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IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

MAR 03 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY _____
CHIEF DEPUTY CLERK

In the Matter of the)
HONORABLE KIMBERLY WANKER,)
Fifth Judicial District Court, Dept. One,)
County of Nye, State of Nevada,)
Respondent.)

Case No. 69887

**CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT
TO PUBLIC REPRIMAND**

Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND filed with the Nevada Commission on Judicial Discipline on March 2, 2016.

DATED this 3rd day of March, 2016.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P. O. Box 48
Carson City, NV 89702
(775) 687-4017

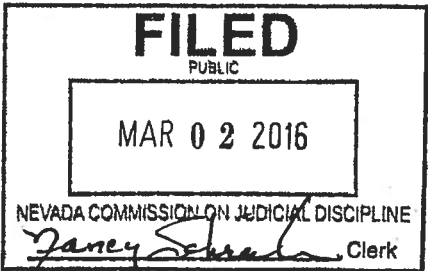


PAUL C. DEYHLE
General Counsel and Executive Director
Nevada Bar No. 6954

RECEIVED

MAR 03 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK



1 THOMAS C. BRADLEY, ESQ.
2 Bar No. 1621
3 *Sinai, Schroeder, Mooney,*
4 *Boetsch, Bradley and Pace*
5 448 Hill Street
6 Reno, Nevada 89501
7 Telephone (775) 323-5178

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Special Counsel for the Nevada
Commission on Judicial Discipline

BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE
STATE OF NEVADA

IN THE MATTER OF THE
HONORABLE KIMBERLY WANKER,
Fifth Judicial District Court, Dept. One,
County of Nye, State of Nevada
Respondent.

CASE NO. 1501-1147

STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND

In order to resolve the Formal Statement of Charges pending against her before the Nevada Commission on Judicial Discipline (the "Commission"), the Respondent stipulates to the following pursuant to Commission Procedural Rule 29:

I.

A) Respondent admits that all the allegations contained in Count One of the Formal Statement of Charges filed on August 10, 2015, are true. Specifically, Respondent admits that during or about the period from October 3, 2012, to March 31, 2014, she violated Canon 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct) and; Canon 2, Rule 2.2 (failure to uphold and apply the law), Rule 2.5 (failure to perform judicial duties competently and diligently), Rule 2.6 (ensuring right to be heard), Rule 2.9 (ex parte communication), and

1 Rule 2.12(A) (requiring court staff to act in a manner consistent with the judge's obligations) of
2 the Nevada Code of Judicial Conduct, or any single rule or any combination of those rules, by
3 doing any, a combination of, or all of the following acts:

4 Respondent further admits that while she was acting in her official capacity as a district
5 court judge in Nye, Esmeralda, and Mineral Counties, Nevada, presiding over Case No.
6 CV32871, *In the Matter of the Paternity of Kolena Carson the issue of Robert Carson and*
7 *Kolena Brown (Brown v. Carson):*

9 Respondent, on or about November 13, 2012, held Complainant Robert Carson in
10 contempt of court and sentenced him to seven days in jail and a fine of \$500.00. Said finding of
11 contempt was not in accordance with Nevada law in one or more of the following respects:

12 (1) If the contempt was direct as having occurred in the immediate view and
13 presence of the court and meeting the definitions of contempt, Respondent failed to enter the
14 requisite order following her finding of contempt which included a recitation of the facts
15 constituting the contempt, the finding that Robert Carson is guilty of contempt, and the
16 prescribed punishment for the contempt;

18 (2) If the contempt was based on a determination by Respondent that
19 Complainant lied to Respondent in Court on or about October 3, 2012 or November 13, 2012, or
20 both, and was based, in whole or in part, on information Respondent received outside
21 Respondent's immediate view and presence, and was not based on Complainant's disruption of
22 the proceedings so as to require immediate action, Respondent failed to have an affidavit
23 presented to the Court which included the requisite elements of the contempt and Respondent
24 failed to recuse herself from the trial of the contempt;

26 (3) Respondent also failed to afford Robert Carson his right to due process which
27 included giving him proper notice of the charge of contempt and an opportunity to be heard by
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1 way of the issuance of a warrant of attachment, the issuance of an order to show cause, or other
2 lawful method that would have provided Robert Carson his right to due process;

3 (4) Respondent also held Robert Carson in contempt for statements or actions
4 that do not constitute contempt under Nevada law; and

5 (5) Prior to the time Respondent found Robert Carson to be in contempt of Court,
6 Respondent also failed to disclose one or more *ex-parte* communications that Respondent had
7 with court staff, sheriff's deputies, and/or Quest laboratory personnel regarding the results of a
8 blood-alcohol test administered to Robert Carson.
9

10 **B)** Respondent also admits that all the allegations contained in Count Two of the
11 Formal Statement of Charges filed on August 10, 2015, are true. Specifically, Respondent
12 admits that during or about the period from October 3, 2012, to March 31, 2014, she violated
13 Canon 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct); and
14 Canon 2, Rule 2.2 (failure to uphold and apply the law), Rule 2.5 (failure to perform judicial
15 duties competently and diligently), Rule 2.6 (ensuring right to be heard), Rule 2.9 (ex parte
16 communication), and Rule 2.12(A) (requiring court staff to act in a manner consistent with the
17 judge's obligations) of the Nevada Code of Judicial Conduct, or any single rule or any
18 combination of those rules, by doing any, a combination of, or all of the following acts, while
19 Respondent was acting in her official capacity as a district court judge in Nye, Esmeralda, and
20 Mineral Counties, Nevada, presiding over Case No. CV32871, *In the Matter of the Paternity of*
21 *Kolena Carson the issue of Robert Carson and Kolena Brown (Brown v. Carson):*
22

23 Respondent further admits that on or about November 13, 2012, she held Complainant
24 Robert Carson in contempt of court and sentenced him to seven days in jail and a fine of
25 \$500.00. Prior to finding Robert Carson to be in contempt, Respondent initiated an independent
26 investigation on or about October 3, 2012, which included ordering a Nye County Sheriff's
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1 deputy to travel to Robert Carson's home, demand that Robert Carson submit to a preliminary
2 breath test (PBT), transport Robert Carson to Quest Laboratory, and require him to submit to a
3 blood alcohol test. Respondent also directed a member of her staff to contact Robert Carson
4 while he was at the Quest Laboratory and demand that he immediately pay for the cost of the
5 blood alcohol test.
6

7 C) Respondent also admits that all the allegations contained in Count Three of the
8 Formal Statement of Charges filed on August 10, 2015, are true. Specifically, Respondent
9 admits that on or about the period from October 3, 2012, to March 31, 2014, she violated Canon
10 1, Rule 1.1 (failure to comply with the law, including the Code of Judicial Conduct); and Canon
11 2, Rule 2.1 (giving precedence to judicial duties), Rule 2.2 (failure to uphold and apply the law),
12 Rule 2.5 (failure to perform judicial duties competently and diligently), and Rule 2.12(A)
13 (requiring court staff to act in a manner consistent with the judge's obligations) of the Nevada
14 Code of Judicial Conduct, or any single rule or any combination of those rules, by doing any, a
15 combination of, or all of the following acts, while conducting judicial duties as a district court
16 judge in Nye, Esmeralda, and Mineral Counties, Nevada, presiding over Case No. CV32871, *In*
17 *the Matter of the Paternity of Kolena Carson the issue of Robert Carson and Kolena Brown*
18 *(Brown v. Carson)*.
19

20 Respondent further admits that she held a visitation hearing on or about August 17, 2012,
21 and failed to issue an order concerning the issues raised at the August 17, 2012 hearing.
22 Respondent held another visitation hearing on or about October 3, 2012, and indicated that she
23 would take the matter under advisement and issue an order. Respondent held another visitation
24 hearing on November 13, 2012. As of March 2014, Respondent failed to issue any custody or
25 visitation orders concerning the issues raised at the August 17, 2012 hearing, the October 3, 2012
26 hearing, or the November 13, 2012 hearing.
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II.

Respondent agrees to waive her right to present her case contesting the allegations in the Counts set forth above in a formal hearing pursuant to Commission Procedural Rule 18. Respondent further agrees that this Order takes effect immediately pursuant to Commission Procedural Rule 29. The Commission accepts Respondent's waiver of said right and acknowledges and agrees to the immediate effect of this Order.

A) Respondent agrees and acknowledges that this Stipulation and Order will be published on the Commission's website and filed with the Clerk of the Nevada Supreme Court.

B) Respondent and the Commission hereby stipulate to Respondent's consent to public reprimand. Respondent stipulates to the following substantive provisions:

(1) Respondent stipulates to a public reprimand by the Commission for violations of the Judicial Canons and Rules as set forth above in Section I herein.

(2) Respondent agrees the discipline of public reprimand is authorized by Article 6, Section 21(1) of the Nevada Constitution and Rule 29 of the Procedural Rules of the Commission.

(3) Respondent agrees that the evidence available to the Commission would establish by clear and convincing proof that she violated an individual canon or combination of canons, including Judicial Canon 1, Rule 1.1 and Canon 2, Rules 2.2, 2.5, 2.6, 2.9 and 2.12.

(4) The Respondent agrees to successfully complete a minimum of two (2) courses at the National Judicial College in Reno no later than November 1, 2016. Respondent agrees to complete, at her personal expense, the National Judicial College class "Management Skills for Presiding Judges" in person, in Reno, on May 16-20, 2016; and the class "Ethics, Fairness and Security in your Courtroom and Community" in person, in Reno, October 24-27, 2016.

1 (5) The Respondent will study and familiarize herself with all Nevada statutes
2 and rules of civil procedure dealing with disciplinary actions in the courtroom, specifically, but
3 not limited to, statutes and rules governing the use of the contempt power in the courtroom.

4 (6) Respondent agrees to make a private apology in her chambers to Complainant
5 Robert Carson no later than March 1, 2016.

6 (7) On or before April 1, 2016, the Respondent shall issue an Order that vacates,
7 *nunc pro tunc*, the finding of contempt of Robert Carson based upon mistake.

8 (8) On or before April 1, 2016, the Respondent shall also reimburse Robert
9 Carson for the \$500 fine which he paid as part of the contempt punishment. The reimbursement
10 shall be made through the client trust account of her counsel, John Arrascada.


11 C) The Respondent understands and agrees that by accepting the terms of this
12 Stipulation, she waives her right to appeal to the Nevada Supreme Court pursuant to Rule 3D of
13 the Nevada Rules of Appellate Procedure.

14 **ORDER**

15 IT IS HEREBY ORDERED that Respondent should be and hereby is publicly
16 reprimanded for violating Judicial Canon 1, Rule 1.1 and Canon 2, Rules 2.2, 2.5, 2.6, 2.9, and
17 2.12.

18 IT IS FURTHER HEREBY ORDERED that the Executive Director of the Judicial
19 Discipline Commission take the necessary steps to file this document in the appropriate records
20 and on the website of the Commission and with the Clerk of the Nevada Supreme Court.

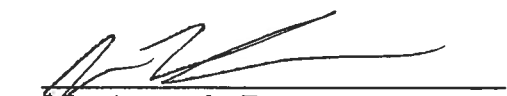
21 Dated this 25th day of February, 2016.

22 
23 Kimberly Wanker
24 Respondent

25 ///


26 ///

1 Dated this 15 day of February, 2016.


John Arrascada, Esq.
Attorney for Respondent
State Bar No. 4517

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P.O. Box 48
Carson City, Nevada 89702


7 Dated this 1 day of March, 2016.

BY 
Thomas C. Bradley, Esq., SBN 1621
Special Counsel

9 The Commissioners listed below accept the terms of the Stipulation and Order of Consent
10 to Public Reprimand between the Respondent and the Commission. They further authorize the
11 Chairman to sign on behalf of the Commission, as a whole, this document containing the
12 Stipulation and Order of Consent to Public Reprimand of the Respondent.

14 NEVADA COMMISSION ON JUDICIAL DISCIPLINE:

16 Dated this 2nd day of March, 2016.


GARY VAUSE, CHAIRMAN

- 19 Karl Armstrong
- 20 Hon. Mark Denton
- 21 Bruce Hahn
- 22 Mary Lau
- 23 Mike McGinness
- 24 Hon. Jerome Polaha
- 26 Gary Vause

1 **CERTIFICATE OF MAILING**

2 I hereby certify that on the 3rd day of March, 2016, I served a copy of the CERTIFIED
3 COPY OF STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND, filed
4 with the Nevada Supreme Court, by United States Mail, postage pre-paid, addressed to the
5 undersigned:
6

7
8 Thomas C. Bradley
9 Sinia Schroder Mooney Boetsch
10 Bradley & Pace Law Association
11 448 Hill Street
12 Reno, NV 89501
13 Special Counsel

14 John L. Arrascada, Esq., SBN 4517
15 Arrascada & Arrascada, Ltd
16 145 Ryland Street
17 Reno, Nevada 89501
18 Counsel for Respondent

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NANCY L. SCHREIHANS
Commission Clerk