

**FILED**  
JUL 22 2009  
RACHELLE M. RESNICK  
CLERK SUPREME COURT  
BY *HR*

**SUPREME COURT OF ARIZONA**

Inquiry concerning Judge )  
 )  
**HOWARD D. HINSON, JR.** ) Supreme Court No. JC-09-0002  
 ) Commission No. 08-308  
Superior Court )  
Yavapai County ) **JUDGMENT AND ORDER**  
State of Arizona )  
Respondent. )  
\_\_\_\_\_ )

This matter having come before the Commission on Judicial Conduct, it having duly rendered and filed its recommendation, and all applicable rights to object to or petition for modification of the recommendations having been waived by Respondent, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of Procedure for the Commission on Judicial Conduct,

**IT IS ORDERED** that **Howard D. Hinson, Jr.**, a superior court judge in Yavapai County, is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation and the Stipulated Resolution, which are attached hereto.

**DATED** this 22nd day of July 2009.

*Rachelle M Resnick*  
\_\_\_\_\_  
Rachelle Resnick  
Clerk of the Court

TO:  
Howard D. Hinson, Jr. (Certified Mail, Return Receipt and Regular Mail)  
Mark I. Harrison, Counsel for Respondent  
Linda Haynes, Disciplinary Counsel, Commission on Judicial Conduct  
E. Keith Stott, Jr., Executive Director, Commission on Judicial Conduct  
Jode Ottman, West Publishing Company  
Lexis-Nexis  
chj

J. William Brammer, Jr.  
Judicial Member  
Chair

Louis Frank Dominguez  
Judicial Member  
Vice Chair

Angela H. Sifuentes  
Public Member  
Secretary

Harriett Chavez  
Judicial Member

Stan Furman  
Public Member

Sherry L. Geisler  
Judicial Member



## COMMISSION ON JUDICIAL CONDUCT

1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

Telephone (602) 452-3200  
Facsimile (602) 452-3201

Michael O. Miller  
Judicial Member  
Vacant  
Public Member  
Shella Polk  
Attorney Member  
Catherine M. Stewart  
Attorney Member  
Lawrence F. Winthrop  
Judicial Member

E. Keith Stott, Jr.  
Executive Director

June 25, 2009

Rachelle Resnik  
Clerk of the Court  
Arizona Supreme Court  
1501 West Washington Street  
Phoenix, Arizona 85007

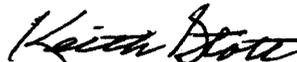
**Re: Inquiry Concerning Judge Howard D. Hinson, Jr.  
Commission No. 08-308**

Dear Ms. Resnik:

The Commission on Judicial Conduct recommends that Howard D. Hinson, a superior court judge be censured and allowed to resign from office on the basis of an agreement signed by the judge and approved by the hearing panel assign to the case. Because the judge has waived his right to file objections, the right to petition the Arizona Supreme Court to modify or reject the recommendation, and the right to request oral argument, this matter may be deemed submitted to the court for its decision pursuant to Rule 29(e).

To assist the court, a proposed form of judgment and order, as required by Rule 29(g), is enclosed. Please let me know if you need any additional information.

Sincerely,

  
E. Keith Stott, Jr.  
Executive Director

EKS:bw  
Enclosures

cc: Mark I. Harrison  
Counsel for Respondent

**SUPREME COURT OF ARIZONA**

Inquiry concerning Judge	)	Supreme Court No. JC-09-0002
	)	
<b>HOWARD D. HINSON, JR.</b>	)	Commission No. 08-308
Superior Court	)	
Yavapai County	)	<b>JUDGMENT AND ORDER</b>
State of Arizona	)	
Respondent	)	
_____	)	

This matter having come before the Commission on Judicial Conduct, it having duly rendered and filed its recommendation, and all applicable rights to object to or petition for modification of the recommendations having been waived by Respondent, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of Procedure for the Commission on Judicial Conduct,

**IT IS ORDERED** that **Howard D. Hinson, Jr.**, a superior court judge in Yavapai County, is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation and the Stipulated Resolution, which are attached hereto.

**DATED** this \_\_\_\_ day of June 2009.

\_\_\_\_\_  
Rachelle Resnik  
Clerk of the Court

TO:  
Mark I. Harrison, Counsel for Respondent  
(Certified Mail, Return Receipt and Regular Mail)  
E. Keith Stott, Jr., Executive Director, Commission on Judicial Conduct  
Jode Ottman, West Publishing Company, Editorial Department, D3-40 #4467  
Lexis-Nexis

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>Howard D. Hinson, Jr.</b>	)	
Superior Court	)	
Yavapai County	)	<b>TRANSMITTAL OF THE RECORD</b>
State of Arizona	)	<b>TO THE SUPREME COURT</b>
Respondent	)	

- 
1. Notice of Filing with the Supreme Court
  2. Statement of Charges
  3. Notice of Institution of Formal Proceedings
  4. Notice of Appointment of Hearing Panel
  5. Motion for Extension of Time to Respond to Statement of Charges
  6. Response to Motion for Extension of Time
  7. Order Granting Motion for Extension of Time to Respond to Statement of Charges
  8. Respondent's Response to Charges
  9. Waiver
  10. Minute Entry
  11. Stipulated Resolution
  12. Minute Entry
  13. Order Accepting Stipulated Resolution
  14. Recommendation

**DATED** this 25th day of June 2009.

**COMMISSION ON JUDICIAL CONDUCT**

  
Barbara M. Wanlass  
Clerk of the Commission

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	
<b>HOWARD D. HINSON, JR.</b>	)	Commission No. 08-308
Superior Court	)	
Yavapai County	)	<b>NOTICE OF FILING WITH</b>
State of Arizona	)	<b>THE SUPREME COURT</b>
Respondent	)	
	)	

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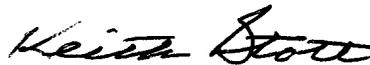
**PLEASE TAKE NOTICE** that the Commission's Recommendation in the above-entitled case, together with all other pertinent pleadings contained in the record, were filed on this date with the Clerk of the Arizona Supreme Court, 1501 W. Washington, Suite 402, Phoenix, Arizona 85007. Copies of the pleadings, along with this notice, were promptly served on Respondent.

The Commission accepted a Stipulated Resolution in the best interest of the public and pursuant to instructions given in previous cases in which the Commission was encouraged to pursue alternative resolutions. *In Re Braun*, 180 Ariz. 240, 242, 883 P.2d 996, 998 (1994); *In Re Garcia*, 180 Ariz. 294, 296, 884 P.2d 180, 182 (1994).

The Clerk of the Supreme Court is advised that the Respondent has waived the right in Rule 29(c) of the Rules of the Commission on Judicial Conduct to petition the Court to modify or reject the Commission's recommendations and the right to request oral argument. This matter, therefore, may be deemed submitted pursuant to Rule 29(e).

**DATED** this 25th day of June 2009.

**COMMISSION ON JUDICIAL CONDUCT**



\_\_\_\_\_  
E. Keith Stott, Jr.  
Executive Director

Copies of this notice were delivered and mailed  
this 25th day of June 2009 to:

Mark I. Harrison  
Counsel for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

By: Barbara W. Jandass

**FILED**

**MAR 10 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

Linda Haynes  
Disciplinary Counsel (Bar #12178)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge )  
 ) Case No. 08-308  
**Howard D. Hinson, Jr.** )  
Superior Court ) **STATEMENT OF CHARGES**  
Yavapai County )  
State of Arizona )  
Respondent. )

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An investigative panel composed of members of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against the Respondent, Judge Howard Hinson, for misconduct in office. This statement of charges sets forth the jurisdiction of the Commission and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent served as a full-time pro tem superior court judge from 1996 until 2004. In 2004, Respondent was elected as a full-time superior court judge in Yavapai County. Respondent was serving in his capacity as a judge at all times relevant to the allegations contained herein.

4. As a judge, Respondent is and has been subject to all provisions and Canons of the Code of Judicial Conduct as set forth in Supreme Court Rule 81.

## **COUNT I**

### **FAILURE TO DECIDE CASES IN A TIMELY MANNER.**

5. In Case 01-203, the commission informally reprimanded Respondent for failing to rule on a petition for post-conviction relief for over nine months. The Commission notified Respondent that in the future he should rule on cases at his “earliest opportunity.”

6. In Case 02-018, the commission informally reprimanded Respondent for failing to rule on a different petition for post-conviction relief for eighteen months. The Commission issued a second informal reprimand stating, “your dilatory handling of this matter is unjustifiable . . . .”

7. In Case 04-059, the commission informally admonished Respondent for failing to rule on four motions in a timely manner. The admonishment noted that “Canon 3B(8) of the Code of Judicial Conduct and Article 6, §21 of the Arizona State Constitution require judges to rule on matters promptly.”

8. Despite these strong and repeated warnings from the Commission, Respondent continued to fail to timely rule on cases.

9. In 2006, Respondent failed to enter timely rulings on eight cases. Although superior court judges are required to decide submitted matters within 60 days of submission pursuant to Article VI § 21 of the Arizona Constitution, A.R.S. §11-424.02(A) and Rule 91(e), Rules of the Supreme Court, the delays in the eight cases exceeded 60 days by 28 days, 25 days, 51 days, 66 days, 107 days, 8 days, 14 days, and 36 days.

10. In 2007, Respondent failed to enter timely rulings on nine cases, The delays in the nine cases exceeded 60 days by 23 days, 29 days, 101 days, 92 days, 23 days, 66 days, 66 days, 94 days, and 96 days.

11. In 2008, Respondent failed to enter timely rulings in eight cases. The delays in the eight cases exceeded 60 days by 91 days, 26 days, 13 days, 17 days, 27 days, 27 days, 61 days, and 16 days.

12. By repeatedly neglecting to enter timely rulings on cases, Respondent violated Canon 3 (“A judge shall perform the duties of judicial office impartially and diligently.”); specifically, Canon 3B(8) (“A judge shall dispose of all judicial matters promptly, efficiently and fairly.”); and Canon 3B(2) (“A judge shall be faithful to the law and maintain professional competence in it.”). *See also, In re Braun*, 180 Ariz. 240, 241, 883 P.2d 996, 997 (1994).

## **COUNT II**

### **REPEATEDLY FILING FALSE AFFIDAVITS**

13. A.R.S. § 12-128.01(A) provides that a judge shall not receive his salary unless the judge certifies that no cause remains pending and undetermined for sixty days after it has been submitted.

14. In 2006, Respondent filed five inaccurate monthly salary affidavits between September and December and collected paychecks for each of those months, despite not having ruled on pending cases within 60 days.

15. In 2007, Respondent filed five inaccurate monthly salary affidavits and collected paychecks for four of those months, despite not having ruled on pending cases within 60 days.

16. In 2008, Respondent filed four inaccurate monthly salary affidavits and collected paychecks for each of those months, despite not having ruled on pending cases within 60 days.

17. By signing a series of affidavits that inaccurately reflected no matters were pending and undetermined for 60 days, Respondent violated Canon 3B(2), "A judge shall be faithful to the law and maintain professional competence in it;" as well as Canon 3B(8), "A judge shall dispose of all judicial matters promptly, efficiently and fairly." Additionally, as set forth in *In re Weeks*, 134 Ariz. 521, 525, 658 P.2d 174, 178 (1983): "The signing of a series of false affidavits by a judge brings the integrity of the entire judicial system into question and is prejudicial to the administration of justice." *See also*, Adv. Op. 92-10 (judge has "an ethical as well as legal obligation to apply the law") and *In re Jensen*, 24 Cal.3d 72, 593 P.2d 200 (1978).

### **COUNT III**

#### **FAILURE TO DILIGENTLY ADMINISTER HIS COURT**

18. Respondent failed to institute the proper administrative control to ensure that his cases were periodically reviewed to determine the length of pendency prior to ruling and to ensure that when he signed a certificate, that the certificate was accurate as to outstanding cases.

19. By his inaction, Respondent violated Canon 3C(1) which requires that "A judge shall diligently discharge the judge's administrative responsibilities . . . and maintain professional competence in judicial administration . . ."; Canon 3C(2), which mandates that a judge "shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge . . ."; and Canon 3B(8), "A judge shall dispose of all judicial matters promptly, efficiently and fairly." The comment to Canon 3B(8) states

“[a] judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.” *See also, In re Braun*, 180 Ariz. 240, 241, 883 P.2d 996, 997 (1994).

20. A judge’s failure to decide cases or rule on motions in a timely fashion constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute and demonstrates a “willful and persistent failure to perform his duties” within the meaning of Article 6.1 § 4 of the Arizona Constitution.

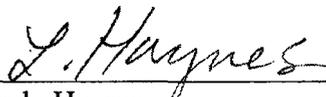
21. Closed files pertaining to discipline of Respondent may be referred to and used by the Commission or by Respondent for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration of the Judge. Commission Rule 22(e). Respondent knows of the existence of such files, all of which are delineated in this Statement of Charges.

**REQUESTED RELIEF**

**WHEREFORE**, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured, suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e), and that the court grant such other relief as may be deemed appropriate.

Dated this 10th day of March 2009.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Linda Haynes  
Disciplinary Counsel

Copies of this pleading mailed by certified mail on March 10, 2009, to:

Mark I. Harrison  
Attorney for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**MAR 11 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>HOWARD D. HINSON, JR.</b>	)	
Superior Court	)	
Yavapai County	)	<b>NOTICE OF INSTITUTION OF</b>
State of Arizona	)	<b>FORMAL PROCEEDINGS</b>
	)	
Respondent.	)	

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**TO JUDGE HOWARD D. HINSON, JR.:**

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rule 24 of the Rules of the Commission on Judicial Conduct ("Rule") to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether or not these charges constitute grounds for your censure, suspension, removal from office as a judge, or other appropriate discipline as provided in Article 6.1 § 4 of the Arizona Constitution.

You are further notified that:

1. Linda Haynes, Attorney at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.
2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal service of this notice upon you or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

3. Upon receipt of your response, or upon expiration of the time in which a response may be filed, the Commission will open and maintain a public file containing the Notice of Institution of Formal Proceedings, the Statement of Charges, and all subsequent pleadings filed with the Commission. This file and the formal hearing in this case shall be open to the public in accordance with Rule 9(a).

4. You have the right to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matters necessary for your defense.

5. During the pendency of these proceedings, you or the Commission may refer to or use prior cases, if any, pertaining to previous complaints or discipline for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration.

Dated this 11th day of March 2009.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
E. Keith Stott, Jr.  
Executive Director

Copy of this pleading sent by certified mail or hand-delivery on March 11, 2009, to:

Mark I. Harrison  
Attorney for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Linda Haynes  
Disciplinary Counsel  
Commission on Judicial Conduct

By: BLDunlap

**FILED**

**MAR 11 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

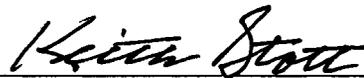
Inquiry concerning Judge	)	
	)	
<b>HOWARD D. HINSON, JR.</b>	)	Case No. 08-308
Superior Court	)	
Yavapai County	)	
State of Arizona	)	<b>NOTICE OF APPOINTMENT</b>
	)	<b>OF HEARING PANEL</b>
Respondent	)	
	)	

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**PLEASE TAKE NOTICE** that the chairperson of the Commission on Judicial Conduct, acting pursuant to Rules 3(f) and 27(a) of the rules of the commission, has appointed Judge Louis Frank Dominguez to serve as the presiding member of the hearing panel in the above-entitled proceeding and has designated the following as members of the panel: William Brammer, Michael Miller, and Larry Winthrop, as judge members, and Angela Sifuentes and Stanley Furman as public members. Sheila Polk and Catherine Stewart, attorney members, disqualified themselves from this matter. All pleadings, motions, and other documents in this case shall be filed with the hearing panel at the commission's office located at 1501 W. Washington Street, Suite 229, Phoenix, Arizona 85007.

**DATED** this 10th day of March 2009.

**COMMISSION ON JUDICIAL CONDUCT**



\_\_\_\_\_  
E. Keith Stott, Jr.  
Executive Director

Copies delivered by mail or in person  
on March 11, 2009, to:

Mark I. Harrison  
Attorney for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Linda Haynes  
Disciplinary Counsel  
Commission on Judicial Conduct

by: Barbara Wandlass

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Mark I. Harrison, 001226  
Kathleen O'Meara, 026331  
OSBORN MALEDON, P.A.  
2929 N. Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2793  
(602) 640-9000

Attorneys for Respondent

**FILED**

**MAR 26 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge

Case No. 08-308

**HOWARD D. HINSON, JR.**  
Superior Court  
Yavapai County  
State of Arizona

**MOTION FOR EXTENSION OF  
TIME TO RESPOND TO  
STATEMENT OF CHARGES**

Respondent.

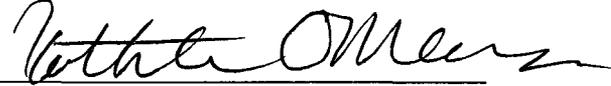
Comes now Respondent Judge Howard D. Hinson, Jr., through undersigned counsel, and requests, pursuant to Rule 25(c) of the Rules of the Commission on Judicial Conduct, that the Presiding Member of the Hearing Panel grant Respondent an extension of time up to and including April 17, 2009, to respond to the Commission on Judicial Conduct's Statement of Charges.

On March 10, 2009, the Commission on Judicial Conduct ("Commission") filed a Statement of Charges against Respondent. Although the Commission alleged only three counts in the Statement of Charges, a thorough response requires analysis of more than twenty-five cases presided over by Respondent and of events that occurred over a period of eight years. Given the complexity of the issues involved, Respondent will be unable to fully respond to the Statement of Charges, even with diligent work, before the current deadline, which is March 31, 2009. Therefore, in the

1 interest of justice, Respondent respectfully requests that the Presiding Member of the  
2 Hearing Panel extend the current deadline to file a response up to and including April  
3 17, 2009.

4 DATED this 26<sup>th</sup> day of March, 2009.

5 OSBORN MALEDON, P.A.

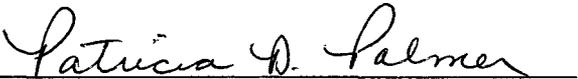
6  
7 By   
8 Mark I. Harrison  
9 Kathleen O'Meara  
10 2929 N. Central Ave., Suite 2100  
11 Phoenix, Arizona 85012-2793  
12 Attorneys for Respondent

11 ORIGINAL of the foregoing filed  
12 this 26<sup>th</sup> day of March, 2009, with:

13 Commission on Judicial Conduct  
14 1501 W. Washington, Suite 229  
15 Phoenix, AZ 85007-3329

16 COPY of the foregoing mailed  
17 this 26<sup>th</sup> day of March, 2009, to:

18 Linda Haynes  
19 Disciplinary Counsel  
20 Commission on Judicial Conduct  
21 1501 W. Washington St., Suite 229  
22 Phoenix, AZ 85007

23  
24  
25  
26 

Linda Haynes  
Disciplinary Counsel (Bar #12178)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**MAR 27 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

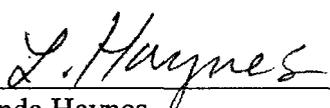
Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>Howard D. Hinson, Jr.</b>	)	
Superior Court	)	<b>RESPONSE TO MOTION FOR</b>
Yavapai County	)	<b>EXTENSION OF TIME</b>
State of Arizona	)	
Respondent.	)	

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Comes now Linda Haynes, Disciplinary Counsel for the Commission on Judicial Conduct and notifies the Commission that there is no objection to Respondent's Motion for Extension of time or proposed order.

Respectfully submitted this 27th day of March 2009.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Linda Haynes  
Disciplinary Counsel

Copies of this pleading mailed  
on March 27th, 2009, to:

Mark I. Harrison  
Attorney for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**MAR 27 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>Howard D. Hinson, Jr.</b>	)	
Superior Court	)	<b>ORDER GRANTING MOTION FOR</b>
Yavapai County	)	<b>EXTENSION OF TIME TO RESPOND</b>
State of Arizona	)	<b>TO STATEMENT OF CHARGES</b>
Respondent.	)	

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Respondent has filed a motion for an extension of time to respond to the Statement of Charges filed on March 10, 2009. Based upon that motion, and good cause appearing,

**IT IS ORDERED** granting Respondent's request to extend the period of time for filing a response to the Statement of Charges up to and including April 17, 2009.

**DATED** this 27th day of March 2009.

**FOR THE HEARING PANEL**

  
Louis Frank Dominguez  
Presiding Hearing Panel Member

Copies mailed, e-mailed, or hand-delivered  
on March 27th, 2009, to:

Mark I. Harrison  
Attorney for Respondent

Linda Haynes  
Disciplinary Counsel

1 Mark I. Harrison, 001226  
2 Kathleen O'Meara, 026331  
3 OSBORN MALEDON, P.A.  
4 2929 N. Central Avenue, Suite 2100  
5 Phoenix, Arizona 85012-2793  
6 (602) 640-9000

The Phoenix Plaza  
21st Floor  
2929 North Central Avenue  
Phoenix, Arizona 85012-2793

P.O. Box 36379  
Phoenix, Arizona 85067-6379  
Telephone 602.640.9000  
Facsimile 602.640.9050

7 Attorneys for Respondent

8 **STATE OF ARIZONA**

9 **COMMISSION ON JUDICIAL CONDUCT**

10 Inquiry concerning Judge

Case No. 08-308

11 **HOWARD D. HINSON, JR.**  
12 Superior Court  
13 Yavapai County  
14 State of Arizona

**RESPONDENT'S RESPONSE TO  
CHARGES**

15 Respondent.

16 Pursuant to Rule 25(a) of the Rules of the Commission on Judicial Conduct,  
17 Respondent Judge Howard D. Hinson, Jr., through undersigned counsel, hereby  
18 responds to the Statement of Charges filed on March 10, 2009 (the "Charges").  
19 Respondent is an honest, hard-working judge, who is active and well-respected in the  
20 Yavapai County community. He has always strived to discharge his judicial duties  
21 with the utmost attention, fairness, and integrity. Respondent acknowledges,  
22 however, that he has not always resolved the matters he has taken under advisement  
23 within the sixty days prescribed by Article 6, section 21 of the Arizona Constitution.  
24 He takes responsibility for and sincerely regrets any negligence in failing to  
25 administer the matters brought before him within the prescribed time period. In  
26 addition, Respondent acknowledges and regrets his negligence in submitting  
inaccurate salary certifications. He has, since the time the underlying complaint in  
this case was submitted to the Commission on Judicial Conduct ("Commission"),

1 instituted and diligently followed administrative procedures that ensure prompt  
2 rulings in all matters and submission of accurate salary certifications.

3 1. Answering paragraph 1 of the Charges, Respondent admits that the  
4 Commission has jurisdiction to pursue disciplinary proceedings against judges.

5 2. Answering paragraph 2 of the Charges, Respondent admits that the  
6 Charges were filed.

7 3. Answering paragraph 3 of the Charges, Respondent admits that he  
8 served as a full-time *pro tempore* superior court judge from 1996 until 2004. In  
9 February 2004, Respondent was appointed by Governor Napolitano to serve as a full-  
10 time superior court judge in Yavapai County. In November 2004, he was elected, and  
11 in November 2008 reelected, to the same post. Respondent admits that he was  
12 serving as a judge at all times relevant to the allegations in the Charges.

13 4. Answering paragraph 4 of the Charges, Respondent admits that he is  
14 subject to the Code of Judicial Conduct.

### 15 **COUNT I**

16 5. Answering paragraph 5 of the Charges, Respondent admits that in Case  
17 01-203 the Commission informally reprimanded him for a nine-month delay in ruling  
18 on a petition for post-conviction relief. Respondent also admits that the Commission  
19 “urge[d] [him] to rule on motions at [his] very earliest opportunity so as to avoid the  
20 possibility of delays.” Respondent regrets the delay in issuing this ruling, and, in a  
21 letter to the Commission dated December 10, 2001, Respondent accepted  
22 responsibility and apologized to the petitioner for the delay.

23 6. Answering paragraph 6 of the Charges, Respondent admits that in Case  
24 02-018 the Commission informally reprimanded him for an eighteen-month delay in  
25 ruling on another petition for post-conviction relief. Respondent also admits that the  
26 Commission’s reprimand letter stated that his “dilatatory handling of this matter [was]

1 unjustifiable.” Respondent regrets the delay in issuing this ruling and in a letter to the  
2 Commission dated February 28, 2002, Respondent accepted responsibility and  
3 apologized to the petitioner for the delay. Respondent asserts now, as he did then,  
4 that the delay in issuing the ruling was due primarily to Respondent’s effort to give  
5 the important and complex issues raised in the petition the full and considered  
6 attention they deserved.

7         7.         Answering paragraph 7 of the Charges, Respondent admits that in Case  
8 04-059 the Commission informally reprimanded him. Respondent states that the  
9 Commission’s reprimand letter speaks for itself. Respondent asserts, however, as he  
10 did in his letter to the Commission dated March 31, 2004, that he engaged in no  
11 misconduct in the underlying case involved in Case 04-059. Respondent’s conduct  
12 can be characterized, *at worst*, as inadvertent oversights in making clear records of his  
13 rulings on a few of the numerous motions and petitions filed in this lengthy,  
14 contentious, and emotionally-charged case. Nevertheless, Respondent regrets that any  
15 oversights may have caused confusion for the parties in this case.

16         8.         Answering paragraph 8 of the Charges, Respondent states that the  
17 Commission’s reprimand letters speak for themselves. Respondent admits that,  
18 subsequent to receiving the Commission’s reprimand letters, he sometimes neglected  
19 to issue rulings within the sixty days required by Arizona Constitution Article 6,  
20 section 21. Respondent never intentionally or knowingly extended the time for  
21 rulings on matters submitted to him, however, and was committed at all times to give  
22 each matter before him the careful and reasoned consideration it deserved. Any late  
23 rulings were the product of Respondent’s being overwhelmed with the volume of  
24 filings in cases on the court’s civil calendar, which he began handling in 2006, and his  
25 neglecting to develop appropriate office procedures to ensure prioritization of matters  
26 according to the dates he took them “under advisement.” Since the underlying

1 complaint in this case was filed with the Commission, Respondent has made  
2 improvements in the administration of his chambers, with particular attention to  
3 ensuring that matters are resolved within the required sixty days. Now, "Under  
4 Advisement Reports" are generated by Respondent's judicial assistant to reflect the  
5 day each matter was taken under advisement and the day the sixty-day period will  
6 expire. Respondent's chambers also reviews each week's rulings on a weekly basis to  
7 be sure the Under Advisement Report accurately represents the matters Respondent  
8 took under advisement. In addition, Respondent's judicial assistant has been  
9 instructed to schedule time on Respondent's calendar for consideration and resolution  
10 of a matter when the sixty-day deadline is approaching. As an additional check,  
11 Respondent's electronic calendar program is set to remind him at thirty and forty-five  
12 days after a matter has been taken under advisement.

13           9.       Answering paragraph 9 of the Charges, Respondent states that Article 6,  
14 section 21 of the Arizona Constitution, Arizona Revised Statutes ("A.R.S.") section  
15 11-424.02(A), and Rule 91(e) of the Rules of the Supreme Court of Arizona speak for  
16 themselves. Respondent asserts, however, that A.R.S. section 11-424.02(A) applies  
17 only to justices of the peace and therefore does not apply to this case. Respondent  
18 states that A.R.S. section 12-128.01(A) is the analogous provision that applies to  
19 superior court judges. Respondent admits that, in 2006, he issued eight rulings more  
20 than sixty days after he took the respective matters under advisement. Specifically, in  
21 the cases indicated below, Respondent issued rulings more than sixty days after taking  
22 the matters under advisement; the time period for issuing each ruling exceeded sixty  
23 days by the number of days indicated:

24	CV-20060197:	28 days
25	DO-20040255:	25 days
26	CV-20040252:	51 days

1 CV-20040889: 66 days  
2 CV-20050515: 8 days  
3 DO-20060448: 14 days  
4 DO-9970454: 36 days

5 In case number CV-20050532, Respondent took a matter under advisement on August  
6 3, 2006, and issued his ruling on January 16, 2007, exceeding sixty days by 106 days.  
7 The delay in issuing these rulings was due in part to the personal and professional  
8 challenges faced by Respondent commencing sometime during the spring of 2006.  
9 Among these challenges, which are described further below, was Respondent's  
10 father's advancing Alzheimer's disease and subsequent death, as well as the  
11 significant responsibility Respondent had for administering his father's estate. In  
12 addition, also in the spring of 2006, Respondent was reassigned from a criminal  
13 calendar to a civil calendar. As both a practicing attorney and a judge, Respondent  
14 had much less experience with civil commercial litigation and was literally  
15 overwhelmed with the dramatic increase in the volume of filings and complexity of  
16 cases on his new calendar. With no appropriate case management system in place,  
17 this workload quickly caught up with Respondent, and he proceeded diligently and in  
18 good faith and issued rulings without reference to when each matter had been taken  
19 under advisement.

20 10. Answering paragraph 10 of the Charges, Respondent admits that, in  
21 2007, he issued nine rulings more than sixty days after he took the respective matters  
22 under advisement. Specifically, in the cases indicated below, Respondent issued  
23 rulings more than sixty days after taking the matters under advisement; the time  
24 period for issuing each ruling exceeded sixty days by the number of days indicated:

25 CV-20051175: 23 days  
26 CV-20050267: 29 days

1 CV-20041053: 101 days  
2 CV-20050837: 92 days  
3 CV-20051019: 23 days  
4 CV-20060209: 66 days  
5 CV-20060641: 66 days

6 In case number PB-20060071, Respondent took a matter under advisement on  
7 February 12, 2007, additional materials were submitted to him on February 23, 2007,  
8 and he issued a ruling on July 16, 2007, exceeding sixty days after the later  
9 submission by 83 days. In case number CV-20061277, Respondent took a matter  
10 under advisement on April 10, 2007, and issued his ruling on July 16, 2007,  
11 exceeding sixty days by 37 days.

12 11. Answering paragraph 11 of the Charges, Respondent admits that, in  
13 2008, he issued eight rulings more than sixty days after he took the respective matters  
14 under advisement. Specifically, in the cases indicated below, Respondent issued  
15 rulings more than sixty days after taking the matters under advisement; the time  
16 period for issuing each ruling exceeded sixty days by the number of days indicated:

17 CV-20070916: 23 days  
18 CV-20060617: 17 days  
19 CV-20060837: 27 days  
20 CV-20070489: 27 days  
21 DO-20060917: 61 days  
22 DO-20080107: 16 days

23 In case number CV-20050640, Respondent took a matter under advisement on  
24 November 15, 2007, and issued his ruling on April 15, 2008, exceeding sixty days by  
25 92 days. In case number CV-20060566, Respondent took a matter under advisement  
26

1 on January 15, 2008, and issued his ruling on April 11, 2008, exceeding sixty days by  
2 30 days.

3 12. Answering paragraph 12 of the Charges, Respondent states that the  
4 Canons of Judicial Conduct and *In re Braun*, 180 Ariz. 240, 241, 883 P.2d 996, 997  
5 (1994), speak for themselves. Respondent recognizes that it is not within his  
6 authority, but within the authority of the Commission's hearing panel or hearing  
7 officer, to determine whether Respondent's conduct, as described above, constitutes  
8 violations of the Canons of Judicial Conduct specified in paragraph 12 of the Charges.  
9 The Code of Judicial Conduct also assigns to the hearing panel or hearing officer the  
10 power to make specific recommendations regarding sanctions, if appropriate, in light  
11 of mitigating facts, which are discussed elsewhere in this Response.

## 12 COUNT II

13 13. Answering paragraph 13 of the Charges, Respondent states that A.R.S.  
14 section 12-128.01(A) speaks for itself.

15 14. Answering paragraph 14 of the Charges, Respondent admits that,  
16 between September and December 2006, he submitted three inaccurate monthly  
17 salary certifications, on October 29, November 8, and December 12. Respondent  
18 further admits that he collected his salary for each of those three months. Respondent  
19 denies the remaining allegations in paragraph 14. In addition, Respondent states that  
20 the judicial monthly salary certifications signed by him are neither "affidavits," nor  
21 sworn statements, nor statements made under penalty of perjury. Respondent further  
22 states that he never intentionally or knowingly submitted inaccurate salary  
23 certifications. Rather, as described more fully below, his submission of inaccurate  
24 certifications was, at most, negligent. *See In re Creede*, 729 P.2d 79, 79, 42 Cal.3d  
25 1098, 1099 (1986) (concluding that the court's order itself was the appropriate  
26 sanction when a "diligent, hardworking and highly respected judge" filed inaccurate

1 salary certifications because the judge did not knowingly falsify the certifications and  
2 “did not intentionally or maliciously disregard his adjudicative responsibilities”); *cf.*  
3 *In re White-Steiner*, 219 Ariz. 323, --- ¶ 15, 198 P.3d 1195, 1198 (2009) (defining and  
4 distinguishing negligent and knowing misconduct in the context of lawyer discipline).

5 15. Answering paragraph 15 of the Charges, Respondent admits that, in  
6 2007, he submitted three inaccurate monthly salary certifications, on April 2, May 8,  
7 and June 7. Respondent states that he collected his salary for each of those three  
8 months. Respondent regrets his negligence in submitting these inaccurate  
9 certifications. Yet, Respondent’s review of his pending matters under advisement  
10 rarely coincided with submission of his monthly salary certifications. Instead,  
11 Respondent was prompted to review his matters under advisement only when the  
12 clerk of the court issued court-wide quarterly reports of submitted matters. The one  
13 time Respondent was consciously aware that he could not truthfully make the required  
14 certification, he delayed signing it until he resolved those cases that had been under  
15 advisement for more than sixty days. This occurred in July 2007, when the clerk’s  
16 quarterly report for the second quarter of 2007 showed that Respondent had seven  
17 overdue rulings. Respondent delayed his certification for July 2007 until after he  
18 resolved the pending matters.

19 16. Answering paragraph 16 of the Charges, Respondent states that, in  
20 2008, he submitted five inaccurate monthly salary certifications, on January 25,  
21 March 10, March 27, August 11, and September 9. Again, Respondent regrets his  
22 negligence in submitting these inaccurate certifications. He has now put in place  
23 procedures to prevent future inaccurate certifications. Specifically, before  
24 Respondent signs a salary certification, he reviews his current Under Advisement  
25 Report maintained by him and his judicial assistant to determine whether any matters  
26 remain pending past the sixty-day mark. Attached as **Exhibit A** are Respondent’s

1 salary certifications for February, March, and April 2009, along with the  
2 corresponding Under Advisement Report for each certification.

3 17. Answering paragraph 17 of the Charges, Respondent states that the  
4 Canons of Judicial Conduct, *In re Weeks*, 134 Ariz. 521, 525, 658 P.2d 174, 178  
5 (1983), Judicial Ethics Advisory Opinion 92-10 (1992), and *In re Jensen*, 24 Cal. 3d  
6 72, 593 P.2d 200 (1978), speak for themselves. Respondent recognizes that it is not  
7 within his authority, but within the authority of the Commission's hearing panel or  
8 hearing officer, to determine whether Respondent's conduct, as described above,  
9 constitutes violations of the Canons of Judicial Conduct specified in paragraph 17 of  
10 the Charges. The Code of Judicial Conduct also assigns to the hearing panel or  
11 hearing officer the power to make specific recommendations regarding sanctions, if  
12 appropriate, in light of mitigating facts, which are discussed elsewhere in this  
13 Response.

### 14 **COUNT III**

15 18. Answering paragraph 18 of the Charges, Respondent admits that until  
16 December 2008 he neglected to institute a comprehensive administrative case tracking  
17 system to ensure that he ruled on matters within the time period prescribed by Arizona  
18 Constitution Article 6, section 21 and to ensure that he reviewed outstanding matters  
19 under advisement before submitting his monthly salary certifications. Respondent  
20 regrets his failure to institute a comprehensive administrative case tracking system  
21 when he assumed his position as a trial court judge, but asserts that his failure to do so  
22 was due to negligence and was not intentional or knowing misconduct. After the  
23 complaint in this case was submitted to the Commission, Respondent instituted a  
24 comprehensive administrative case tracking system and has diligently followed such  
25 procedures. Respondent is now current on all matters before him. Attached as  
26

1 **Exhibit B** are the court clerk's quarterly reports for the last quarter of 2008 and the  
2 first quarter of 2009, showing no matters pending past sixty days.

3 19. Answering paragraph 19 of the Charges, Respondent states that the  
4 Code of Judicial Conduct and *In re Braun*, 180 Ariz. 240, 241, 883 P.2d 996, 997  
5 (1994), speak for themselves. Respondent recognizes that it is not within his  
6 authority, but within the authority of the Commission's hearing panel or hearing  
7 officer, to determine whether Respondent's conduct, as described above, amounts to  
8 violations of the Canons of Judicial Conduct specified in paragraph 19 of the Charges.  
9 The Code of Judicial Conduct also assigns to the hearing panel or hearing officer the  
10 power to make specific recommendations regarding sanctions, if appropriate, in light  
11 of mitigating facts, which are discussed elsewhere in this Response.

12 20. Answering paragraph 20 of the Charges, Respondent states that Arizona  
13 Constitution Article 6.1, section 4 speaks for itself.

14 21. Answering paragraph 21 of the Charges, Respondent admits that  
15 previous reprimands by the Commission, discussed in paragraphs 5 through 8 above,  
16 may be considered by the hearing panel or hearing officer in making  
17 recommendations on discipline.

18 22. Respondent denies any allegation in the Charges that Respondent has  
19 not expressly admitted in this Response.

#### 20 **MITIGATING FACTS**

21 23. At all times relevant to the Charges, Respondent has taken his oath of  
22 office and responsibility as a jurist seriously and has acted in the utmost good faith.  
23 He was and is committed to discharging his judicial duties with integrity and fairness.

24 24. Respondent acknowledges and takes full responsibility for his  
25 negligence in failing earlier to develop appropriate office procedures to ensure that  
26

1 matters were resolved within sixty days and to ensure that his monthly salary  
2 certifications were accurate.

3         25. Respondent has taken corrective action. He is now current on all  
4 matters pending before him and has instituted several layers of administrative checks  
5 to prevent untimely rulings and inaccurate certifications.

6         26. Respondent's untimely rulings and inaccurate salary certifications  
7 reflect, at most, negligent conduct. Though not excusable, Respondent's improper  
8 conduct was never intentional or knowing. *Cf. In re White-Steiner*, 219 Ariz. 323, ---  
9 ¶ 15, 198 P.3d 1195, 1198 (2009) (stating in lawyer discipline case that misconduct is  
10 negligent when a lawyer "fails to heed a substantial risk that circumstances exist or  
11 that a result will follow, which failure is a deviation from the standard of care that a  
12 reasonable lawyer would exercise in the situation" and that knowing misconduct  
13 "requires the *conscious awareness* . . . that [the lawyer's] conduct does not conform to  
14 the requirements" of the rules allegedly violated) (emphasis added) (citations and  
15 internal quotation marks omitted).

16         27. Beginning around spring of 2006, personal and professional challenges  
17 arose that contributed to Respondent's failing to rule on matters within the required  
18 sixty days. By that time, the health of Respondent's father had been deteriorating for  
19 some time due to Alzheimer's disease. Respondent's stepmother, elderly herself,  
20 suffered a fall during the 2005 holidays and could no longer provide her husband with  
21 the care he required. By the spring of 2006, the progression of his father's disease  
22 and the state of his stepmother's health left Respondent and his siblings no choice but  
23 to place his father in an assisted living facility. The difficulty of this decision for  
24 Respondent was heightened because his father had been a successful businessman and  
25 his deteriorated condition marked a substantial and disheartening decline from his  
26 earlier abilities and activities. Unfortunately, although the disease caused his father to

1 be disoriented and forgetful much of the time, he was sufficiently aware of his new  
2 situation to be displeased and depressed. Respondent's father died just a few months  
3 later in July 2006, and Respondent was then required to assume and discharge  
4 significant responsibility for his administering his father's complicated estate.  
5 Adding to the family's emotional and logistical burdens, at the end of 2005, the father  
6 of Respondent's wife also fell ill from pulmonary disease and after some time in the  
7 hospital was discharged to hospice care. He was expected to survive only a short  
8 time, but lived in hospice for over a year. In retrospect, Respondent recognizes that  
9 the combined effect of these personal problems undoubtedly adversely affected his  
10 mental state and his lack of efficiency in dealing with his workload, which increased  
11 in volume and complexity around the same time.

12         28. The spring of 2006 also brought a major change in Respondent's  
13 judicial service, when his assignment changed from a criminal to a civil calendar.  
14 Until that time, as both a practicing lawyer and a judge, Respondent had little  
15 experience with civil commercial litigation. He had begun his legal career in 1976  
16 with the Yavapai County Attorney's Office. After about two years, he went into  
17 private practice as a sole practitioner and handled primarily criminal defense,  
18 domestic relations, and family law cases. Eventually, his practice became more  
19 focused in the areas of juvenile dependency, child custody, and adoption matters until  
20 he took the bench in 1996. At the present time, Respondent handles fifty percent of  
21 the civil, domestic relations, and probate matters in the Prescott District of Yavapai  
22 County, and he presides over drug court every other Tuesday. As a result of the  
23 change in the nature of his caseload, Respondent was overwhelmed with the dramatic  
24 increase in the volume of filings and complexity of cases on his new calendar.  
25 Because of his inexperience with civil commercial matters, Respondent was ill-  
26 equipped to accurately estimate the time burdens implicated by cases on his new

1 calendar or to put in place administrative procedures to ensure that matters were  
2 prioritized and consistently handled in a timely manner. Like Respondent, his judicial  
3 assistant had little experience with civil litigation, and neither had any specific  
4 training or orientation pertinent to the administrative aspects of the case-calendar  
5 system. Thus, they together tried to navigate the difficulties of a civil calendar as  
6 neophytes, placing great dependence on the guidance of Judge Mackey and his  
7 judicial assistant, who handle the other half of the civil calendar in the Prescott  
8 District of Yavapai County and who were as helpful as possible.

9       29. With no reliable system in place to manage it, the heavy workload  
10 quickly caught up with Respondent. Files that required his consideration for one  
11 reason or another began piling up on every surface in his office, with no rhyme or  
12 reason as to when or if they had been taken “under advisement” for purposes of the  
13 sixty-day rule. Respondent now recognizes that while he was properly focused on  
14 giving each case the careful and reasoned consideration it deserved, he did not  
15 concurrently ensure that his decisions complied with the sixty-day rule. He was  
16 prompted to take the rule into account only when he received the court clerk’s  
17 quarterly reports.

18       30. Respondent’s signing of his salary certifications rarely coincided with  
19 his consideration of the clerk’s quarterly reports. Typically, Respondent’s chambers  
20 would receive a monthly phone call from the state payroll administrator asking him to  
21 sign and fax the certification as soon as possible. Otherwise, Respondent’s judicial  
22 assistant would usually include a certification within a folder of administrative  
23 paperwork that required signatures from Respondent. On those occasions when  
24 Respondent signed an inaccurate certification, he had no conscious awareness of his  
25 error because he did not then review each pending case to determine whether it had  
26 been “under advisement” for more than sixty days. Rather, his failure to institute

1 appropriate office procedures caused his tardiness in resolving cases and related  
2 negligence in signing the inaccurate certifications.

3 31. The one time Respondent was consciously aware that he could not  
4 truthfully make the required certification, he delayed signing it until he resolved those  
5 cases that had been under advisement for more than sixty days. The clerk's quarterly  
6 report for the second quarter of 2007 showed that Respondent had seven overdue  
7 rulings. After receiving the report in late June 2007, Respondent set himself to the  
8 task of their timely resolution. Around July 16, fearing he could not meet this goal  
9 within a reasonable time, Respondent went so far as to draft a letter to Chief Justice  
10 McGregor asking her to grant him an extension. Instead of completing delivery of the  
11 letter to the Chief Justice, Respondent further delayed his certification for several  
12 more days until after he resolved the pending matters.

13 32. Respondent's good character is reflected in his service to the  
14 community. He is an Air Force veteran, has served as a judge for over a decade, and  
15 has contributed to his community in numerous other ways. Respondent's professional  
16 contributions include service as a member of a State Bar Discipline Committee,  
17 officer of the Yavapai County Bar Association, and member of the State Foster Care  
18 Review Board. He was a charter member of the Arizona Attorneys for Criminal  
19 Justice, a member of the National Association of Counsel for Children, and a resource  
20 member of the Arizona Supreme Court Commission on Juvenile Justice. He is  
21 presently a member of the National and Arizona Associations of Drug Court  
22 Professionals.

23 33. Respondent has also been active in his community in non-legal settings.  
24 He served for many years on the Board of Directors of the Yavapai Rehabilitation  
25 Center (now known as Yavapai Exceptional Industries), an organization that provides  
26 meaningful employment opportunities for disabled adults. He was on the Board of

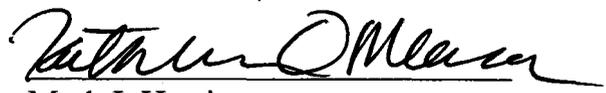
1 Directors for Little League of Prescott for several years and also officiated at high  
2 school baseball and basketball games under the auspices of the Arizona  
3 Interscholastic Association. In fact, the Yavapai County Bar Association honored  
4 Respondent in 2005 with the Honorable Jack L. Ogg Award, given in appreciation of  
5 Respondent's "promoting a positive image of lawyers to the general public through  
6 his exemplary community service in activities outside of the legal profession."

7 34. In addition, Respondent has an excellent reputation in the Yavapai  
8 County community and is held in high regard by prominent members of the Yavapai  
9 County bench and bar.

10 35. As noted above, Respondent has taken corrective action to remedy his  
11 previous inefficiencies. He remains committed to discharging his duties as carefully  
12 and efficiently as possible for the remainder of his term.

13 RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of April, 2009.

14 OSBORN MALEDON, P.A.

15 By   
16 Mark I. Harrison  
17 Kathleen O'Meara  
18 2929 N. Central Ave., Suite 2100  
19 Phoenix, Arizona 85012-2793  
Attorneys for Respondent

20 ORIGINAL of the foregoing filed  
21 this 15<sup>th</sup> day of April, 2009, with:

22 Commission on Judicial Conduct  
23 1501 W. Washington, Suite 229  
Phoenix, AZ 85007-3329

24 ...

25 ...

26 ...

1 COPY of the foregoing mailed  
2 this 15<sup>th</sup> day of April, 2009, to:

3 Linda Haynes  
4 Disciplinary Counsel  
5 Commission on Judicial Conduct  
6 1501 W. Washington St., Suite 229  
7 Phoenix, AZ 85007

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Patricia D. Palmer

# Exhibit A

**Arizona Supreme Court**  
ADMINISTRATIVE OFFICE OF THE COURTS

**SUPERIOR COURT JUDICIAL CERTIFICATION**

Pursuant to A.R.S. §12-128.01, I, the undersigned Superior Court judge, certify to the following designated matters, as of the effective date indicated below:

Section 1:

No cause has been submitted to me for decision which remains pending and undetermined for sixty days or more since the date of submission for decision.

Section 2:

The Chief Justice of the Arizona Supreme Court has certified that I have been physically disabled during the preceding sixty days.

Section 3:

The Chief Justice of the Arizona Supreme Court has certified that good and sufficient cause exists to suspend the application of A.R.S. § 12-128.01 in the following pending litigation (identify by name and case number):

Except for the litigation identified above, no cause that has been submitted to me for decision remains pending and undetermined for sixty days or more since the date it was submitted for decision, and to the best of my knowledge, no such cause will be pending and undetermined on the dates my salary warrants or checks are issued during the month of February 2009

  
(Signature)

Name: Howard D. Hinson, Jr.

Effective Date: February 2, 2009

Under Advisement Summary Report for February 2, 2009

<b>Case Number</b>	<b>Name</b>	<b>Issue</b>	<b>Ruling Due Date</b>
CV 2005-0077	Adams v Bullard	Atty Fees/Costs	2/13/09
CV 2007-0031	First American v Sutton Bros.	MSJ/Mot. To Strike	2/16/09
DO 2002-0463	Nagle v Nagle	Contempt/Sanctions	2/19/09
DO 2007-0551	Mays v Mays	MSJ	3/16/09
DO 2006-1063	Hansen v Hansen	Trial	4/20/09

**Arizona Supreme Court**  
**ADMINISTRATIVE OFFICE OF THE COURTS**

**SUPERIOR COURT JUDICIAL CERTIFICATION**

Pursuant to A.R.S. §12-128.01, I, the undersigned Superior Court judge, certify to the following designated matters, as of the effective date indicated below:

Section 1:

No cause has been submitted to me for decision which remains pending and undetermined for sixty days or more since the date of submission for decision.

Section 2:

The Chief Justice of the Arizona Supreme Court has certified that I have been physically disabled during the preceding sixty days.

Section 3:

The Chief Justice of the Arizona Supreme Court has certified that good and sufficient cause exists to suspend the application of A.R.S. § 12-128.01 in the following pending litigation (identify by name and case number):

Except for the litigation identified above, no cause that has been submitted to me for decision remains pending and undetermined for sixty days or more since the date it was submitted for decision, and to the best of my knowledge, no such cause will be pending and undetermined on the dates my salary warrants or checks are issued during the month of March 2009.

  
(Signature)

Name: Howard D. Hinson, Jr.

Effective Date: March 5, 2009

Under Advisement Summary Report for March 5, 2009

<b>Case Number</b>	<b>Name</b>	<b>Issue</b>	<b>Ruling Due Date</b>
CV 2008-0151	Edington v Yavapai County	Rule 59/60 Motion	3/31/09
DO 2008-0935	White v White	C/S, S/M, P/T	4/6/09
PB 2004-0269	Grace Welsh	"handwritten doc"	4/10/09
DO 2008-0805	Freeman v Freeman	C/S & S/M	4/13/09
DO 94-0805	Swain v Campa	C/S Enforcement	4/13/09
DO 94-0327	Lutkins v Lutkins	Child Support	4/13/09
DO 2008-0671	Spaulding v Spaulding	Equalization payment to Respondent	4/13/09
CV 2006-1051	Morgan v Demott	Motion for New Trial/Motion for Mistrial	4/14/09
DO 2003-1088	Corum v Marcinek	Modification of CS	4/20/09
DO 2006-1063	Hansen v Hansen	Trial	4/20/09
CV 2006-1001	Lang v Thompson	MSJ	4/27/09
CV 2008-0003	HD Whitecap v Cobblestone	MSJ (unopposed)	4/27/09

ADMINISTRATIVE OFFICE OF THE COURTS

SUPERIOR COURT JUDICIAL CERTIFICATION

Pursuant to A.R.S. §12-128.01.I, the undersigned Superior Court judge, certify to the following designated matters, as of the effective date indicated below:

Section 1:

No cause has been submitted to me for decision which remains pending and undetermined for sixty days or more since the date of submission for decision.

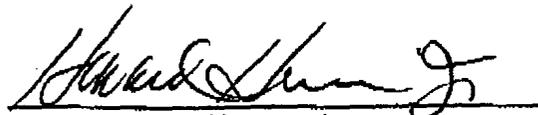
Section 2:

The Chief Justice of the Arizona Supreme Court has certified that I have been physically disabled during the preceding sixty days.

Section 3:

The Chief Justice of the Arizona Supreme Court has certified that good and sufficient cause exists to suspend the application of A.R.S. § 12-128.01 in the following pending litigation (identify by name and case number):

Except for the litigation identified above, no cause that has been submitted to me for decision remains pending and undetermined for sixty days or more since the date it was submitted for decision, and to the best of my knowledge, no such cause will be pending and undetermined on the dates my salary warrants or checks are issued during the month of April 2009.

  
(Signature)

Name: Howard D. Harrison, Jr.

Effective Date: April 6, 2009

**Under Advisement Summary Report for April 6, 2009**

<b>Case Number</b>	<b>Name</b>	<b>Issue</b>	<b>Ruling Due Date</b>
<b>DO 94-0327</b>	Lutkins v Lutkins	Child Support	<b>4/13/09</b>
<b>CV 2006-1051</b>	Morgan v Demott	Motion for New Trial/Motion for Mistrial	<b>4/14/09</b>
<b>DO 2003-1088</b>	Corum v Marcinek	Modification of CS	<b>4/20/09</b>
<b>DO 2006-1063</b>	Hansen v Hansen	Trial	<b>4/20/09</b>
<b>CV 2008-0983</b>	Benninghoff v Shoemake	Motion to Strike (unopposed)	<b>4/20/09</b>
<b>CV 2008-0003</b>	HD Whitecap v Cobblestone	MSJ (unopposed)	<b>4/27/09</b>
<b>CV 2008-1871</b>	FIA Card v Koval	MSJ (unopposed)	<b>5/5/09</b>
<b>CV 2008-0411</b>	Markham Contracting v Estates at Cherry Ridge	MSJ	<b>5/29/09</b>
<b>DO 2008-0143</b>	Colquitt v Lucero	Determination of CS	<b>5/26/09</b>
<b>CV 2004-0059</b>	Brogdon v COP	Motion for New Trial	<b>5/26/09</b>
<b>DO 2003-0271</b>	Windsor v Rodriguez	Modification of CS	waiting for state to prepare calculation
<b>CV 2008-0705</b>	Purush v Taylor	MSJ Re: Liability	Cnsl to supplement MSJ w/Affidavit & stmt of facts

**QUARTERLY REPORT OF SUBMITTED MATTERS**

Article VI, Section 21, of the Arizona Constitution:

“Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the date of submission thereof. The Supreme Court shall by rule provide for the speedy disposition of all matters not decided within such period.”

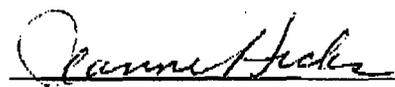
In accordance with the Arizona Constitution and Rule 77(j) of the Rules of Civil Procedure, the following is the report of all matters in this court submitted for decision sixty days or more prior to the date of this report and remaining undecided on the date of this report.

A matter is reported as submitted on the date when all that is required or permitted on the party of any party or his attorney has been completed, and disposition of the matter awaits only the decision of the court; that is, a matter is not submitted until all briefs or other papers ordered or permitted by the court have been filed, until all scheduled oral arguments have been heard, and until the transcripts of all testimony required to be reduced to writing have been filed.

<u>TITLE OF ACTION OR PROCEEDING</u>	<u>MATTER SUBMITTED</u>	<u>JUDGE TO WHOM SUBMITTED</u>	<u>DATE OF SUBMISSION</u>
--	-----------------------------	------------------------------------	-------------------------------

None

01/06/09  
Date of Report:

  
Clerk of the Superior Court  
County of Yavapai

Quarter Ending: December 31, 2008

Please mail this report before the 10<sup>th</sup> of day of January, April, July and October to the Administrative Director of the Courts, Attn. Payroll Office, 1501 W Washington, Suite 221, Phoenix, Arizona 85007.

NOTE: If there are no undecided matters, so indicate on the form and mail as above.  
R-3/91

COPY

# Exhibit B

**QUARTERLY REPORT OF SUBMITTED MATTERS**

Article VI, Section 21, of the Arizona Constitution:

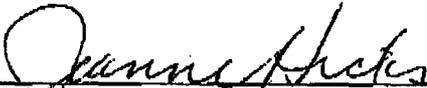
"Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the date of submission thereof. The Supreme Court shall by rule provide for the speedy disposition of all matters not decided within such period."

In accordance with the Arizona Constitution and Rule 77(i) of the Rules of Civil Procedure, the following is the report of all matters in this court submitted for decision sixty days or more prior to the date of this report and remaining undecided on the date of this report.

A matter is reported as submitted on the date when all that is required or permitted on the party of any party or his attorney has been completed, and disposition of the matter awaits only the decision of the court; that is, a matter is not submitted until all briefs or other papers ordered or permitted by the court have been filed, until all scheduled oral arguments have been heard, and until the transcripts of all testimony required to be reduced to writing have been filed.

<b>TITLE OF ACTION OR PROCEEDING</b>	<b>MATTER SUBMITTED</b>	<b>JUDGE TO WHOM SUBMITTED</b>	<b>DATE OF SUBMISSION</b>
None			

04/06/2009  
Date of Report:

  
Clerk of the Superior Court  
County of Yavapai

**Quarter Ending: March 31, 2009**

Please mail this report before the 10<sup>th</sup> of day of January, April, July and October to the Administrative Director of the Courts, Attn. Payroll Office, 1501 W Washington, Suite 221, Phoenix, Arizona 85007.

NOTE: If there are no undecided matters, so indicate on the form and mail as above.  
R-3/91

COPY

**FILED**

**MAY 07 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

1 Mark I. Harrison, 001226  
2 Kathleen O'Meara, 026331  
3 OSBORN MALEDON, P.A.  
4 2929 N. Central Avenue, Suite 2100  
5 Phoenix, Arizona 85012-2793  
6 (602) 640-9000

Attorneys for Respondent

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

9 Inquiry concerning Judge

Case No. 08-308

10 **HOWARD D. HINSON, JR.**

11 Superior Court  
12 Yavapai County  
13 State of Arizona

**WAIVER**

Respondent.

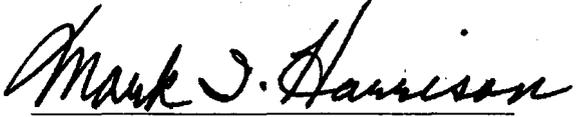
14 During the prolonged illness of disciplinary counsel, the executive director of  
15 the Commission on Judicial Conduct and counsel for the Respondent have  
16 communicated directly concerning the possibility of resolving the above-entitled  
17 matter by stipulated resolution. To that end, counsel has submitted a letter to the  
18 executive director setting forth the terms and conditions of a possible agreement that  
19 the executive director will discuss with the hearing panel in a special meeting called  
20 for that purpose during the commission's next regularly scheduled meeting on May 8,  
21 2009. Respondent understands that the executive director may discuss the various  
22 options available to the hearing panel but will not advocate a particular outcome in  
23 this case.

24 Accordingly, the Respondent hereby agrees that the executive director may  
25 appear before the hearing panel for this limited purpose without Respondent's counsel  
26 being present and hereby waives any and all issues concerning disqualification of the

1 hearing panel in any subsequent proceeding or hearing concerning this case. If the  
2 proposal is rejected, it shall be deemed withdrawn and cannot be used by or against  
3 the Respondent in any proceeding before the hearing panel.

4 RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of May, 2009.

5 OSBORN MALEDON, P.A.

6  
7 By 

8 Mark I. Harrison  
9 Kathleen O'Meara  
10 2929 N. Central Ave., Suite 2100  
11 Phoenix, Arizona 85012-2793  
12 Attorneys for Respondent

13  
14 **ORIGINAL** of the foregoing filed  
15 this 7<sup>th</sup> day of May, 2009, with:

16 Commission on Judicial Conduct  
17 1501 West Washington, Suite 229  
18 Phoenix, AZ 85007

19 and **COPY** hand-delivered to:

20 Linda Haynes, Disciplinary Counsel  
21 Commission on Judicial Conduct  
22 1501 West Washington, Suite 229  
23 Phoenix, AZ 85007

24 E. Keith Stott, Jr., Executive Director  
25 Commission on Judicial Conduct  
26 1501 West Washington, Suite 229  
Phoenix, AZ 85007



Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**MAY 11 2009**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>HOWARD D. HINSON, JR.</b>	)	
Superior Court	)	
Yavapai County	)	<b>MINUTE ENTRY</b>
State of Arizona	)	
	)	
Respondent.	)	

---

A meeting of the hearing panel in the above-entitled action convened at 2:35 p.m. on May 8, 2009, with the following panel members in attendance: Judge Louis Frank Dominguez, presiding member, Judge William Brammer, Stanley Furman, Judge Michael Miller, Angela Sifuentes, and Judge Lawrence Winthrop. E. Keith Stott, Jr., Executive Director of the Commission on Judicial Conduct, and Barbara Wanlass, clerk for the panel, were also present. A court reporter was not present.

The meeting was called to consider a letter dated May 1, 2009, by Mark I Harrison, counsel for the Respondent, in which he proposed that the judge be censured for his conduct or, in the alternative, that he be suspended 30 days or less effective October 1, 2009. Copies of the letter were distributed to the panel members.

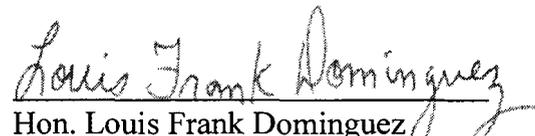
The members of the hearing panel discussed the terms of the proposal and considered the seriousness of the Respondent's conduct and the fact that the judge had previously been sanctioned for similar conduct. Panel members questioned the appropriateness of the proposed sanction and reviewed possible alternatives. Following a lengthy discussion, the panel unanimously agreed that

a suspension would be a more appropriate sanction for the judge's conduct in this case and, therefore, rejected the proposed censure.

The hearing panel also considered the proposed suspension of 30 days or less, effective October 1, 2009. The panel rejected this alternative, as worded, but agreed that if the judge is willing to accept a suspension he would be invited to appear at a public hearing on June 16, 2009, at which time the panel would hear testimony and consider mitigating and aggravating factors solely for the purpose of determining the appropriate length of the suspension. If the judge is not willing to accept a suspension under these conditions, then the undersigned presiding member will prepare a case management order setting forth the deadlines for the orderly resolution of the case. In the meantime, the executive director and counsel for the Respondent may continue to discuss or propose other alternatives.

Dated this 11th day of May 2009.

**FOR THE HEARING PANEL**

  
Hon. Louis Frank Dominguez  
Presiding Member

Copy of this pleading sent by e-mail  
on May 11, 2009, to:

Mark I. Harrison  
Attorney for Respondent  
2929 North Central Avenue, Suite 2100  
Phoenix, AZ 85012

By: 

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**JUN 16 2009**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>Howard D. Hinson, Jr.</b>	)	
Superior Court	)	
Yavapai County	)	<b>STIPULATED RESOLUTION</b>
State of Arizona	)	
	)	
Respondent	)	

---

COME NOW Judge Howard D. Hinson, Jr., Respondent, through his attorneys, Osborn Maledon, P.A. (Mark I. Harrison and Kathy B. O'Meara), and E. Keith Stott, Jr., Executive Director of the Commission on Judicial Conduct ("Commission"), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a superior court judge in Yavapai County since 1996 and was serving as a judge at all times relevant to the allegations contained herein.
3. As a judge, Respondent is and has been subject to the Code of Judicial Conduct ("Code") as set forth in Supreme Court Rule 81.

**BACKGROUND**

4. On March 10, 2009, Linda Haynes, then Disciplinary Counsel for the Commission, filed a formal Statement of Charges against Respondent after a duly appointed investigative

panel found reasonable cause to commence formal proceedings. The Statement of Charges is hereby incorporated into this stipulated agreement in its entirety.

5. On April 15, 2009, Respondent filed a Response to the Statement of Charges. The Response is hereby incorporated into this stipulated agreement in its entirety.

#### **MUTUAL CONSIDERATION**

6. Respondent admits to the conduct described in his Response and admits that his conduct violated the Code as alleged in paragraphs 12, 17, and 19 of the Statement of Charges.

7. The parties agree that resolving this matter by stipulation is in their mutual best interests and in the best interests of the judicial system.

#### **AGREED UPON SANCTION**

8. Respondent acknowledges that his misconduct warrants a formal sanction and that such misconduct might ordinarily warrant a suspension. In lieu of suspension, Respondent agrees to resign from his position as a superior court judge effective September, 30, 2009.

9. The Commission's Executive Director acknowledges Respondent's acceptance of responsibility for his misconduct, his cooperation with the Commission, his agreement to resign, and the mitigating circumstances detailed in the Response.

10. Based on the foregoing acknowledgments, the parties agree that the appropriate sanction is a censure.

#### **OTHER TERMS AND CONDITIONS**

11. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and fully resolves any complaints against Respondent, whether

pending or not, that arise out of or relate to the facts contained in the Statement of Charges and Response. This agreement may be used as evidence in later proceedings in accordance with the Commission's Rules. If the hearing panel does not accept this agreement as a full resolution, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without any use of this agreement.

12. Both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

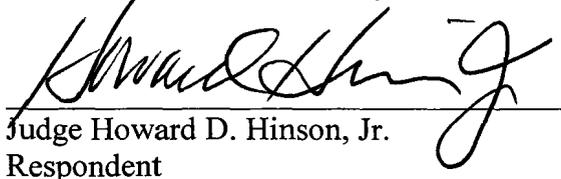
13. Both parties agree not to make any statements to the press that are contrary to the terms of this agreement.

14. Both parties will pay their own costs and attorneys' fees associated with this case.

15. Respondent clearly understands the terms and conditions of this agreement and fully agrees with its terms.

16. This agreement constitutes the complete understanding between the parties.

SUBMITTED this 16<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Judge Howard D. Hinson, Jr.  
Respondent

June 16, 2009  
\_\_\_\_\_  
Date Signed

  
\_\_\_\_\_  
Mark I. Harrison  
Kathy B. O'Meara  
Attorneys for Respondent

6/16/09  
\_\_\_\_\_  
Date Signed

  
\_\_\_\_\_  
E. Keith Stott, Jr., Executive Director  
Commission on Judicial Conduct

6/16/09  
\_\_\_\_\_  
Date Signed

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**JUN 25 2009**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 08-308
<b>HOWARD D. HINSON, JR.</b>	)	
Superior Court	)	
Yavapai County	)	<b>MINUTE ENTRY</b>
State of Arizona	)	
	)	Counsel Not Appearing
Respondent.	)	

---

The hearing panel in the above-entitled action convened by telephone at 12:30 p.m. on June 16, 2009, with the following members in attendance: Louis Frank Dominguez, presiding, J. William Brammer, Stanley Furman, Michael Miller, Angela Sifuentes, and Lawrence Winthrop. Also present were E. Keith Stott, Jr., and Barbara Wanlass, clerk of the commission.

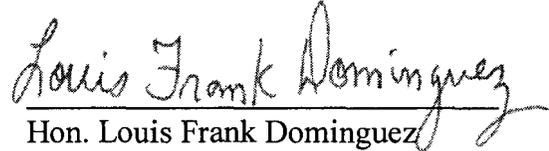
The meeting was called to consider the Stipulated Resolution jointly filed by E. Keith Stott, Jr. and Mark I Harrison, Respondent's counsel, on June 15, 2009, copies of which had been distributed to the panel members in advance of the meeting.

The members of the hearing panel discussed the terms of the agreement and considered the nature of the Respondent's conduct. Panel members noted that the agreement did not contain a provision governing future service as a judge and that the judge did not provide a letter of resignation. After further discussion, the panel unanimously approved the agreement on the condition that the judge will submit a letter to the Chief Justice of the Arizona Supreme Court, Yavapai County Board of Supervisors, or both, announcing his resignation from the bench, effective September 30, 2009.

Assuming that this condition is acceptable to the Respondent and the Executive Director, the hearing panel authorized the undersigned, as the presiding officer of the panel, to accept the amended stipulated agreement, with its attendant exhibit, and to issue an appropriate order concluding the case without further review by the members of the panel.

**DATED** this 25th day of June 2009.

**FOR THE HEARING PANEL**

  
Hon. Louis Frank Dominguez  
Presiding Member

Copy delivered via U.S. mail and transmitted via facsimile and e-mail on June 25, 2009, to:

Mark I. Harrison  
Osborn Maledon, P.A.  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2793

E. Keith Stott, Jr.  
Executive Director  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, AZ 85007

By: 

Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007-3327  
602-452-3200

**FILED**

**JUN 25 2009**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	Case No. 08-308
	)	
<b>HOWARD D. HINSON, JR.</b>	)	
Superior Court	)	
Yavapai County	)	<b>ORDER ACCEPTING</b>
State of Arizona	)	<b>STIPULATED RESOLUTION</b>
Respondent	)	
	)	

---

On June 16, 2009, the hearing panel in the above-entitled action met telephonically to consider a proposed Stipulated Resolution previously submitted by Respondent's counsel and the commission's executive director. The hearing panel approved the agreement on the condition that Respondent submit a letter of resignation as described in the Stipulated Resolution and authorized the undersigned presiding member to accept the agreement and sign a final order in the case without further meeting of the hearing panel. Counsel subsequently submitted a copy of a resignation letter which the undersigned has determined meets all of the terms and conditions previously approved by the hearing panel. Now, therefore,

**IT IS ORDERED** that the Stipulated Resolution is accepted as the final resolution of the case and that the Commission and the Clerk of the Commission shall proceed forthwith to prepare and file the hearing panel's recommendation with the Arizona Supreme Court.

DATED this 25th day of June 2009.

COMMISSION ON JUDICIAL CONDUCT

  
Judge Louis Frank Dominguez  
Presiding Member

Copies delivered and/or mailed this  
25th day of June 2009 to:

Mark I. Harrison,  
Counsel for the Respondent  
Osborn Maledon, P.A.  
2929 N. Central Avenue, Suite 2100  
Phoenix, AZ 85012

Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

By: Barbara Wentass

HOWARD D. HINSON, JR.  
JUDGE  
DIVISION 4



TELEPHONE  
(928) 771-3395  
FAX (928) 771-3575

## Arizona Superior Court

YAVAPAI COUNTY COURTHOUSE  
120 SOUTH CORTEZ STREET, #101  
PRESCOTT, ARIZONA 86301

June 17, 2009

Hon. Ruth V. McGregor, Chief Justice  
Arizona Supreme Court  
1501 West Washington  
Phoenix, AZ 85007-3231

Dear Justice McGregor:

I hereby tender my resignation, effective September 30, 2009, from the office of Arizona Superior Court Judge, Yavapai County Division 4.

It is, and has been, a privilege and honor to serve the citizens of my state and county, and this honorable court.

Thank you, sincerely,

A handwritten signature in cursive script that reads "Howard D. Hinson, Jr.".

Howard D. Hinson, Jr.  
Superior Court Judge

HDH:lr

cc: Hon. Jan Brewer, Governor of Arizona  
Mr. Thomas Thurman, Chairman, Board of Supervisors, Yavapai County  
Hon. Robert M. Brutinel, Presiding Judge, Yavapai County

Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200  
Facsimile: (602) 452-3201

**FILED**

**JUN 25 2009**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Supreme Court No. JC-09-0002
<b>HOWARD D. HINSON, JR.</b>	)	
Superior Court	)	Commission Case No. 08-308
Yavapai County	)	
State of Arizona	)	<b>RECOMMENDATION</b>
	)	
Respondent	)	

---

On March 10, 2009, the Commission on Judicial Conduct (“Commission”) filed a Statement of Charges against Superior Court Judge Howard D. Hinson, Jr. (“Respondent”) following a finding of reasonable cause by a three-member investigative panel assigned to oversee the investigation in this case. On March 11, 2009, the chairperson of the Commission appointed a six-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

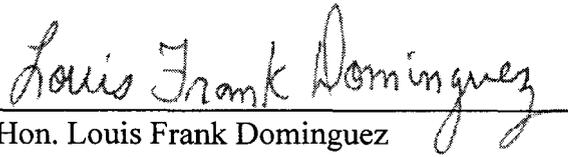
On April 15, 2009, counsel for Respondent filed a Response to the Charges, and on May 7, 2009, filed a waiver in which Respondent acknowledge the prolonged illness of disciplinary counsel and agreed that the Commission’s executive director could appear in her stead before the hearing panel without Respondent’s counsel being present for the purpose of discussing the terms and conditions of a possible stipulated resolution. The Respondent also waived any and all issues concerning disqualification of the hearing panel in any subsequent proceeding or hearing concerning this case.

Counsel for Respondent and the Commission's executive director submitted a Stipulated Resolution to the hearing panel on June 15, 2009, in which the Respondent agreed to accept a public censure for misconduct in office and to resign from judicial office, effective September 30, 2009, in lieu of a suspension under Art. 6.1, § 4, of the Arizona Constitution. The hearing panel unanimously accepted the Stipulated Resolution on June 16, 2009, on the condition that the Respondent submit the letter of resignation called for in the agreement. The Respondent complied with this condition, and the undersigned accepted the Stipulated Resolution on behalf of the hearing panel. (A copy of the resignation letter, the original of which remains in the possession of Respondent's counsel pending acceptance by the court, is attached as an exhibit.) As part of the agreement, the Respondent also waived his right to appeal and all other procedural rights set forth in Rule 29 of the Rules of the Commission on Judicial Conduct.

Accordingly, the hearing panel now recommends to the Arizona Supreme Court that the Respondent be censured for misconduct in office and that he be allowed to resign, effective September 30, 2009, in lieu of a suspension.

**RESPECTFULLY SUBMITTED** this 25th day of June 2009.

**FOR THE HEARING PANEL**

  
Hon. Louis Frank Dominguez  
Presiding Member

Copies of this pleading were delivered and mailed this 25th day of June 2009 to:

Mark I Harrison  
Counsel for Respondent  
2929 N. Central Avenue, Suite 2100  
Phoenix, AZ 85012-2793

By: 

HOWARD D. HINSON, JR.  
JUDGE  
DIVISION 4



TELEPHONE  
(928) 771-3395  
FAX (928) 771-3575

## Arizona Superior Court

YAVAPAI COUNTY COURTHOUSE  
120 SOUTH CORTEZ STREET, #101  
PRESCOTT, ARIZONA 86301

June 17, 2009

Hon. Ruth V. McGregor, Chief Justice  
Arizona Supreme Court  
1501 West Washington  
Phoenix, AZ 85007-3231

Dear Justice McGregor:

I hereby tender my resignation, effective September 30, 2009, from the office of Arizona Superior Court Judge, Yavapai County Division 4.

It is, and has been, a privilege and honor to serve the citizens of my state and county, and this honorable court.

Thank you, sincerely,

A handwritten signature in cursive script that reads "Howard D. Hinson, Jr.".

Howard D. Hinson, Jr.  
Superior Court Judge

HDH:lr

cc: Hon. Jan Brewer, Governor of Arizona  
Mr. Thomas Thurman, Chairman, Board of Supervisors, Yavapai County  
Hon. Robert M. Brutinel, Presiding Judge, Yavapai County