that Mr. Coen made spelling errors in JIS  
22 entries but did not identify what the errors were. and Mr. Coen felt he was being  
23 chastised. Mr. Coen shared that he is not easily able to recognize spelling errors

1 because he is dyslexic. Mr. Coen felt humiliated by Respondent's treatment and  
2 resigned his position to take a role in a different City department.

3  
4 g. Serena Daigle came to Bremerton Municipal Court through "Courts Helping  
5 Courts" and was hired in December 2022 as a Senior Legal Technician, then made  
6 interim Assistant Court Administrator. On one occasion when Ms. Daigle was  
7 filling in in the courtroom and Ms. Daigle asked Respondent to clarify a rulings in  
8 court, Respondent spoke in a manner Ms. Daigle felt was impatient and  
9 discourteous. Because of Respondent's impatience, Ms. Daigle believed that  
10 nothing she could do would satisfy Respondent. Ms. Daigle went on leave in  
11 February 2023 and resigned in May 2023.

12 h. Steven Desrosier was hired by Respondent in October 2022 as Bremerton  
13 Municipal Court's first Therapeutic Court Coordinator and tasked with setting up  
14 processes and developing forms for Therapeutic Court. Mr. Desrosier resigned in  
15 April 2023.

16 O. In addition to assistance provided through "Courts Helping Courts," other court  
17 administrators have assisted Bremerton Municipal Court on an ongoing basis and have  
18 allowed Bremerton court staff to train at their courts. Retired administrator Maury Baker  
19 volunteered to assist the court in summer 2023 to allow Assistant Court Administrator  
20 Christina Rauenhorst and other new staff to obtain training.

21 P. In 2022, the City of Bremerton determined that its Human Resources department lacked  
22 legal authority to investigate complaints filed by Bremerton Municipal Court employees  
23

1 because Bremerton Municipal Court's Presiding Judge had authority to control all areas of  
2 the court's employee relations aside from wages.

3  
4 Q. Respondent recognizes that multiple staff left the employment of Bremerton Municipal  
5 Court because of her changes and communications. Some current staff are relatively  
6 inexperienced.

7 **II.** S. The effect of Respondent's conduct on staff and attorneys has been brought  
8 to Respondent's attention by those affected by the conduct and by the  
9 Commission on Judicial Conduct. During the Commission's confidential  
10 proceedings Respondent engaged an executive coach, of her choosing. The  
11 coach had sessions with Respondent as well as court staff. After the sessions  
12 Respondent's violations continued, and other staff left. **AGREEMENT**

13 **A. Respondent Violated the Code of Judicial Conduct.**

14 1. Respondent agrees she violated Canon 1, Rules 1.1 and 1.2 and Canon 2, Rules  
15 2.8(B) of the Code of Judicial Conduct in that she failed to treat some court staff with patience,  
16 dignity, and respect, and in treating some court staff in a demeaning and condescending manner.

17 2. Canon 1 expresses the overarching principles of the Code of Judicial Conduct:  
18 because judges represent the administration of justice and the rule of law, to preserve public  
19 confidence in our legal system, they must avoid impropriety and the appearance of impropriety  
20 and act in a manner that is always above reproach. Specifically, Rule 1.1 provides, "A judge shall  
21 comply with the law, including the Code of Judicial Conduct." Rule 1.2 provides, "A judge shall  
22 act at all times in a manner that promotes public confidence in the independence, integrity, and  
23 impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

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3. Canon 2 expresses the overarching principles that a Judge should perform the duties of the judicial office impartially, competently, and diligently. Specifically, Rule 2.8(B) provides, “A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge’s direction and control.”

4. Respondent has faced numerous hurdles in her tenure as Bremerton Municipal Court’s Presiding Judge, including being the first female and first Black judge in the Court’s history; taking over for a white male judge who had just retired after 24 years in the position; inheriting the departing judge’s full staff, most of whom were long-term employees who had become accustomed to the prior judge’s approach which was different from Respondent’s; handling racial bias from her own staff including microaggressions, implicit bias, and tone policing; facing the COVID-19 pandemic and her own health issues; and learning and navigating all aspects of being a permanent judge while being the only judge in the court.

5. Regardless of these hurdles, Respondent must comply with the Code of Judicial Conduct and failed to do so on a number of occasions. Respondent was impatient, disrespectful and discourteous to staff and attorneys, interrupting them and speaking to them in a harsh and/or condescending tone. Respondent acknowledges that her actions showed poor judgment.

6. Respondent stipulates and agrees that any sanction will include her good faith participation in and successful completion of a plan of training, coaching, and mentoring approved in advance by the Commission Chair or their designee, with reports to be made to the Commission on a quarterly basis beginning one month after the entry of this Stipulation. Respondent further



1 agrees to execute any consent or release necessary to allow Commission staff to communicate with  
2 the trainer, coach or mentor regarding Respondent's progress.

3  
4 7. The parties agree that the case will proceed to hearing on the issue of sanction.  
5 Disciplinary counsel agrees that Censure with removal will not be recommended. The parties  
6 agree that this Stipulation and Agreement shall not limit either party's ability to present evidence  
7 pertinent to the *Deming* factors<sup>3</sup> and CJCRP 6(c)(1)(A)-(H). The parties agree that the hearing will  
8 commence via the Zoom platform on Wednesday October 23, 2024, and continue through  
9 Thursday October 24, 2024, with additional time if ordered by the Court, on Friday October 25,  
10 2024, or another date selected by the Court.

11 8. Each party may present the testimony of up to five (5) live witnesses, who shall be  
12 subject to cross-examination. If Respondent does not testify in her case, Disciplinary Counsel may  
13 call Respondent as an additional live witness. In addition, each party may submit the testimony of  
14 up to six (6) additional witnesses via sworn declaration not to exceed fifteen (15) pages in length  
15 (12-point Times New Roman font, double-spaced). Counsel shall exchange witness declarations  
16 no later than the close of business on October 22, 2024. Any declaration exhibits shall be limited  
17 to documents included in that party's exhibit list. Either counsel may request by 8:00 a.m. on  
18 October 23, 2024 that any witness whose testimony is presented via sworn declaration be made  
19 available for cross-examination, indicating the anticipated duration of cross-examination.

20 9. The parties agree that this Stipulation and Agreement may not be withdrawn.  
21 Respondent understands and agrees that in the event she or her counsel do not appear for the  
22 sanction hearing on the schedule set forth above, the hearing will proceed in Respondent's absence.

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<sup>3</sup> *Matter of Deming*, 108 Wn.2d 82, 119-120, 736 P.2d 639 (1987).

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*Tracy Flood*

Honorable Tracy S. Flood  
Bremerton Municipal Court  
Judge

Oct 21, 2024

Date

*Anne Bremner*

Anne Bremner (Oct 21, 2024 09:20 PDT)

Anne Bremner, WSBA #13269  
Ted Buck, WSBA #22029  
Nick Gross, WSBA #48236  
Attorneys for Respondent

Oct 21, 2024

Date

*Raegen Rasnic*

Raegen N. Rasnic, WSBA 25480  
Disciplinary Counsel  
Commission on Judicial Conduct

Oct 21, 2024

Date

STIPULATION TO FACTS AND  
CODE VIOLATIONS- 11

**FREY BUCK**  
1200 FIFTH AVENUE, SUITE 1900  
SEATTLE, WA 98101  
P: (206) 486-8000 F: (206) 902-9660

# ATTACHMENT - E

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF  
MAURICE H. BAKER**

I, Maurice H. Baker, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I am 74 years old and retired 7 years ago after a career spent working for Washington courts. I have a degree from the Institute for Court Management and a master's degree in public administration. Right out of college, I began working for Kitsap County Superior Court, in the juvenile division. I spent 18 years there working with Robert Bryan, now a judge in the United States District Court for the Western District of Washington. Judge Bryan was my mentor during his tenure.

3. In 1990 I was hired as Court Administrator and Commissioner for Kitsap County District Court. I was not interested in being a Commissioner because I knew I could not do both well. The judges agreed to hire a Commissioner, and I stayed on as Court Administrator. I stayed in that position until 2017. I tried to retire in 2002 but the judges asked me to come back, so I did. I was finally able to retire in 2017.

4. Over the course of my career I built up a lot of experience training judges and court administrators. I worked as an instructor for the Washington Administrative Office of the Courts. I taught ICM classes to court managers and judges. I also worked for the National Center for State Courts, helping to write an educational program for Court Managers and Court Administrators. I also taught at the Judicial Conference most years, including courses about Leadership and Team

Building. In my experience, some judges come to the bench without the skills needed to build a team with their Court Administrator. I saw many judges try to simply “direct” without knowing the unintended consequences of what they were “directing.” In my experience, if there is no team between the judge and Court Administrator, the court will have a difficult time functioning.

5. In June 2023, I saw an article in the Kitsap Sun newspaper about Bremerton Municipal Court. This article came out June 8, 2023, just after Jennefer Johnson resigned as Court Administrator. The article stated that there had been a great deal of staff turnover at the Court. I emailed the mayor of Bremerton about the situation. I believe the mayor then shared my email with Judge Flood.

6. Not too long after I emailed the mayor, Judge Flood contacted me and asked to meet with me. I had interacted with her a little bit many years prior when she worked as a public defender, I think it was for the Crawford McGilliam firm. I also recalled that Kitsap County District Court Judge Marilyn Paja had hired Judge Flood a few times to act as a Pro Tem in the early 2010’s. But I did not know Judge Flood well. Prior to meeting with Judge Flood in 2023, I reached out to the administrators of the other municipal courts in Kitsap County, as well as the Kitsap County Superior Court Clerk, and asked if they would be willing to support me in assisting the Bremerton Municipal Court. I was anticipating that court staff might need to be trained, given the amount of turnover. They all agreed to help with training if they could.

7. I met Judge Flood on June 14, 2023, at the courthouse. We went upstairs, through a maze of courtrooms and hallways into a jury room. I wasn’t sure what to expect. Judge Flood closed the door, then broke down crying, which surprised me. I remember giving her a hug, which she seemed to appreciate. I listened and tried to be empathetic. I remember she said that she felt people misunderstood her. Based on this interaction, because Judge Flood seemed willing to allow herself to be vulnerable, I had hope that she would also be willing to trust me and listen to my advice. I had hope that I would be able to help. Judge Flood asked me to help her, and the Court, and I said I would.

8. Shortly after the June 14 meeting Judge Flood appointed me as an unpaid advisor to the Court. I had no actual authority. I began going to the courthouse every day, usually working eight or nine hours. I introduced myself to the court staff, including Acting Court Administrator Christina Rauenhurst. On one of my first days there was a meeting with all staff and I had asked the judge to explain to staff what I would be doing. By this time the staff were all people Judge Flood had hired, including Christina, Brian Knowles (a clerk who later resigned), Heather Harris, Jennifer Riley, and Lisa Hardy. I remember that the meeting happened during what would have been the lunch hour. The judge went through a “chain of command” with herself at the top, naming me, and Christina, as below her, and going on down through the rest of the staff. I remember at the time thinking that this only emphasized how “low” some staff were compared to others.

9. I started going through the clerk’s office desk by desk, trying to get an understanding of the situation. I was in triage mode, looking for what I thought of as “land mines,” things that needed to be dealt with immediately. I found many things started but not finished. I found daily and monthly financials spread out everywhere, as though whoever was there didn’t know what they were doing or weren’t allowed to do it. Documents were just shoved in boxes, in various places. I went through them and organized them by year, so that state auditor could review them. [REDACTED]

10. I found a drawer full of bail bonds that had not been exonerated. I looked up each of the cases and realized they had been adjudicated and the bonds should’ve been exonerated, some should have been exonerated quite some time ago. The court was sitting on all of this money. In my experience, the exonerated of bonds is a clerk responsibility: the judge makes an in-court ruling and the clerk simply takes it from there. From talking with staff I gained an understanding that Judge Flood had instead instituted a different process requiring additional steps, including an additional hearing, and the process had gotten bogged down because of the staff turnover. I tried to explain to the judge the process I was familiar with, which Bremerton Municipal Court staff had also used; even diagramming it on a white board. Judge Flood claimed she knew the process but

did not seem amenable to changing what she had instructed, even though it was making more work and causing things to fall behind.

11. From reviewing the financials I also found that the court was holding onto a significant amount of money – my recollection is that it was approximately \$40,000 – because it had been collecting victim restitution payments but not sending the restitution checks out. I believed this was because staff were simply overwhelmed with other work and could not prioritize this.

12. I quickly learned from communicating with staff that other court tasks were not being done consistently with what I understood to be regular practice, based on my experience. For one example, Judge Flood expected in-court clerks to fill out judgment and sentence forms, which required them to forego other tasks. The judge was adamant that the clerks had to fill out the judgment and sentence forms. Some of the clerks lacked the requisite education and experience to complete a judgment and sentence form; they were not trained as attorneys. Also, inexperienced clerks, in particular, had a hard time filling out forms the judge wanted while also attending to other in-court tasks such as docketing. As a result, docketing was not getting done in a timely manner. In my experience docketing should be done in real time so that the Court, and other courts, know what has happened on cases. When I was volunteering in Bremerton Municipal Court, docketing was not being done in real time. Sometimes it was more than a month behind. Docket entries also were not uniform; some were succinct, some had a lot of information that was unnecessary and unrelated. In communicating with court staff I came to understand that this was in part because the court was relying on temporary employees, who were working remotely, trying to catch up the backlog, and in part because new staff had not been trained. The new staff did not know why it was important to docket in real time, and did not know the codes, or had not had enough time to become proficient. These are all consequences of staff turnover and the resulting lack of experience.

13. Training staff was also a challenge. The judge seemed to want to have a high level

of involvement in the details of staffing decisions, but did not seem to have an overall understanding of how staff needed to work and how various tasks needed to get done for the court to function. Staff did not seem to have been given clear expectations about what they were to do or why. For example, I learned that a brand-new clerk whose job was to answer the courthouse phone was allowed by Judge Flood to work from home, as a way to keep the clerk from quitting.

14. The Interim Court administrator, Christina Rauenhorst, was working extremely hard and seemed to be the only employee with experience being a clerk. But she was expected to learn the Court Administrator job, keep up those tasks, and also train new hires. It was unrealistic to think Christina could train everyone. I tried to take tasks off Christina's plate so that she could focus on learning the Court Administrator job. The judge would regularly interrupt me when I was working to talk with me about personal issues, including her belief that a prior court administrator had been disloyal.

15. I recall bringing to the judge's attention her expectation that staff would work overtime and that she could text them before and after hours. There did not seem to be an understanding of the need for staff to have regular start and end times, and to take lunch breaks.

16. After I had been volunteering several months there was an issue around the probation officer position. After Ian Coen resigned, it was unclear who was responsible for supervising probationers and doing the other tasks the probation officer had handled. Judge Flood had someone in the position, who had been hired just before I began volunteering. There was nobody to train that person. Judge Flood decided she wanted to hire a second person and my recollection is that she gave the City's Human Resources department very little notice of the hire, perhaps one day. In my experience the practice or requirement was for a committee to handle the interviews. I had been assisting with hiring. Judge Flood scheduled the interviews for this position and put them on the calendar without coordinating with me or the Interim Court Administrator, and as a result, we were unable to participate in the interviews because of scheduling conflicts. Instead of rescheduling, the judge went ahead and interviewed the candidate alone, and I believe



made the decision to hire that person on her own as well. This caused me to question whether Judge Flood was committed to building a team with her Court Administrator.

17. Not long after the incident with the interview of the second probation officer, I came into the courthouse to find a letter from the judge on the desk where I had been working. The letter indicated that she was reversing many changes that she had agreed would be implemented after much discussion with me and the Interim Court Administrator, including court hours and requiring staff to work after hours. After that, the judge seemed to say no to everything I suggested.

18. After receiving the letter, I reflected on my volunteer service. When I started I had told myself that I would keep it up only as long as I felt I was able to be useful. Over the months I had been volunteering it had become increasingly difficult to work with Judge Flood. I had initially been optimistic that she could change her behavior and be less controlling and micromanaging and work more collaboratively with staff. She had showed glimmers of understanding about why it would be in the interest of the court to do so. She would agree to do things differently. But she seemed to be unable or unwilling to change, and worse, she also seemed unable to recognize the effect her behavior was having on her staff. My experience was that they seemed to be walking on eggshells. She expected to be able to direct everything they did and was impatient with them when they had to ask questions or did not do as she expected. She was unwilling to change even when this was pointed out to her. It was very frustrating to see.

19. I realized that I had done everything I could to help the court but that Judge Flood did not seem to trust me and would not accept help and therefore, there was nothing more I could do. My last day volunteering in Bremerton Municipal Court was August 31, 2023.

20. A true and correct copy of my resignation letter is attached as **Exhibit A**.  
I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Signed at Bainbridge Island, Washington on October 22, 2024.

 (Oct 22, 2024 14:44 PDT)

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Maurice H. Baker, MPA, ICM Fellow

# EXHIBIT A

August 31, 2023, 10:49 A.M.

Re: Letter of Resignation effective September 1, 2023, 4:30 P.M.

Judge Flood,

It has been my honor to work with the staff of the Bremerton Municipal Court, past and present. As of the writing of this letter, I can report that the Court's current level of functioning is as good as it will get under your chain of command.

I sincerely believe that you desire to lead the Court in a positive direction in order to serve the best Justice for the citizens of Bremerton. It is my conclusion that your decisions and behavior are not conducive to that goal. I wish the Court and its employees the very best.

Respectively, Maurice H Baker MPA, ICM Fellow







# 2024-10-22 Declaration of Maury Baker

Final Audit Report

2024-10-22

Created:	2024-10-22
By:	Julie Melville (jmelville@skellengerbender.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAApkwzxXJDqF11HWVbDZyioaG9ue7uCPv9

## "2024-10-22 Declaration of Maury Baker" History

-  Document created by Julie Melville (jmelville@skellengerbender.com)  
2024-10-22 - 9:39:03 PM GMT
-  Document emailed to mauryb4baker@gmail.com for signature  
2024-10-22 - 9:39:24 PM GMT
-  Email viewed by mauryb4baker@gmail.com  
2024-10-22 - 9:39:52 PM GMT
-  Signer mauryb4baker@gmail.com entered name at signing as Maurice Baker  
2024-10-22 - 9:44:27 PM GMT
-  Document e-signed by Maurice Baker (mauryb4baker@gmail.com)  
Signature Date: 2024-10-22 - 9:44:29 PM GMT - Time Source: server
-  Agreement completed.  
2024-10-22 - 9:44:29 PM GMT

# ATTACHMENT - F

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF SERENA  
DAIGLE**

I, Serena Daigle, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct. This is a supplement to my prior declaration dated June 20, 2023. **Exhibit A.**

2. I was hired by Judge Flood as a Senior Legal Technician at Bremerton Municipal Court on December 5th, 2022, with the understanding that I would be promoted to Assistant Court Administrator on December 30th, 2022, if the existing Assistant Court Administrator did not return from leave. My former co-worker Jennefer Johnson, who had been recently hired as the Bremerton Municipal Court Administrator, and Judge Flood, encouraged me to apply for the Senior Legal Technician position after I had filled in to assist the Bremerton Municipal Court through the "Courts Helping Courts" program in the several months before I was hired. In accepting the Senior Legal Technician position, I took a pay cut from what I had been earning at Des Moines Municipal Court.

3. Prior to joining Bremerton Municipal Court, I had worked for Des Moines Municipal Court and King County District Court. At that time I had seventeen years of experience working in courts of limited jurisdiction. For ten of those years I had worked as a court clerk, and for eight of those years I had worked in court management. In these

been active in professional organizations, including DMCMA. I took a great deal of pride in my work.

4. I was willing to take the position at Bremerton Municipal Court, and take a pay cut, because I believed I could help the court. I understood there had been significant staff departures since Judge Flood took the bench in January 2022, which had created the need for immediate assistance through "Courts Helping Courts." I was interested in using my skills to make a difference. Soon after I began working as Senior Legal Technician on December 5, I questioned what I had gotten myself into.

5. On the first day I had my alarm code, when I reported to the court for work at 6:45 AM as instructed, I had difficulty entering the building using the door code Judge Flood had provided. I triggered the alarm, which I did not know how to disarm. Later that day when I told Judge Flood and, instead of showing any empathy, she scolded me for having a coffee stain on my shirt. She then said she had told me that I would need to enter the building with a Legal Technician until she could show me how to operate the alarm. When I tried to remind Judge Flood that she herself had texted me the door code to use to enter the building, she cut me off and would not let her finish.

6. The following week, on December 13, the court was short staffed, which required me to provide courtroom coverage. I was willing to step up to the task but let Judge Flood know that I had not clerked in a courtroom in many years and might be a bit rusty. Judge Flood did not provide any instructions or convey any expectations regarding courtroom tasks. At the conclusion of the calendar, I asked her for clarification on a few cases. Judge Flood responded by sighing heavily. She ordered me to turn off the courtroom recorder and told me that all communication between the judge and courtroom staff was to be off the record. When I asked whether this included questions regarding cases, the judge reiterated that "all communication"



was to be off the record. I then disclosed to Judge Flood that I have a disability – resulting from a traumatic brain injury – and that there would be times when I might need to ask clarifying questions. I saw the judge clench her jaw, as though holding back anger, and leave the bench. I did not know what to make of this but was uncomfortable and alarmed at the judge’s reaction.

7. Later that day Judge Flood told me that the jail had emailed the court asking for the orders from that morning’s hearings. The judge told me that she had been waiting for me to fill out the orders. When I responded that I did not know I was expected to fill out the orders, the judge snapped “Well you should have asked. Other clerks ask what’s expected of them.” I was very taken aback by this, particularly in the context of the judge’s harsh reaction when I had earlier asked for clarification of her rulings.

8. These interactions with Judge Flood left me feeling embarrassed and inadequate. Still, later that night, after the judge texted me on my personal cell phone to say that she appreciated my help in the courtroom, I was confused by the message but held out hope that I had not made a mistake by taking the position. That hope steadily faded.

9. In late December 2022, I was appointed to the Interim Assistant Court Administrator position. Because the court was short-staffed, I routinely had work more than 8 hours per day, and the judge regularly texted me after hours with requests. The judge continued to give inadequate or conflicting instructions and became angry or dismissive when I requested clarification. Suggestions for the improvement of court systems were also met with the same dismissive response.

10. Over the following months I was working at Bremerton, Judge Flood’s treatment of me steadily worsened. I was routinely the target of the judge’s criticism for errors made by newly hired in-court clerks and missteps resulting from the judge’s often shifting and unclear instructions. The judge routinely treated me with impatience and disrespect, directed snide

comments at me, and ignored my disability.

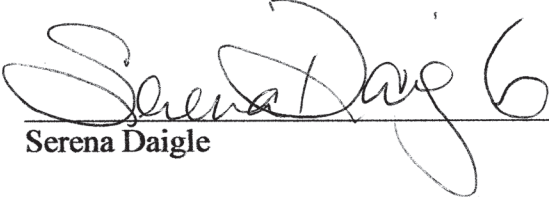
11. I also observed Judge Flood treat other staff rudely and discourteously. For example, one time the judge harshly admonished a legal technician trainee, Brian Knowles, for not taking notes regarding bail. I could tell that the judge's comments upset Brian, and I later apologized to him for how she spoke to him.

12. Another example is the way the judge treated Steven DesRosier, the Therapeutic Court Coordinator. In a staff meeting, in front of everyone, the judge told him that he could not speak in court unless he vetted it with her the day before, because "we don't want you putting your foot in your mouth." This was said in a sharp and sarcastic tone of voice, not as a light remark. I felt uncomfortable and embarrassed to see Steven chastised in front of others, and from my observation of Steven, he appeared embarrassed and uncomfortable as well.

13. On May 11, 2023, I resigned my position from the Bremerton Municipal Court due to the emotional toll of Judge Flood's mistreatment of me. Exhibit B.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my recollection.

Executed at Puyallup, Washington on October 22, 2024.

  
Serena Daigle

# EXHIBIT A

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF SERENA  
DAIGLE**

I, Serena Daigle, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I was hired as a Senior Legal Technician at Bremerton Municipal Court on December 5th, 2022, with the understanding that I would be promoted to Assistant Court Administrator on December 30th, 2022.

3. Prior to joining Bremerton Municipal Court, I had worked for Des Moines Municipal Court and King County District Court. At the time I had seventeen years of experience working in the Courts of Limited Jurisdiction. Ten of those years, with experience working as a court clerk and eight of those years working in management of the courts.

4. During my time at Bremerton Municipal Court, I myself was spoken to by Judge Flood in a demeaning and insulting manner. For instance, asking me questions and after I would respond she would ask the same question louder and in a clipped tone. This could go on for anywhere from three to seven rounds. There were times when there was a mistake, Judge Flood would continue to recite over and over to me “this is wrong,” each time the anger and frustration in her voice would increase but wouldn’t provide me information on what was wrong or how I could fix the situation. I watched her speak to my colleagues in the same demeaning and insulting manner.

5. I and other employees were scolded for making mistakes, but never informed of what mistakes were being made. We also didn’t have access to written procedures and the procedures given to us orally would continue to change without warning. Judge Flood made a point to use language that is not standard in Courts of Limited Jurisdiction and then scolded me

and others for not completing tasks the way she wanted them completed. For instance, setting post-conviction cases for an arraignment instead of a motion to revoke or revocation hearing.

6. Judge Flood refused to clarify any information even after being told that I personally had a disability due to a traumatic brain injury and that in order for me to do my job well, there are times that I will need to follow up on what the court orders. I had to ask about a defendant with five or six cases, Judge Flood said on one case the bail would be \$250 and the rest set at \$100. I missed the case number for the bail at \$250, and when asked for clarification I was criticized for not keeping up on the notes and watched my colleague be reprimanded in such a demeaning manner, where she was asking him “isn’t it your job to take notes, if it’s your job then why didn’t you take notes?” The tone of the reprimand was ruthless, and we both froze and were unable to indicate that speaking to us in that manner was not appropriate.

7.

[REDACTED]

[REDACTED]

[REDACTED] Judge Flood sent text messages to my personal cell phone regarding work well outside of my scheduled time. I had text messages arrive around 5 am and received phone calls as late as 9:30 pm along with text messages about work on the weekends. On January 23rd, 2023, I was called on my personal phone during my lunch hour. I was berated over and over again for employees taking lunch while the court was in session. Judge Flood wouldn’t accept any of my responses regarding the staff being at lunch. I eventually informed her I would return to the office to turn off the record.

[REDACTED]

[REDACTED] I heard Judge Flood pressure the court administrator to not pay me for my overtime hours as well.

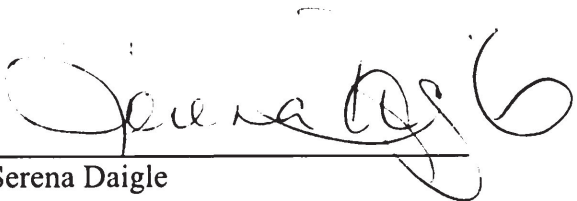
8. The exhaustion, gaslighting, and harassment took such a toll on my mental health that I started having thoughts of harming myself. Upon my health care physicians learning that I had thoughts of walking in front of moving vehicles after being berated in court we decided that Bremerton Municipal Court was not a safe work environment. While I wanted to try and make things work, I was required to take leave for my personal safety. During my time on medical leave, I had submitted all my required documentation to the City of Bremerton human resources

department. Judge Flood continued to demand that those medical records be released to her citing GR29, and that those documents would be shared with the Court's legal counsel and any other parties who need to know my medical conditions.

9. On February 21, 2023, I took leave from Bremerton Municipal Court and resigned my position on May 12, 2023.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my recollection.

Executed at Puyallup, Washington on June 20, 2023.



\_\_\_\_\_

Serena Daigle

# EXHIBIT B

Serena Daigle  
3118 26<sup>th</sup> Ave Ct SE  
Puyallup, WA 98002

May 10, 2023

Jennefer Johnson  
Bremerton Municipal Court  
550 Park Ave  
Bremerton, WA 98337

Dear Jennefer,

It is with a heavy heart that I am writing to tender my resignation as Legal Technician Senior at Bremerton Municipal Court due to constructive termination, effective May 15, 2023. After much thought and consideration, I have come to the difficult decision that I must resign.

Since joining Bremerton Municipal, I have experienced a series of events that have made it clear to me that my position has become untenable. Despite my best efforts, I have been consistently subjected to unlawful and unwarranted treatment by Tracy Flood that has made it impossible for me to continue working in my current role. After much deliberation and consultation with my physician, I have been advised to resign based on the hostile work environment that is present at Bremerton Municipal.

Unfortunately, for my own safety, I feel that I have been left with no other option but to resign. The psychological warfare that is constantly inflicted on the staff has made it increasingly difficult for me to continue working in this environment. Therefore, it is my hope that this decision will allow me to move forward with my career in a positive and productive way.

Sincerely,

Serena Daigle



# ATTACHMENT - G

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF  
STEVEN DESROSIER**

I, Steven Desrosier, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I started work at the Bremerton Municipal Court on October 6, 2022, as the Therapeutic Court Coordinator. I was interviewed by Judge Tracy Flood and another court employee, Cindy Hope. Judge Flood called me the next day to offer me the job.

3. I have worked in behavioral health and treatment since 2016, including as a program director, case manager, and doing outreach. Judge Flood was aware of this background when she hired me. As I also shared with Judge Flood, I am in recovery and have personal experience with some of the issues faced by Therapeutic Court participants.

4. I was hired as the first Therapeutic Court Coordinator for Bremerton Municipal Court. My position was grant-funded. I was excited to get the job because it involved developing the Therapeutic Court program from the ground up, and I was enthusiastic about this. I wrote policies and procedures, created workflow and intake processes, and case management protocols. Once the program was up and running, I understood that it would also be my job to perform assessments to determine whether individuals qualified to participate in the program.

5. At first, while I was developing the program and writing policies and procedures, I was working on it full time. Soon, however, because the court was short-staffed, I began also covering regular clerk duties. For example, I answered phones or fielded questions from members

of the public who walked into the clerk's office. I particularly remember that I cleaned up the backlog of red light tickets which was important because people reported they were getting their licenses suspended and being sent to collections because the court had not properly processed payments that had been made. I also handled current red light tickets, updated dockets, and handled other court paperwork as needed.

6. I was not required to keep track of the time I was spending on Therapeutic Court tasks vs. other tasks. I remember asking the judge at least twice whether I should be accounting for my time, because of the grant funding. Judge Flood's only response was that my job description said "other duties as needed." I felt uncomfortable spending so much of my time doing tasks that were not directly related to the work for which the grant funding had been obtained.

7. My experience of interacting with Judge Flood was not positive. She was critical, very rude, and would talk down to me in court. For example, one day the judge told me in an admonishing, belittling way that I was not allowed to say anything in court unless I cleared it with her first. I felt she believed I did not know how to do my job, or could not do it correctly, and thus needed to manage me very closely. I had been hired for my experience and had gotten feedback from others, including Court Administrator Jennefer Johnson, that the work I was doing was good. I did not understand why the judge was so critical of me and felt uncomfortable.

8. It appeared to me that the judge felt I and the rest of the staff were "less than her." For example, in my experience Judge Flood would often ignore my direct questions and walk away. As a result of this I felt increasingly uncomfortable being around her. I did not bring this up to the judge because I didn't feel I could do so. She did not give the impression of being open to receiving feedback.

9. During a staff meeting several months after I was hired, Judge Flood announced that a new person, Keyera Gaulden, would be doing case management for Therapeutic Court. I understood that Ms. Gaulden had worked with the judge previously. I did not know who she was or why she was being brought on and other staff did not seem to know either. Shortly thereafter

someone from the jail called me to ask who Ms. Gaulden was. Judge Flood had tried to set Ms. Gaulden up to be able to access the jail as a court employee. The prosecutors asked about her as well. Judge Flood gave different answers. Ms. Gaulden was not a court employee as far as I know, nor did I think she was a city employee. I didn't know her qualifications.

10. Then Judge Flood told me I wasn't supposed to do case management for Therapeutic Court participants; that Ms. Gaulden was doing it. I was puzzled because I thought case management was part of my job. I was also concerned because Ms. Gaulden didn't seem to be a city employee, or have a city email address, but would have needed to deal with HIPPA protected information and other confidential information to do case management.

11. Working with Judge Flood was very stressful. At one point I requested leave (WPFML) for mental health from the stress. Judge Flood sent my day off request back and forth all day but would not approve it.

12. I called the City of Bremerton Human Resources (HR) and spoke to Debbie Kleinfelter, in that department. I described the issues I was having with Judge Flood, including her overly critical and rude treatment of me and the removal of my case management responsibility. After that conversation, my understanding was that HR could not do anything for Bremerton Municipal Court employees. I recall getting a letter or email indicating that the court was its own entity and that any personnel issue had to be handled by the judge.

13. I also contacted my union representative, but they were unable to assist me.

14. Even though I had noticed emotional distress among myself and other staff and an exodus of staff members leaving with little to no notice, I did not go to the judge with my concerns about her treatment of me and other staff because I did not feel my concerns would be heard and I was afraid the judge would retaliate against me. After learning that HR couldn't help, I felt there was no recourse.

15. By the spring of 2023, I was so stressed out that I was having panic attacks. I would describe the courthouse as a very stressful, fear-based environment. I would wear headphones

while at the court so that the judge would ignore me. Other people would sit in their cars rather than take breaks in common areas. I saw other staff made to cry by the judge, including Martitha May, Amber Dodge, Serena Daigle, and Ian Coen.

16. One time, around April 2023, I was so upset by the judge's treatment that I went into Jennefer Johnson's office to cry. Jennefer was the Court Administrator and my direct supervisor. Others would also go into her office for the same thing because it felt like our "safe space."


17. I started looking for a new job at that time and tendered my resignation on April 19, 2023. A true and correct copy of my resignation letter is attached as **Exhibit A**.

18. I later learned that after I left, Judge Flood sent an email to providers associated with the Therapeutic Court, suggesting that I had been fired.

19. On September 25, 2024, Judge Flood filed a Petition for Protection Order against me in Kitsap County Superior Court, falsely alleging that I made threats against her. (Kitsap County Cause No. 24-2—2196-18) A Temporary Protection Order was issued on that date, without notice to me. I have engaged counsel and the return hearing is now set for October 25, 2024. I believe the judge is pursuing this against me in retaliation for my participation in the CJC proceeding.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my recollection.

Signed at Port Hadlock, Washington on October 22, 2024.

  
Steven Desrosier (Oct 22, 2024 15:16 PDT)

Steven Desrosier

# EXHIBIT A

04/19/2023

Letter of Resignation

To: Bremerton Municipal Court

Please accept this as my official letter of resignation. As much as I would have liked to, I am not able to afford a two-week notice. I appreciate the opportunity to have worked with the courts, however, I am seeing that my skills would be better utilized in a different environment. I wish the court and staff well and I want nothing but the best for all.

I will be returning my city owned equipment before my departure. This includes my laptop, cell phone, remote office phone and associated modem.

My last day will be April 27<sup>th</sup>, 2023.

Respectfully,

A handwritten signature in black ink, appearing to read "Steven Desrosier", is written over a horizontal line.

Steven Desrosier

# 2024-10-22 Declaration of Steven DesRosier

Final Audit Report

2024-10-22

Created:	2024-10-22
By:	Julie Melville (jmelville@skellengerbender.com)
Status:	Signed
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## "2024-10-22 Declaration of Steven DesRosier" History

-  Document created by Julie Melville (jmelville@skellengerbender.com)  
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-  Document emailed to Steven Desrosier (sdesrosier@gmail.com) for signature  
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# ATTACHMENT - H

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF  
DAWN WILLIAMS**

I, Dawn Williams, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I was the Court Administrator at Bremerton Municipal Court from 2011 to July 2022. Prior to that, I worked as the Senior Legal Technician, and as a Legal Technician, dating back to October 2003. Prior to coming to Bremerton, I worked for Pierce County District Court (Gig Harbor) before it was consolidated in Tacoma, and before that Port Orchard Municipal Court, and before that the King County Prosecuting Attorney. I have a total of 27 years of court experience.

3. This is a supplement to my prior declaration dated June 20, 2023, attached as **Exhibit A**.

4. My prior declaration incorrectly stated I left Bremerton Municipal court in July 2023. That is incorrect and I left in July 2022.

5. I had never met Judge Flood before she took office in January 2022. There were two candidates for the seat, Judge Flood, and a candidate named Tom Weaver. I expected there would be changes to the court regardless of who was elected, if only because Judge Docter had been on the bench for so long and we were all accustomed to working with

him. But we had weathered big change before – for example, the transition a few years ago to using OCourt. I felt I was up to the task of working with a new judge.

6. Most of the staff I worked with had not interacted with Judge Flood before she was elected. There were some who had run into her at Bremerton Municipal Court years before when she had had cases there, [REDACTED] I didn't prejudge, though. When we learned Judge Flood had been elected, the feeling among staff from what I experienced was that we would be welcoming and do everything we could to make it work. I don't recall any of my coworkers having a strong reaction to Judge Flood's election. For example, no one said they would quit because she was elected, and I believe I would remember if that had happened. I also do not remember hearing anyone at the court use racist language to refer to Judge Flood or regarding her election, and I believe I would remember that as well. The court staff at that time was mostly women, I believe one of whom is Filipina. Most of the staff had been with the court for a long time (more than 12 years).

7. Judge Flood came to the courthouse in December 2021 to be fitted for her robe and I remember meeting her and wishing her well. I do not remember that being unpleasant at all.

8. Over the next six months I found it increasingly difficult to work with Judge Flood. She treated me, and my coworkers, as though we did not know how to do our jobs. This was hard to take because we had all been there at least 12 years, some significantly longer, and we had a great deal of experience. She began to make changes, as I expected, but when longtime practices – for example, how we handled bond forfeitures, how the monitoring of probationers was handled, and other practices and procedures – were changed for no apparent reason, it was hard to know how to interpret it. It began to seem that the judge

wanted to make change just for the sake of exerting her authority, rather than for a reason she could explain.

9. It was difficult to get the judge to clarify her instructions. When I tried to get clarification and told her what I understood the instruction to have been, she would get visibly irritated and say “that’s not what I said” even if I had written down what I had heard. One example of this is when she wanted me to sign off on an application for an AOC grant for pro tems to help courts clear backlogs. The judge wanted me to ask for a total amount calculated based on a specific period of time, and a certain number of hours each week, which translated to a certain number of hearings. I went to the judge and said I was not comfortable signing off, because we did not actually have that many hearings set. Judge Flood said “that’s not what I said” as though I had misunderstood her. She would not take responsibility for having made a mistake or given me unclear instruction.

10. When I tried to give input on a change – for example, the bond forfeiture process, which has statutory timing requirements that the changes she wanted to make did not take into consideration – the judge would shut me down. I would characterize the way she acted towards me as condescending, belittling, and bullying. She used a mocking, scolding tone of voice, as though talking to a child. By the end of February 2022, I felt like I could not do anything right in Judge Flood’s eyes. I cried in the car on the way home from work. My husband told me the way I was acting was changing.

11. I’ve been working since I was 16 years old, and I’ve never had any supervisor talk to me or treat me the way Judge Flood treated me. Judge Flood didn’t yell, but her tone changed. It was very obvious when she was upset or displeased about something. I could tell from the way she would look at me and the tone in her voice. It is hard to explain, but when

you've been on the receiving end, you know. It became more frequent as time went on. In the beginning it was kind of sporadic but at the end it was happening almost every day. The whole drive to work, I would tell myself, today was going to be a good day. She'd come in and be cordial but something would happen and she would change and almost become a different person. I felt like I was walking on eggshells the whole time because I didn't know what to expect. A lot of times in her office I would just not say anything because I wouldn't want to get yelled at and by yelled at I mean the scolding tone.

12. Only one time did she tell me that she didn't feel welcome in the office and she and I had a decent talk that time, one of the best that she and I ever had. I told her at that time that when she approached us, she made us feel like everything we were doing was wrong. She seemed to understand when I told her that's how it was coming across to us. I know when I say those words, it doesn't show how bad it was. I said it wasn't true that she was unwelcome, that we were all open to working with her and whatever change she wanted we could do it but we need to understand and her approach could be better.

13. I think Judge Flood was aware of the impact her treatment had on me, but she did not apologize. She would sometimes come downstairs and say to me "We are OK, right?" but that was not an apology. She was telling me we "were OK," not apologizing or taking responsibility. I did not feel emotionally safe telling her how I felt, as I did not feel I could trust her.

14. On the days Judge Flood wasn't there, I had great days. But when she was there, I was anxious because I didn't know what would happen if I went upstairs to chambers or if she came downstairs. By the end, more often than not was a bad day. By the end, our interactions were more often uncomfortable than not. I would have my coworker Heather ask

the judge questions about things we had ideas about or needed the judge's input on, because the judge did not seem to direct her condescending, belittling treatment towards Heather.

15. I did not have any issues with Judge Flood due to race. It matters how a person treats me, not what race the person is. I have had both male and female supervisors who are Black before and not had any problems working for them

16. I submitted my Letter of Resignation in May 2022. **Exhibit B.** I took a job at a large pay cut and forfeited 930 hours of sick leave. After resigning I talked with Human Resources to let them know what I had experienced with Judge Flood, including the condescension and mistreatment, in case someone else started experiencing what I had experienced.

17. A lot of things that happened everyday, part of my healing process was not to dwell on them. Some I remember very clearly but a lot of them I've had to tuck away for my own survival. I did not talk to therapist or doctor. I did what I needed to do for myself which was take myself out of the situation. I am also a religious person and I rely on my faith.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my recollection.

Executed at Grapeview, Washington on October 22, 2024.

Dawn Williams  
Dawn Williams (Oct 22, 2024 16:30 PDT)

---

Dawn Williams

# EXHIBIT A

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF DAWN  
WILLIAMS**

I, Dawn Williams, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I was the Court Administrator at Bremerton Municipal Court from 2011 to July 2023. Prior to that, I worked as the Senior Legal Technician and Legal Technician dating back to October 2003.

3. Judge Docter was the presiding Judge when I began my employment. At that time, there was one administrator, one lead clerk, six clerks, and one probation officer.

4. During my employment under Judge Docter, the court functioned very well. Over the years we've had several retirements and a few other staff that have left due to job opportunities or moving out of state. We did not have a lot of turnover and people seemed to enjoy working there. We worked very hard to build a cohesive group that worked well together and was extremely efficient. We got along with each other very well. I enjoyed working there and it was my plan to retire from Bremerton Municipal Court. We also developed great working relationships with other city departments.

5. Judge Docter and I fostered an atmosphere where staff felt free to discuss issues and we collaborated with staff when new procedures needed to be implemented. If we had an issue that impacted any of our court partners, we would include them in those discussions. Judge Docter would always seek input of those impacted before making any decisions that would affect operations. He and I might not have always seen eye to eye on everything, but I knew he always heard me and valued my opinion.



6. Shortly after Judge Flood took the bench, things started to change in a negative way.

7. Judge Flood has a way of belittling people and speaking to them in a very condescending way. I personally have experienced this on numerous occasions. When attempting to talk to Judge Flood, she would continually cut me off in the middle of sentences and would not let me finish. She made it very clear that we worked for her and not with her by her attitude and tone. She was very unclear about her directions, then we would get scolded when we didn't do things how she wanted. She would also say "That's not what I said." when you asked her for clarification on her directions. Once she told an interpreter NOT to interpret any facts of the case. I heard her do this and I printed out the rule about interpreting. I waited until everyone had left to talk to her about it as I didn't want to embarrass her. I thought maybe she didn't know about that rule. When I told her, she said "That's not what I said" and then went on to ask who told me about it. She wanted to know if it was the interpreter as she has issues with him. I told her I heard her say it as I was moderating zoom. She continued to insist that wasn't what she said and she knew about the rule. Towards the end of my employment, I would communicate less and less with her, as I was consistently being cut off and her insisting she hadn't said things she said. Any decision I made was immediately challenged and no matter what decision I made, it was wrong. When I wanted clarification, I would email her a question, but she would call me back with her response. I was wanting to have a paper trail to refer back to, but it seemed she was intentionally preventing that. At the end, I was in tears most days. I was becoming withdrawn and depressed. I was anxious every day going into work not knowing how she would be that day. I would tense up when I saw her name on my cell phone.

She did not seem to want to collaborate, she just wanted to be in charge. When we were going to start having jury trials again, we went up to the courtroom to figure out how she wanted things done. I asked if we should include the attorneys, this is what we had done in the past, and her comment was "Why? This is my courtroom."

When Judge Flood started, she closed the courtroom as she wanted a plexiglass barrier around the bench, then she would allow people in the courtroom. We had a fair amount of people coming to court in person. She wanted them to be in courtroom 2 while she was in courtroom 1 and the hearing would be on zoom. I suggested that she might want to be in courtroom 2 and let the public use courtroom 1 since it is bigger and they would have more room to spread out. She

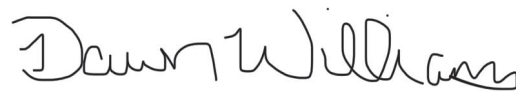
insisted on being in courtroom 1, just her and the clerk. The barrier was built, and she still wouldn't let anyone in the courtroom with her. It is my understanding that she still does not let the public in the courtroom with her today unless there is a trial.

8. The first staff member to leave was Becky Zimmerman. She was scheduled to retire in July 2022. She ended up moving the date up by 1 month due to issues. One thing I remember is that Becky had a countdown calendar on her desk for her retirement date. Judge Flood seemed to take offense to that. She mentioned to me on more than one occasion that people that have countdown calendars have already "checked out." I didn't see many interactions between the two, but I know that Becky was having an increasingly difficult time being in the courtroom with the Judge. After I left, the resignations included LuAnn Reding, Cathy Palermo, Cindi Hope, Heather Hunt and Ian Coen. That is the entire staff that was there when Judge Flood began. Martitha May was hired prior to my departure and she has also resigned. I know there have been many other resignations as well since then.

9. I resigned my position at the Bremerton Municipal Court in July 2023. The environment was so unhealthy and toxic. I have never been treated so poorly by anyone in a professional environment. It was a very hard decision for me to leave. When I submitted my letter of resignation, I didn't feel I could put the real reason in there as I feared my staff would be retaliated against. It's hard to walk away from something I've invested so much of my heart and soul into. I loved working there and I loved my staff. The second reason it was hard, was because I feared how my staff would be treated. I lost a lot of sick leave (930 hours) and I took a large pay cut. But I haven't regretted it for a single minute since I left. It's been worth every penny I've lost to no longer be in that unhealthy environment.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my recollection.

Executed at Grapeview, Washington on June 20, 2023.

A handwritten signature in black ink that reads "Dawn Williams". The signature is written in a cursive, flowing style.

Dawn Williams

# EXHIBIT B

June 23, 2022

Dear Judge Flood,

At this time, I am submitting this letter of resignation for my position as Court Administrator for the Bremerton Municipal Court. I am doing so with a heavy heart. I have thoroughly enjoyed my time here in Bremerton. I have enjoyed working for the court and serving the citizens of Bremerton. There are so many great people in the City that I have had the pleasure of working with over the past 18 years and I will truly miss them.

I am pursuing a career change but will remain actively involved with the Courts. My new position will be as a Business Analyst with the Administrative Office of the Courts working on the new case management system for the courts in Washington State. I am very excited about the impact I will have assisting courts across our state as they implement onto the new system.

My last day will be Thursday, July 21, 2022.

Sincerely,

A handwritten signature in cursive script that reads "Dawn Williams".

Dawn Williams


# 2024-10-22 Declaration of Dawn Williams


Final Audit Report


2024-10-22


Created:	2024-10-22
By:	Julie Melville (jmelville@skellengerbender.com)
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## "2024-10-22 Declaration of Dawn Williams" History


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 Signer mojo.puppy@yahoo.com entered name at signing as Dawn Williams  
2024-10-22 - 11:30:25 PM GMT

 Document e-signed by Dawn Williams (mojo.puppy@yahoo.com)  
Signature Date: 2024-10-22 - 11:30:27 PM GMT - Time Source: server

 Agreement completed.  
2024-10-22 - 11:30:27 PM GMT

# ATTACHMENT - I

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF JACOB  
MURPHY**

I, Jacob Murphy, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.

2. I am an attorney with the firm LaCross & Murphy, PLLC, located in Port Orchard, WA. We started in 2010 as Cross, LaCross & Murphy PLLC and became LaCross & Murphy PLLC in 2015.

3. In 2012, Cross, LaCross & Murphy took over the public defense contract for Bremerton Municipal Court and kept the contract when we became LaCross & Murphy PLLC. Our firm has an office inside the Bremerton Municipal Courthouse, on the first floor, just across from the clerk's area. I appear in Bremerton Municipal Court approximately four to five times per week, more if I am in trial or if an associate needs coverage.

4. I practiced in Bremerton Municipal Court when Judge Docter was the Presiding Judge (and only judge). In my experience the court was efficiently run and court staff were well-trained and cross-trained. For example, documents were timely signed and filed, dockets were timely updated, and JABS entries were timely and accurately made.

5. Since Judge Flood became the Presiding Judge in January 2022 following Judge Docter's retirement, there has been significant turnover in court employees. The longtime employees resigned, then those who were hired to replace them also resigned. Current clerks are less experienced than the court staff at the time Judge Flood became the Presiding and many are

still being trained. In my experience, the turnover and resulting diminishment of staff experience level has negatively affected the court's functioning. Dockets are not always timely updated, documents are not always signed and/or delivered timely and online entries are sometimes delayed and not always accurate.

6. For example, release orders at in custody arraignment hearings are often delayed. Under Judge Docter, those release orders were typically signed and distributed while the next case was called. Now, sometimes they don't come for hours, which means that the defendant could be held in custody longer as the Corrections court officers cannot begin to process a defendant's release until the order is received.

7. Judge Flood is also inefficient on the bench and often does not get through the entire in custody calendar and cases have to be set over. My clients get frustrated because they want their case heard. I have to explain to my clients when I meet with them before their hearings to discuss resolving their matters that even though we will be ready to proceed if time runs out they may not be heard. Sometimes we do not get to all of the in custody arraignments which prevents me or whichever associate is covering that calendar from being able to argue for release on personal recognizance.


8. In the beginning of Judge Flood's time on the bench, she was sometimes unprofessional and openly rude to attorneys in court. Two of my associates left, in large part, because of the inefficiency of court and how Judge Flood treated them on the record.

9. We have had difficulty securing conflict counsel to take cases in Bremerton Municipal Court. Our prior conflicts attorney stopped taking cases because of his experience with Judge Flood. Then we got two new conflicts attorneys, but they have stopped taking cases as well. It is my understanding that we currently have one local firm that will take conflict cases and at least one out of county attorney that will take conflicts.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.



Signed at Port Orchard, Washington on October 22, 2024.

  
\_\_\_\_\_  
Jacob Murphy

# ATTACHMENT - J

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
IN THE STATE OF WASHINGTON

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court.

CJC NO. 11005-F-204  
  
DECLARATION OF JENNIFER RILEY

I, Jennifer Riley, am over the age of eighteen, am competent to testify to the matters set forth herein and make this declaration of my own personal knowledge thereof.

1. I am a Legal Technician 2 at Bremerton Municipal Court. I was hired by Jennefer Johnson in June 2023 as a temporary part time. A full time position came open during the summer while Maury Baker was helping train us. Mr. Baker was not a staff person but helped facilitate some training with other clerks from Poulsbo and helped us understand the priority of some processes. While he was there, Judge Flood did not come into the clerk's office while we were training; she was not involved other than to tell us he was there to help with training.

2. I feel that Judge Flood treats court staff fairly. Sometimes, Judge Flood says something that others might perceive as rude, but I do not believe she intends that. For example, when she is working remotely, there can be technical difficulties that cause her to ask repetitive questions or not answer a question directly immediately. Others might think she is rude, but I

1 don't believe she is. There is also the cloud of these CJC proceedings that has an impact on  
2 the atmosphere and things at the court, such as how people "believe she is rude,. There is a lot  
3 that may happen at the court that Judge Flood is unaware of. There have been remarks by  
4 attorneys that are not very nice to the Judge.

5 3. Judge Flood has always treated me fairly; she answers my questions in court,  
6 and when I requested a meeting to follow up on some issues, she followed up and set up the  
7 meeting. I have worked at Bremerton Municipal Court for over a year, and there was only one  
8 time Judge Flood did something that bothered me, and this was recently. She was on Zoom,  
9 and I felt she interrupted me when I was trying to say something during a Therapeutic Court  
10 staffing meeting. Judge Flood placed me on administrative leave the next day. I recently  
11 returned from administrative leave. She is generally approachable and cares about our  
12 community.  
13

14 4. Bremerton Municipal Court functions well for the most part. Not everyone is  
15 fully trained, including myself. This job is demanding and fast-paced, and the volume of  
16 defendants/cases is enormous. We receive volumes of emails, and responding to them could  
17 be a full-time job. Learning any new job takes training and time in the position. When mistakes  
18 are made, they are brought to the attention of the Court Administrator, Christina Rauenhorst,  
19 but I don't know if Ms. Rauenhorst is bringing them to Judge Flood's attention.  
20

21 5. I believe Judge Flood is a good judge. In a staff meeting, she shared the court's  
22 vision and mission.  
23

24 6. Judge Flood works hard to bring in training for us. We recently had conflict  
25 training, and everyone participated except Faymous Tyra and Lisa Hardy because they were at  
26 training for probation. It was good training. She also brought in training to address stress,  
27

1 anxiety, and protein levels. She has protein bars available for defendants who come for  
2 hearings and may be hungry and not functioning well because they have not eaten, are  
3 homeless, or have food insecurities.

4 7. Judge Flood, before she leaves the Zoom and courtroom, asks if there is  
5 anything that the prosecutors or defense attorneys need before leaving the hearing, and she  
6 makes sure that the clerks have what we need for orders.

7 8. When Judge Flood is contacted by phone, she responds with grace. She does  
8 warrant calls at ungodly hours and still has court twice a week at 7:45 a.m. and three days at 8  
9 a.m.

10 9. Judge Flood has her style, and her approach is service before self, which was  
11 discussed at our recent training. I believe the defendants really feel heard when they come in  
12 front of her, and they are respectful, and they mirror that in what she puts out.

13 10. Judge Flood also got new security staff. The old security staff was always in  
14 the Public Defender's office, and we had a few incidents in our restroom where feces were  
15 spread all over and people smoking meth. I was working at the front counter then and could  
16 smell the fumes. Judge Flood made sure we got new security and additional security.

17 11. There was a recent incident with our recording equipment while I was in the  
18 courtroom. I worked with the representative AV media company, and parts were missing and  
19 could not be recovered. The Judge is not responsible for AV media company issues and flaws,  
20 and there is no way of knowing when things may get corrupted or malfunction. She does not  
21 touch any of the equipment. She should not be blamed for things that are not within her control.

22 12. I believe it is challenging for attorneys to understand how much of the clerks'  
23 work the Judge is not aware of unless they spend a day walking in our shoes.  
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# ATTACHMENT - K

# Ex 343

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
IN THE STATE OF WASHINGTON

In Re the Matter of  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court.

CJC NO. 11005-F-204  
DECLARATION OF SARAH  
NETTLETON

I, Sarah Nettleton, am over the age of eighteen, I am competent to testify to the matters set forth herein and make this declaration of my own personal knowledge thereof.

1. I am a Legal Technician for Bremerton Municipal Court. I was hired in March 2024.
2. I worked at Kitsap Legal Services before working at Bremerton Municipal Court. I also worked at the Tolman & Grossman and McKeeman Law firm in Poulsbo.
3. I work primarily at the front counter at Bremerton Municipal Court. I have interacted with Judge Tracy Flood on several occasions and also witnessed Judge Flood interact with other staff and others on several occasions. She often exhibits a genuine concern for us as a team and the defendants at the counter and the public. She has answered my questions and helped me to understand why, in many orders, she adds additional details for the defendants.
4. There has been conflict among court employees, and I believe Judge Flood

DECLARATION OF SARAH NETTLETON - 1

FREY BUCK  
1200 FIFTH AVENUE, SUITE 1900  
SEATTLE, WA 98101  
P: (206) 486-8000 F: (206) 902-9660



1 handled these issues well and took appropriate action. However, there are a lot of issues that  
2 happen in the clerk's office that the Judge is not aware of and should not be blamed for. We  
3 are a new staff, but we are dedicated to the work and serving the public.

4 5. Currently, Bremerton Municipal Court is experiencing some issues with court  
5 functioning; however, I do not believe Judge Flood is to blame. One staff member was on  
6 administrative leave (though she recently returned), and other staff are still learning. One of  
7 our new staff members was a Court Administrator in a small court and one of our staff members  
8 who is now in the probation department was a court administrator also. Each court is different  
9 so what one court may have done for notices or hearings is not universal.  
10

11 6. The volume of work is more than our current staff level of nine employees can  
12 do perfectly, but I believe we have a good team. I believe our functioning would improve if  
13 we had one more person on our team. Christina Rauenhorst, our Court Administrator, is often  
14 taken away in meetings and training, or is in her office, but does make herself available on  
15 Teams or Email for questions that do come up. I believe we should have another full-time  
16 staff member.  
17

18 7. On several occasions, Judge Flood has allowed us to close the court on slow  
19 afternoons to do training. She brought in professionals to conduct training and has also done  
20 some team-building exercises with us. At staff meetings, she talks about how we are a team  
21 and we are all learning, and bridges the gap between those upstairs in the courtroom and  
22 probation and those in the clerk's office. I appreciate that she sits down and talks with us.  
23

24 8. When I first started, a former staff member would talk about Judge Flood being  
25 rude. There was one occasion when I was in my first couple of months, and I didn't know the  
26 Judge well, that I brought something to her attention- at first, I did feel that Judge Flood was  
27

1 being unprofessional towards me. I explained to her why there were two motions for the same  
2 case number. One was for the Defendant to appear via Zoom, and one was for the attorney.  
3 She did cut me off in my explanation and was somewhat talking over me. She stated that she  
4 did not need two motions that I could just write the different case number at the top. I explained  
5 to Judge Flood, that this was for one case, and there were two separate motions. She did then  
6 explain that for future request, she would like them to be on the form that was on the Bremerton  
7 Court website. That same afternoon when we were leaving the court at closing, she did  
8 apologize to me and thanked me for explaining to her the situation.  
9

10 9. Judge Flood greets staff with a smile when she comes in and, if we are not busy,  
11 will ask how we are doing.

12 10. I have multiple sclerosis, and Judge Flood has been very accommodating with  
13 this as I have physical limitations.

14 11. Judge Flood is a good Judge. I have seen her do things to improve our court for  
15 all the team members. However, I do believe she is being blamed for some things she is not  
16 aware of.  
17

18 12. It is important to me that I form my own opinion about a person, and not simply  
19 accept what someone tells me. I have not at all experienced Judge Flood as being  
20 unapproachable, or critical, as some have portrayed.

21 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE  
22 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

23 DATED this 3<sup>rd</sup> day of October, 2024, at Bremerton, WA.

24 By:   
25 Sarah Nettleton

# ATTACHMENT L

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
IN THE STATE OF WASHINGTON

In Re the Matter of  
  
The Honorable Tracy S. Flood  
Judge of the Bremerton Municipal Court.

CJC NO. 11005-F-204  
  
DECLARATION OF SARAH DRYFOOS

I, Sarah Dryfoos, am over the age of 18, I am competent to testify, and I base this declaration on my own personal knowledge.

1. I am the co-founder and principal at Revolution Lab. Revolution Lab offers consultant services to companies regarding work place culture, organizational structure, governance, evaluation, and strategic planning.

2. Sarah Dryfoos has over 20 years of experience working in public health and related fields. They received their Masters in Public Health from OHSU and PSU's joint school of public health where a primary focus of their study was on race and racism's impact on health disparities. Sarah has worked for nonprofits, hospital systems and in the Medicaid system where they have used data to inform decision making to inform programs aimed to eliminate health disparities and inequities. They are a co-founder and principal at Revolution Lab, a Diversity, Equity, Inclusion and Social Impact consulting firm that specializes in helping organizations become anti-racist in both culture and structure and realize the innumerable

1 benefits of fostering a true culture of belonging. In this role, Sarah has deep experience working  
2 with organizations across fields where race and racism are impacting interpersonal dynamics  
3 as well as institutional policies, procedures and processes.

4 3. I make this declaration based on my knowledge and experience.

5 4. Racism exists on multiple levels, the Race Forward Model identifies four main  
6 levels: (1) Internalized racism; (2) Interpersonal racism; (3) Institutional racism; and (4)  
7 Structural racism.

8 5. Internalized racism lies within individuals. This type of racism comprises our  
9 private beliefs and biases about race and racism, influenced by our culture. This can take many  
10 different forms including: prejudice towards others of a different race; internalized  
11 oppression—the negative beliefs about oneself by people of color; or internalized privilege—  
12 beliefs about superiority or entitlement by white people.

13 6. Interpersonal racism (personally mediated) occurs between individuals. This is  
14 the bias that occurs when individuals interact with others and their personal racial beliefs affect  
15 their public interactions.

16 7. Institutional racism occurs within institutions and systems of power. This refers  
17 to the unfair policies and discriminatory practices of particular institutions (schools,  
18 workplaces, etc.) that routinely produce racially inequitable outcomes for people of color and  
19 advantages for white people. Individuals within institutions take on the power of the institution  
20 when they reinforce racial inequities.

21 8. Structural racism is racial bias among institutions and across society. This  
22 involves the cumulative and compounding effects of an array of societal factors, including the  
23 history, culture, ideology and interactions of institutions and policies that systematically  
24  
25  
26  
27

1 privilege white people and disadvantage people of color.

2 9. When we think of racism, we generally only think about interpersonal racism –  
3 or people who are outwardly bigoted and whose behavior is identifiably racist. Over the course  
4 of the last 60 years, we have witnessed a veiling of explicit racist behavior as society has largely  
5 moved towards disavowing racism. However, this has not meant that racism has disappeared,  
6 instead, it means that the ways we see and experience racism have become more subtle, discreet  
7 and systematic.

8 10. Pervasive forms of racism currently look like the following: (1)  
9 Microaggressions: a statement, action, or incident regarded as an instance of indirect, subtle or  
10 unintentional discrimination against members of a marginalized group such as a racial or ethnic  
11 minority; (2) Gaslighting: manipulating someone using psychological methods into  
12 questioning their own sanity or powers of reasoning; (3) Implicit Bias: also known as implicit  
13 prejudice or implicit attitude, is a negative attitude, of which one is not consciously aware,  
14 against a specific social group. Implicit bias is thought to be shaped by experience and based  
15 on learned associations between particular qualities and social categories, including race and/or  
16 gender. Individuals' perceptions and behaviors can be influenced by the implicit biases they  
17 hold, even if they are unaware they hold such biases. Implicit bias is an aspect of implicit social  
18 cognition: the phenomenon that perceptions, attitudes, and stereotypes can operate prior to  
19 conscious intention or endorsement; and (4) Tone Policing: the action or practice of criticizing  
20 the angry or emotional manner in which a person has expressed a point of view, rather than  
21 addressing the substance of the point itself.

22 11. As a Black Woman, Judge Flood is not only facing Racism on a daily basis, but  
23 is also experiencing the devastating effects of patriarchal bias and the power dynamics it  
24

1 creates. Such as the gender wage gap, women are undermined and disadvantaged by the  
2 patriarchy. Throw race into the equation, you start to see how both race and gender are  
3 compounding variables.

4 12. In the courtroom and courthouse, many people might expect the Judge to be a  
5 White Man, as both Whiteness and Maleness are associated with power in our society. Our  
6 implicit bias for a person in a role of authority is that of upholding our subconscious biases of  
7 who should have power based on our society's dominant cultures of Whiteness and Patriarchy.  
8

9 13. It is reasonable to question whether the conduct Judge Flood has been accused  
10 of are, in fact, a patterns of her behavior, or other individuals' expectations, implicit biases and  
11 attempts to tone police Judge Flood as they encounter their own discomfort around her  
12 positionality. Many researchers refer to Tone Policing predominantly happening to women,  
13 especially Black Women. Articles label tone policing as microaggression because for Black  
14 women it propagates the "angry Black woman" stereotype. It also furthers the notion that  
15 women who stand up for themselves or those around them are "aggressive," while men who  
16 do the same are labeled as "go getters." It is reasonable to question, whether the exact same  
17 statements and conduct could be seen as aggressive or rude from a Black woman, and assertive  
18 when conducted by a White male.  
19

20 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE  
21 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

22 DATED this 22 day of October, 2024, at Portland, Oregon.

23 By: Sarah Dryfoos  
24 Signer ID: FRM/MIP/OSV/T3...  
25 Sarah Dryfoos

# ATTACHMENT -M



1 MS. BREMNER: Thank you, Your Honor.

2 (Recess 12:11-12:45.)

3 PRESIDING OFFICER PRICE: So the time I  
4 have by my computer is 12:45. Just waiting for a few more  
5 folks to drift in. I did see Judge Flood previously a few  
6 minutes ago. There she is.

7 All right. Welcome back, everyone. We just are  
8 returning from our lunch break. The time is 12:45. We're  
9 ready to begin with the cross-examination of the witness.

10 Ms. Rasnic, are you ready to go?

11 MS. RASNIC: I am.

12 PRESIDING OFFICER PRICE: All right.  
13 Ms. Bremner, are you ready to go?

14 MS. BREMNER: I am. Thank you, Your  
15 Honor.

16 PRESIDING OFFICER PRICE: All right.  
17 Please proceed, Ms. Rasnic.

18

19 CROSS-EXAMINATION

20 BY MS. RASNIC:

21 Q. Good afternoon, Judge Flood. Can you hear me okay?

22 A. Yes.

23 Q. Okay. You have admitted that you verbally admonished your  
24 staff for not following instructions; is that right?

25 A. I have admitted to what's in the stipulation.

1 Q. Okay. Does the stipulation include verbally admonishing your  
2 staff for not following instructions?

3 MS. BREMNER: I'll object unless it's  
4 shown to the judge. If we're referring to a document I think  
5 it should be shown to her.

6 PRESIDING OFFICER PRICE: Overruled at  
7 least at this point. We'll see what the answer is.

8 THE WITNESS: I believe that it contains  
9 some language to that effect from my memory. I...

10 BY MS. RASNIC:

11 Q. All right. Let's take a look at it. Judge Flood, do you see  
12 the document that's being shared?

13 A. Yes.

14 Q. Okay. I'm going to scroll up to the top. Do you read that  
15 it says, "Stipulation to facts and code violations"? Did I  
16 read that correctly?

17 A. I see it.

18 Q. Okay. Did I read it correctly?

19 A. I didn't hear everything that you said, but I see it, yes.  
20 So I -- you kind of faded, so...

21 Q. Do you see that it says, "Stipulation to facts and code  
22 violations"?

23 A. In my -- yes, I see it.

24 Q. Thank you. I'm just going to scroll all the way down. This  
25 looks like an Adobe sign or a DocuSign. Do you remember

1 electronically signing this document on October 21st, 2024?

2 A. Yes.

3 Q. Okay. Did you also verbally admonish your staff for making  
4 mistakes?

5 A. I believe the document speaks for itself.

6 Q. So you agreed in this document that you verbally admonished  
7 your staff for making mistakes?

8 A. I believe the document reads, "At times, respondent verbally  
9 admonished staff for not following her instructions or for  
10 making mistakes."

11 Q. Thank you.

12 You also agreed that you communicated with them in a  
13 manner that was pointed and harsh, correct?

14 A. It says, "Though respondent rarely raised her voice, her  
15 communication could be pointed and harsh."

16 Q. So you agreed that you did communicate with your staff in a  
17 way that was pointed and harsh?

18 MS. BREMNER: Objection. The document  
19 speaks for itself. Asked and answered. Argumentative.

20 PRESIDING OFFICER PRICE: Overruled.

21 MS. RASNIC: I'd ask the court to direct  
22 the witness to answer.

23 THE WITNESS: Could you repeat your  
24 question?

25 BY MS. RASNIC:

1 Q. You admitted that you did communicate with your staff in a  
2 manner that was pointed and harsh, correct?

3 A. I agreed that it could be.

4 Q. When you agreed that it could be, did you also agree that it  
5 sometimes was?

6 A. I believe that it could be.

7 Q. Okay. You agreed that you could be condescending to your  
8 staff, correct?

9 MS. BREMNER: I object, again, unless the  
10 document is used in reference, Your Honor.

11 PRESIDING OFFICER PRICE: Overruled.

12 THE WITNESS: It says, "When that  
13 happened -- when that did happen, respondent could be  
14 condescending which made some staff feel humiliated,  
15 embarrassed and anxious."

16 MS. RASNIC: I'd ask the answer be  
17 stricken as nonresponsive and the Court direct the witness to  
18 answer the question.

19 MS. BREMNER: I take exception, Your  
20 Honor.

21 PRESIDING OFFICER PRICE: I'm denying the  
22 motion to strike the answer, but the witness needs to listen  
23 closely to the question and answer the question that's asked.

24 BY MS. RASNIC:

25 Q. I'm going to try that again, Judge Flood.

1           So by signing this stipulation, you admitted that you  
2           could be condescending to your staff?

3                   MS. BREMNER: Objection. It's asked and  
4           answered. Argumentative.

5                   PRESIDING OFFICER PRICE: Overruled.

6                   THE WITNESS: The stipulation states  
7           that.

8           BY MS. RASNIC:

9   Q. But you don't believe that's really true?

10 A. The stipulation is what I agreed to.

11 Q. I'm asking you a different question. Do you believe that's  
12       really true?

13 A. I'm not understanding your question.

14 Q. What part of it don't you understand?

15 A. You're -- what are you asking? Maybe you should restate the  
16       question.

17 Q. All right. You said you agreed "when that did not happen,  
18       respondent could be condescending," correct?

19 A. Say that again. I'm sorry. I'm not --

20 Q. Okay.

21 A. I'm not understanding if you're asking me if I said something  
22       or if the document said something.

23 Q. Okay. Do you agree that the document says, "when that did  
24       not happen, respondent could be condescending"?

25 A. Yes, I agree the document says that, yes. We have that in

1 front of us, yes.

2 Q. Okay. Do you agree that it's true that you could be  
3 condescending to your staff?

4 MS. BREMNER: Same objection. Same  
5 bases.

6 PRESIDING OFFICER PRICE: Overruled.

7 THE WITNESS: Do I believe that this is  
8 true? The statement or the stipulation?

9 MS. RASNIC: I'm going to ask that that  
10 be stricken as nonresponsive and the witness instructed to  
11 answer.

12 MS. BREMNER: I would take exception.

13 PRESIDING OFFICER PRICE: I'm not  
14 striking the answer, but clarify the question. Ask it one  
15 more time, please.

16 MS. RASNIC: Okay.

17 BY MS. RASNIC:

18 Q. Is it true that you could be condescending to your staff?

19 A. I believe that is the opinion of some staff, and as a way to  
20 accept responsibility, this is what is in the stipulation.

21 Q. Okay. Do you agree that the stipulation says you made some  
22 staff members feel humiliated, embarrassed and anxious?

23 MS. BREMNER: Same objection. Same  
24 bases.

25 PRESIDING OFFICER PRICE: Overruled.

1 THE WITNESS: Can you repeat the  
2 question?

3 BY MS. RASNIC:

4 Q. Do you agree that the stipulation said you made some staff  
5 members feel humiliated, embarrassed and anxious?

6 A. The stipulation says that.

7 Q. Do you agree that you did make some staff members feel  
8 humiliated, embarrassed and anxious?

9 A. That's what I have been told and that's what I have heard.  
10 So I can't control another person's feelings, and I don't  
11 know outside of what's been told to me how a person is  
12 feeling.

13 Q. Do you agree that the stipulation says, some staff believed  
14 that you did not clearly communicate your expectations of  
15 them?

16 A. Yes, that is what the stipulation says.

17 Q. Is it true that you sometimes didn't clearly communicate your  
18 expectations of them?

19 A. I'm sorry. Can you repeat the question?

20 Q. Is it true that you sometimes didn't clearly communicate your  
21 expectations of them?

22 A. From the information that I have, yes, sometimes because  
23 there was clarifications being asked, so yeah, there was  
24 sometimes where things were not clear.

25 Q. The stipulation says that you chastised them if they didn't

1 understand what you wanted. Do you agree that's what the  
2 stipulation says?

3 A. Yes, that is what the stipulation says.

4 Q. Is it true that you chastised staff when they didn't  
5 understand what you wanted?

6 A. That is what was described to me.

7 Q. Is it true?

8 MS. BREMNER: Objection. It's asked and  
9 answered.

10 PRESIDING OFFICER PRICE: Overruled.

11 THE WITNESS: I need for you to repeat  
12 your question.

13 BY MS. RASNIC:

14 Q. Is it true?

15 A. Under the definition what was described to me and how people  
16 felt, sometimes.

17 Q. The stipulation says you denied having given unclear  
18 instructions; is that correct?

19 A. Yes.

20 Q. Did you deny having given unclear instructions?

21 A. Yes, that's what the stipulation says.

22 Q. But did you deny having given unclear instructions?

23 A. Yes.

24 Q. The stipulation says that staff often heard you to respond,  
25 "That's not what I said" or "I didn't say that" in response



1 to their concerns. Do you agree that that's what it says?

2 A. That's what the stipulation says.

3 Q. And do you agree that you would respond, "that's not what I  
4 said" in response to staff concerns?

5 A. Yes.

6 Q. And how about "I didn't say that"? Do you agree that you  
7 would respond "I didn't say that" in response to staff  
8 concerns?

9 A. Yes.

10 Q. The stipulation says that some of your staff became  
11 increasingly wary of engaging with you. Do you agree that it  
12 says that?

13 A. Yes, that's what the stipulation says.

14 Q. And do you agree that's what happened, that some of your  
15 staff became wary of engaging with you?

16 A. Yes, that's what some staff has said.

17 Q. You were a practicing attorney before you were elected a  
18 judge; is that correct?

19 A. Yes.

20 Q. Do you agree that it's the job of a practicing attorney to  
21 push back on the judge in court?

22 MS. BREMNER: Objection. Form of the  
23 question. And it's vague.

24 PRESIDING OFFICER PRICE: Overruled given  
25 the use of that term throughout the direct examination.

1 THE WITNESS: No. I believe it's the job  
2 of a good attorney, a defense attorney to advocate for their  
3 client. There's a difference in pushback and advocacy.

4 BY MS. RASNIC:

5 Q. Do you agree that it's an attorney's job to disagree with the  
6 court?

7 MS. BREMNER: Same objection.

8 THE WITNESS: I don't know that -- I'm  
9 sorry.

10 PRESIDING OFFICER PRICE: Hang on. I'm  
11 going to sustain the objection. I'm not sure what that  
12 means.

13 BY MS. RASNIC:

14 Q. You testified you are a graduate of the Washington Law  
15 Institute; is that right?

16 A. The Washington State Leadership Institute.

17 Q. Okay. Thank you for the clarification.

18 You also attended Judicial College?

19 A. I attended Judicial College in Reno, Nevada and the general  
20 jurisdiction, and I attended Judicial College for the state  
21 as well.

22 Q. And after the CJC contacted you about the complaints, you  
23 worked with a coach; is that right?

24 A. I work with coaches throughout my career.

25 Q. Do you remember, are you familiar with a woman named Talisa

# ATTACHMENT - N

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

In Re the Matter of

The Honorable Tracy S. Flood,  
Judge of the Bremerton Municipal Court

NO. 11005-F-204

**DECLARATION OF  
CHARLOTTE NELSON**

I, Charlotte Nelson, declare as follows:

1. I make this statement at the request of a representative of the Washington State Commission on Judicial Conduct.
2. I am the Human Resources Manager for the City of Bremerton. I have held this position since August 1, 2010.
3. I have reviewed the attached document prepared by Disciplinary Counsel in this matter. **Exhibit A.** I confirm that the information in the document is true and correct as of this date.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Signed at Kitsap County, Washington on October 22, 2024.

  
Charlotte Nelson

# EXHIBIT A

Name	Position	Hired	Left	Notes
<b>Judge Docter Staff</b>				
Rebecca Zimmerman	Senior Legal Tech	July 1, 1985	May 31, 2022	
Ian Coen	Probation Officer	Sept. 6, 2000	Feb. 6, 2023	
Heather Hunt	Assistant Court Admin.	Dec. 1, 2002	Jan. 24, 2023	
Dawn Williams	Court Administrator (2011 to July 2022); Sr Legal Tech/Legal Tech (Oct 2003 - 2011)	Oct. 9, 2003	July 21, 2022	
Cynthia Hope	Senior Legal Tech	July 19, 2010	Oct. 21, 2022	
Luann Reding	Clerical/Accounting III	Dec. 3, 2012	Oct. 28, 2022	
Catherine Palermo	Legal Tech II	Oct. 13, 2020	Aug. 31, 2022	
<b>Judge Flood Hired</b>				
Martha May	Legal Tech	June 7, 2022	Nov. 17, 2022	
Telma De Groen	Legal Tech (Temp)	Aug. 6, 2022	Sept. 23, 2022	
Amber Dodge	Legal Tech	Aug. 16, 2022	Dec. 23, 2022	
Steven DesRosier	Therapeutic Court Coordinator	Oct. 6, 2022	April 27, 2023	
Jennefer Johnson	Court Administrator	Oct. 24, 2022	June 9, 2023	
Serena Daigle	Senior Legal Tech	Dec. 5, 2022	May 15, 2023	
Brian Knowles	Legal Tech II	Dec. 9, 2022	July 31, 2023	
Carissa Anaya	Legal Tech	Dec. 9, 2022	Sept. 29, 2023	
Christina Rauenhorst	Court Administrator (previously Senior Legal Tech)	Jan. 23, 2023		
Keyera Goulden	Vendor	Dec 7, 2023	Dec 30, 2023	
Heather Harris	Senior Legal Tech	June 1, 2023		
Alexsis Oeller	Service Support Specialist	June 5, 2023	Nov. 22, 2023	
Maury Baker	Volunteer	End of June 2023	Early Sept. 2023	

Name	Position	Hired	Left	Notes
Jennifer Riley	Legal Tech II	Sept. 1, 2023		Currently on administrative leave
Rachel Niten	Legal Tech (part time)	Nov. 7, 2023		
Lisa Hardy	Service Support Specialist Probation	May 4, 2023		
Faymous Tyra	Service Support Specialist Therapeutic Court	Sept. 13, 2023		
<b>Currently in Probationary Period</b>				
Rachel Niten	Legal Tech (part time)	Nov. 7, 2023		
Macquiva Bermudez-Vega	Legal Tech II	Mar. 11, 2024	May 10, 2024	
Sarah Nettleton	Legal Tech	Mar. 18, 2024		
Patricia Velez	Legal Tech II	June 3, 2024		Resigned; last day 10/31/24
Carla Driscoll	Senior Legal Tech	June 17, 2024		