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AUG 27 2004

COMMISSION ON JUDICIAL CONDUCT

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

IN RE THE MATTER OF:

The Honorable Richard B. Sanders
Justice, Washington State Supreme Court

No. 4072-F-109

ORDER

The panelists hearing this matter met by conference call for oral argument presented by counsel on August 20, 2004. In addition, oral argument was held on Respondent's Motion for Summary Judgment, and several rulings were made in the above referenced matter.

OBJECTION TO LAST MINUTE PLEADINGS

Respondent's Objection to Last Minute Pleadings is denied. No new testimony or arguments were presented that have not previously been provided by the parties. The interest of justice would not be served by further delay in this matter.

CHALLENGE FOR CAUSE

After Respondent's Challenge for Cause, Commissioner Vivian Caver recused herself from this matter. Accordingly, her Alternate, Judy Fortier, will replace her on the panel. (Due to late notice, Ms. Fortier was unable to participate in the August 20, 2004 hearing.)

Due to illness, Commissioner Todd Whitrock has indicated that he will not be serving on the panel. His Alternate, Wanda Briggs, has replaced him on the panel. Ms. Briggs participated in the August 20, 2004 proceeding.

After reviewing and considering the Challenge for Cause, no other previously announced panelist recused. Following the declaration of each Commissioner and Alternate, pursuant to CJCPR 3(e)(3) the Commission Chair, Marianne Connelly, reviewed the

1 declarations and denied Respondent's Challenge for Cause. Since the Chair is also a
2 panelist, her own declaration was reviewed by Lorraine Lee, Vice-chair of the Commission.
3 Ms. Lee denied Respondent's Challenge for Cause regarding Commissioner Connelly.

4 Near the close of business on August 19, 2004 (the day before the hearing),
5 Respondent filed a Reply to Disciplinary Counsel's Response to the Challenge for Cause.
6 The Reply raised no new issues and essentially repeated those previously raised in the
7 Challenge for Cause. As a result, it was determined that the hearing on the Motion for
8 Summary Judgment should proceed as scheduled.

9 **MOTION TO STRIKE**

10 Before the hearing began several rulings were made on Respondent's "Motion to
11 Strike All or Parts of Declarations and Statements Submitted by Commission in Support of
12 its Response to Summary Judgment Motion" ("Motion to Strike") and Disciplinary
13 Counsel's "Response to Reply to the Summary Judgment Motion." The rulings that follow
14 also apply to Respondent's assertion that the Motion to Strike should apply to the documents
15 submitted with Disciplinary Counsel's "Response to Reply to Summary Judgment Motion."

16 The rulings listed below track Respondent's Motion to Strike. They are as follows:

17 page 1, lines 16-19: denied

18 page 2, lines 1-24; and page 3, line 1-10: denied

19 page 3, lines 11-13: denied

20 page 3, lines 14-17: denied

21 page 3, lines 18-22: denied

22 page 3, lines 23; and page 4, line 1-2: denied

23 page 4, lines 3-6 admitted only for the purpose of establishing when he
24 learned about the activities at the SCC

25 page 4, lines 7-9: sustained

26 page 4, lines 10-12: denied

27 page 4, lines 13-16: denied

28 ORDER - 2

- 1 page 4, lines 17-22: denied
- 2 page 4, lines 23-25: denied
- 3 page 5, lines 1-3: denied
- 4 page 5, lines 4-6: denied
- 5 page 5, lines 7-11: denied
- 6 page 5, lines 12-14: denied
- 7 page 5, lines 15-19: sustained
- 8 The general objections beginning at page 5, line 20 through and including
- 9 page 6, line 23: denied
- 10 page 7, lines 1-3: denied
- 11 page 7, lines 4-5: denied
- 12 page 7, lines 6-8: sustained
- 13 page 7, lines 9-11: denied
- 14 page 7, lines 12-14: sustained
- 15 page 7, lines 15-17: sustained, however the Commission takes judicial notice
- 16 of the numerous appellate matters involving Mr. Young
- 17 page 7, lines 18-20: sustained
- 18 page 7, lines 21-23: denied
- 19 page 7, lines 24-25: denied
- 20 page 8, lines 1-3: denied
- 21 page 8, lines 4-5: denied
- 22 page 8, lines 6-13: sustained
- 23 page 8, lines 14-20 sustained as to the first two sentences of paragraph 29;
- 24 denied as to the remainder of the paragraph
- 25 page 8, line 21 through and including page 9, line 4: denied
- 26 page 9, lines 5-8: denied.

1 MOTION FOR SUMMARY JUDGMENT

2 In addition to oral arguments presented at the hearing, the panelists considered the
3 following submissions (together with their respective attachments) subject to the rulings
4 cited above:

5 [Respondent's] Justice Sanders' Motion for Summary Judgment (filed June 4,
6 2004)

7 Declaration of Justice Richard Sanders on Summary Judgment Motion (filed
8 June 4, 2004)

9 [Disciplinary Counsel's] Response to Respondent's Motion for Summary
10 Judgment (filed July 22, 2004)

11 Declaration of Justice Richard Sanders in Supplementation of Summary
12 Judgment Motion (filed August 13, 2004)

13 Justice Sanders' Reply to Commission's Response to Summary Judgment
14 Motion (filed August 13, 2004)

15 [Disciplinary Counsel's] Response to Reply to Summary Judgment Motion
16 (filed August 18, 2004)

17 After consideration, the Motion for Summary Judgment is denied.

18 HEARING DATE

19 Upon conclusion of the deliberations and decision on the Motion for Summary
20 Judgment, the panel set a hearing date for Monday, December 6, 2004. Please set aside the
21 rest of that week for this purpose.

22 After the hearing date was set, Commissioner Hubert Locke indicated that scheduling
23 conflicts prohibited him from further participation in this matter. He has recused himself and
24 his Alternate, Betsy Wilkerson, will be taking his place from this date forward.

25 Dated this 27th day of August, 2004.

26 
27 Gregory R. D'Alaire
28 Presiding Officer