

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-315

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Complainant: Peter Cahill

Judge: Gary Goettman

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**ORDER**

Members of a justice of the peace's court staff made various complaints resulting in an investigation by the county. The complaints raised allegations of gender bias, improper workplace behavior and temperament, and inappropriate comments made during staff meetings.

After reviewing the allegations, the county investigation and attachments, and the judge's response, the commission finds that the justice of the peace in this case violated the Code of Judicial Conduct. Rule 1.2 of the Code requires judges to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." Rule 2.3 prohibits a judge from using words or engaging in conduct that manifests bias or prejudice on the basis of, among other characteristics, gender. Rule 2.8(B) requires a judge to be "patient, dignified, and courteous" to his court staff.

The judge made the following comment during a staff meeting: "Some of the most profane, manipulative and backstabbing people I've worked with have been women. Men tend to get physical and just hit you." Whatever Judge Goettman's subjective intent in making this statement, it objectively manifested gender bias in violation of Rule 2.3. Further, the judge's conduct in making this comment and in slamming his hand against the table in anger during another staff meeting similarly violated Rule 2.8(B).

Accordingly, Judge Gary Goettman is hereby reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judge's response, and this order shall be made public as required by Rule 9(a). The Commission also directs the judge to fully cooperate with the Administrative Office of the Courts in seeking to improve workplace conditions in his court.

Dated: February 27, 2013.

FOR THE COMMISSION

Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed  
to the complainant and the judges  
on February 27, 2013.

*This order may not be used as a basis for disqualification of a judge.*

NOV 27 2012

PETER J. CAHILL  
Presiding Judge



## SUPERIOR COURT – GILA COUNTY

1400 E. Ash St.  
GLOBE, ARIZONA 85501  
(928) 402-8686

November 26, 2012

Mr. George A. Riemer,  
*Arizona Commission on Judicial Conduct*

Re: Globe Regional Justice Court judge, The Hon. Gary Goettelman

Dear Mr. Riemer,

In September 2012, several staff members of the Globe Justice Court filed with the Gila County personnel department (“HR”) written complaints against Judge Gary Goettelman. Copies were forwarded to me. The three complaints are attached. HR’s investigation disclosed additional misconduct. The investigation report is enclosed. The complaints demonstrate a “substantial likelihood” that Judge Goettelman did commit violations of Rules 2.3 and 2.8 (B) of the *Arizona Code of Judicial Conduct*.

The employees allege these Code violations: (A) Judge Goettelman “manifest(ed) bias or prejudice,” in violation of Rule 2.3 (*Comment 2*, “*negative stereotyping*”). (B) Multiple violations of the Code requirement that judges exercise patience and act with dignity and courtesy to court staff, Rule 2.8 (B).

### THE EMPLOYEE CLAIMS

#### A. Negative Stereotyping

In a September 17, 2012 recorded statement, Judge Goettelman made certain characterizations of women and men who he has worked with. A recording of his statement is enclosed, along with judge’s “script.” Judge Goettelman’s statement to his all-female staff included the following:

Some of the most profane, manipulative and backstabbing people I’ve worked with have been women. Men tend to get physical and just hit you.

Staff members took offense to the judge's gender characterizations and filed complaints with HR. The HR investigator interviewed employees and the judge. Staff members reported that the remarks were "unprofessional," "unacceptable," insulting and offensive to women (*according to Ms. Alvino's complaint*); that with an all-female court staff, they "took it personal," they were "insulted," the comments "created a hostile work environment" and were a violation of the "judicial code of ethics" (*Ms. Mendez*); they felt "put down" (*Ms. Jones, according to the investigator's report*); and that the comments were felt to be "negative, derogatory, discriminative, insulting and offensive comments about women" (*The Hon. R. Baeza*).

Another complaint was that at an earlier, smaller staff meeting on September 13, 2012, Judge Goettman said: "women are foul, dirty and manipulative." Judge Baeza, a judicial officer in the Justice Court, wrote that Judge Goettman's comments were "negative, derogatory, discriminative, insulting and offensive." She was "shocked."

- Rule 2.3 requires that a judge perform the duties of judicial office, including administrative duties, without bias or prejudice. A judge must not manifest bias or prejudice based upon sex or gender. Comment 2 gives an example, "negative stereotyping."

### **B. Failure to Act with Patience, Dignity and Courtesy**

1. Court staff have reported certain conduct by Judge Goettman at a meeting of senior staff on September 13, 2012. Judge Goettman, Judge Baeza, Operations Manager, Ms. Mary Navarro, and Limited Jurisdiction Court Administrator Ms. Jacque Durbin, attended the meeting.

All report that Judge Goettman yelled and slammed his hand down on the conference table. This was directed at her, Ms. Navarro says and it made Judge Baeza feel intimidated and made Ms. Durbin so "scared" that she "jumped." Ms. Durbin says the judge "attacked" and "degraded" Ms. Navarro.

2. In addition, Judge Baeza, Ms. Durbin and other staff members, according to the county investigator's report, give these instances of Judge Goettman's lack of patience, dignity and courtesy:

**Mary Mendez** (*senior court clerk*): Judge Goettman has acted rudely to her: Instead of placing files on her already full desk, he "just dropped them on the floor next to her desk without a word and walked away." Judge Goettman makes staff

“feel stupid and inadequate.” He is “not happy with his female employees.” While watching the annual “county harassment-seminar video” portrayal of an “out of control employee,” she was reminded of Judge Goetteman. His yelling makes her “feel unsafe.” She asks, “If he admonishes women that much, why would I feel safe with him?”

**Judy Moss** (*court clerk*): While on the phone helping a citizen, Judge Goetteman yelled at her to get off the phone.

**Karrie Alvino** (*court clerk associate*): Judge Goetteman makes “rude comments” to staff when visitors are in the office, telling staff they are not paid to visit and to “take it outside.”

**Jonathan Bearup** (*former court clerk, now Superior Court deputy-clerk*): The discourteous manner in which Judge Goetteman spoke to staff and the negative work environment is “downright poisonous.”

**Mary Allen** (*clerk associate*): With Judge Goetteman, “it’s almost a hostile environment.”

- Rule 2.8 B requires that a judge will be patient, dignified, and courteous to court staff and court officials.

## “APPROPRIATE ACTION”

Rule 2.15 (C) requires, upon receipt of information indicating a substantial likelihood that a judge has committed violation of the Code, that I take “appropriate action.”

**A.** In deciding whether Code violations occurred, all the facts presented to me were considered. The credibility of two of the people involved, Judge Baeza and Mary Navarro, was especially important. *[I do not personally know the other employees.]*

Judge Baeza is a longtime *pro-tem* judge in the Globe Justice Court. She also serves as Town of Miami Magistrate and “Lead Court Clerk” in the Justice Court. Judge Baeza’s reputation as a judicial officer is impeccable. She is held in high regard in the court system. Judge Baeza is as temperate, level-headed and judicious as any judicial officer anywhere. She is patient and hard-working. She is reliable. In 2009, the prior justice of the peace (*Patricia Nolan*) was removed. In the months thereafter, Judge Baeza’s determination to improve court operations and her hard work were

reasons why the Chief Justice, AOC's Janet Johnson and I were pleased with how the operations of the Globe Justice Court were greatly improved.

Thus, when Judge Baeza reported that a judge made "discriminating, insulting and offensive comments" to her, when she says that a fellow judge has made her feel intimidated, I take it very seriously.

When the Chief Justice removed the prior JP, Patricia Nolan, in 2009, and placed the court under my direct control, Ms. Durbin (*now my Limited Jurisdiction Court Administrator*) and I greatly relied upon Ms. Navarro to administer the court. She is credible and reliable.

**B.** I met with Judge Goettman on November 9, 2012, hoping that he would agree on a way to address and remedy these Code violations.

The "appropriate action" that is required by the Code would have had to address and remedy the misconduct and include the following: appropriate acknowledgment by Judge Goettman of his Code violations; apologies (*approved by me*) to the complaining employees and all court staff, and agreed-upon management changes. Judge Goettman only denied dropping the files in the incident noted above. He neither expressed apologies nor regret for his conduct. He wanted to review the report of the county's investigation and go over this with his lawyer. However, I learned in a letter of November 15, 2012 from the lawyer, Mr. Little, copy attached, that Judge Goettman would not agree to this solution.

## INVESTIGATOR'S CONCLUSIONS

The county's investigator reported her thoughts that Judge Goettman's comments made September 13 and 17 "do not rise to the level of Sexual Harassment/Discrimination based on gender" and that the employees' harassment and discrimination claims were "unfounded." She acknowledged that Judge Goettman's comments were, as she put it, "misguided and unprofessional," particularly given the gender composition of the department and the historical problems at the Justice Court. Of course, Ms. Williams is not the final arbiter of Judicial Code violations.

## HISTORY

Similar complaints regarding Judge Goettman's conduct were made years ago when he was justice of the peace in Miami.

My predecessor, Judge Edward Dawson, reviewed findings that Judge Goettelman had "behaved in an overbearing, intimidating, and profane manner." As was the case here, the complainants were all women. *See* September 18, 1996 Memorandum, with report of investigation, enclosed. County administration had to take action "to protect ... female employees" in the Miami JP court, referring to Judge Goettelman's "complete disregard of the rights" of employees. *See* November 12, 1996 letter, enclosed. Judge Dawson brought this to the attention of the Commission.

## CONCLUSION

Management and personnel problems exist in the Globe Justice Court. However, Judge Goettelman's conduct has done nothing to constructively address these problems. His behavior has only made the problems worse. Nor is it acceptable conduct by an Arizona judicial officer.

If you need further information, please let me know.

Sincerely,

Enclosures

# **S** **STEVE** **LITTLE** **A S S O C I A T E S**

January 11, 2013

**JAN 11 2013**

Jennifer Perkins  
Commission on Judicial Conduct  
1501 W. Washington St.  
Suite 229  
Phoenix, AZ 85007

Re: Case No. 12-315 (Hon. Gary Goettelman)

Dear Members of the Commission:

Thank you for the opportunity to respond to the charges by staff members of the Globe Justice Court, forwarded to the Commission by Presiding Judge Peter Cahill. Thank you also for the extension of time provided to allow for the preparation of this response. I believe it is important to note that, per his November 16, 2012 email to me (attached as Exhibit A), Presiding Judge Cahill is alleging no violations of the Code against Judge Goettelman himself, but is simply forwarding on the allegations that were previously made by court staff. These charges arise out of lengthy and ongoing administrative staff difficulties experienced by the Globe Justice Court, dating back to well before Judge Goettelman was elected as Justice of the Peace for the Court. These staff difficulties have continued since Judge Goettelman's election to that position. The ongoing attempts by Judge Goettelman to establish policies and procedures for his court and maintain an acceptable level of accountability for the court staff has unfortunately resulted in these unfounded allegations being raised against Judge Goettelman. Judge Goettelman denies violating any of the Rules of the Code of Judicial Conduct, and an Independent Investigator retained by the county to investigate the allegations found no violations of the Code of Judicial Conduct. After reviewing this response and the attached exhibits, we believe that you will agree with Judge Goettelman and the Independent Investigator that Judge Goettelman has not violated any provisions of the Arizona Code of Judicial Conduct.

## **BACKGROUND AND CHRONOLOGY**

Judge Gary Goettelman was admitted to the practice law in Arizona 1986. He practiced actively until 1995, at which point he was elected as Justice of the Peace in Miami, Arizona. He served as the Miami Justice of the Peace from 1995 until 2000, when he temporarily retired from the practice of law. Prior to practicing law, Judge Goettelman served in the United States Air Force as a weather specialist and worked for many years as a registered nurse. He has worked in

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several supervisory and management positions, with the last significant position being in hospital administration, where he was in charge of overseeing the building and operation of 14 outpatient clinics. He has demonstrated management experience, and has provided training and supervision to a multicultural staff comprised of persons from 41 different nationalities. This experience has instilled in him an awareness and sensitivity to the many ethnic, racial, cultural and religious viewpoints that exist in a diverse society.

In 2010, Patti Nolan, the existing Globe Justice of the Peace, entered into a stipulation with the CJC stemming from her failure to properly manage the court. That stipulation required her to accept a public censure, resign from her position as a justice of the peace, and not to run for or accept appointment to any position as a judge or judicial officer at any time in the future. After becoming aware of the situation, Judge Goettman decided to run for the vacancy, as he felt he could bring the court back to proper operation. In November of 2010, Judge Goettman was elected as Justice of the Peace for the Globe Justice Court. He took office by appointment in November of 2010. When Judge Goettman took office at the Globe Justice Court, the court operations were in disarray. Many employees complained to Judge Goettman that other employees were not doing their jobs or were slacking off during business hours. Work was not getting done in a timely fashion.

One of the first things Judge Goettman did as Justice of the Peace was to hold a number of staff meetings at which he elicited ideas from the staff on how to rectify the situation and laid out his performance expectations on how he expected the staff, and the court, to operate. Judge Goettman believes that administratively, a court is a business operation and his management style was a stark contrast to his predecessor's, as he set performance standards and expectations that the staff was not previously held to. These standards included requirements that staff respect the taxpayers of Gila County by working the hours for which they are paid, doing so in an effective, efficient manner, and refraining from engaging in activities such as personal telephone calls and Internet computer time during working hours. Judge Goettman also expected that staff process consumer requests and needs in a timely manner. The staff was not accustomed to this level of accountability, and these changes resulted in a great deal of push-back from staff members, up to and including outright insubordination and the challenging of Judge Goettman's authority to supervise the court staff. When asked what their job duties were, at least one staff member informed Judge Goettman that it was "none of [his] business." The attempts by Judge Goettman to institute efficiency and organizational requirements at the court have been met with overt hostility, and we believe led to the staff members filing of unfounded sexual harassment and age discrimination charges against Judge Goettman.

Upon receipt of the charges made by the staff members, county administration retained an Independent Investigator to investigate and evaluate the allegations. That Investigator conducted a thorough investigation of the allegations and found them to be unfounded. A copy of her report of investigation is attached as Exhibit B. Subsequent to the investigation, county administration informed Judge Goettman that they would take no further action and considered the matter closed. A copy of that letter is enclosed as Exhibit C.

## THE SEPTEMBER 17, 2012 STAFF MEETING

After taking office as Justice of the Peace for the Globe Justice Court, Judge Goettman began holding staff meetings on a regular basis to address staff concerns and the difficulties the court was facing. The staff morale and attitude exhibited by some long term employees at these meetings was cynical, insubordinate and unproductive. Several staff members were caught up in interpersonal conflicts with each other and were quick to blame each other for the disorganized state of the justice court. Because of this, Judge Goettman stopped holding the staff meetings for a period of time, but eventually realized that he would need to continue to hold such meetings in order to effectively manage the court. Judge Goettman set another staff meeting, which took place on September 17, 2012. At the start of that meeting, Judge Goettman attempted to address the poor morale and attitude that had been experienced at the prior meetings and re-focus the staff into a more productive mentality that would allow them to get along and work towards a common goal of improving the operation of the justice court.

Complainants allege that at that meeting, Judge Goettman said "Some of the most profane, manipulative and backstabbing people I've worked with have been women. Men tend to get physical and just hit you." Judge Goettman was reading from a script he had prepared for the meeting, the meeting was openly recorded by Judge Goettman himself, and Judge Goettman does not deny that he said those words during the meeting. However, the words were not intended to stereotype, harass or embarrass anyone. The manner in which the statement is presented in the complaint has been taken grossly out of context. Those words were contained in the middle of several sentences in which Judge Goettman was explaining the history of problems he had dealt with in his prior employment and *actively soliciting the employees of the justice court to let him know if they were experiencing any difficulties or being mistreated by other employees*. The full statement was:

Let me stop here and make an observation: Some of the most profane, manipulative and backstabbing people I've worked with have been women. Men tend to get physical and just hit you. **I don't believe we have a significant problem here any longer but, administrators are frequently the last to know so don't hesitate to discuss that issue with me.** (Emphasis added)

At no time did Judge Goettman state or imply that *all women* are profane, manipulating or backstabbing, at no time did he state or imply that *women in general* are profane, manipulating or backstabbing, and at no time did he state or imply that the women in the room or under his supervision were profane, manipulating or backstabbing. Judge Goettman did nothing other than to explain his prior experience in resolving inter-employee disputes, and give by way of example that some of the people he had dealt with who exhibited those actions and/or traits had been women. A copy of the audio recording of this meeting is enclosed for the Committee's review as Exhibit D. To hear the quote in its proper context, we highly recommend

the Committee listen to the recording.

Notably, despite the contention that the Complainants felt harassed or highly offended by Judge Goettelman's statements, no protestation or negative audible response from them is found on the recording of the meeting. The meeting then continued for approximately another 15 minutes without any employee expressing any discomfort or complaint about Judge Goettelman's statements. After the fact, when Karrie Alvino wrote a letter stating she was insulted, hurt and offended, Judge Goettelman responded to her, explaining his statement and that his intent was to convey that if any of the staff experienced a staff problem, they should inform him. These letters are attached as Exhibit E. Judge Goettelman further explained in his letter reply to Karrie Alvino, where he stated, "For example, at the recent JP conference, a female JP told me that a staff member had finally told her that the court manager, while acting pleasant and nice when she, the JP, was present, the manager was hurtful and abusive to the staff outside of the JP's presence." Also of significance is the fact that female employees other than the Complainants who were present at the staff meeting did not find the comment offensive. Sue Williams told the Independent Investigator:

He pretty much told everybody that they need to start doing their jobs because there's a lot of visiting, there's a lot of people not getting their jobs done and he's kind of getting tired of it and I don't blame him... I don't think what he said was harassment, I think he was pretty much trying to tell them, get their work done and they're still not doing it.

The Independent Investigator hired by the County to investigate these allegations very carefully broke down the words used by Judge Goettelman, the context in which they were used, and their potential impact upon the listeners. Her analysis, while extremely comprehensive and detailed, will not be repeated fully here. Rather, the Committee is urged to review that analysis. She concluded that:

The preponderance of evidence does not establish that Mr. Goettelman was making a sweeping negative statement about all women, women in general, his staff in particular, or particular members of his staff. Further, there is no evidence that Mr. Goettelman displayed a pattern of making negative comments about women. The comments he made do not appear to be sufficiently severe to constitute harassment or discrimination based on gender, and comments of this type by Goettelman have not been pervasive, according to information received.

(Emphasis in original). The Independent Investigator did opine that Judge Goettelman's comment appeared to have been misguided, and that he could have more effectively dealt with the issue by not making any reference to gender at all. Judge Goettelman agrees with this analysis, and in retrospect, recognizes that he could have better communicated his thoughts through a different choice of words that would not be open to the interpretations Complainants have given them. To any extent Complainants were offended by Judge Goettelman's words, he wishes them to know that it was not his intention to so offend them and that he apologizes for any offense given.

## **THE SEPTEMBER 13, 2012 STAFF MEETING**

Complainants allege that during a meeting on September 13, 2012, with Manager Mary Navarro, Lead Clerk Rebecca Baeza and LJ Court Administrator Jacque Durbin, Judge Goettelman said that “women are foul, dirty and manipulative.” Judge Goettelman adamantly denies saying this or anything resembling such. The allegation that this occurred at the September 13, 2012 meeting appears for the first time in Presiding Judge Cahill’s letter, and appears to be a misinterpretation of the interview given to the Independent Investigator by Rebecca Baeza. On page 17 of the Report of Investigation, Rebecca Baeza indicates that Judge Goettelman asked her to record the meeting (which indicates it was the meeting of September 17, 2012, since that was the meeting that was recorded), and that Judge Goettelman said “...that women are the foulest, dirtiest, manipulative.” She went on to indicate, “He said men they, they just beat each other up, but women are foul, dirty, manipulative. Um, that I can remember.” It is clear that Ms. Baeza is referring to the September 17, 2012 staff meeting. As the Committee now has an audio recording of this meeting, you can easily confirm that Judge Goettelman did not say this. More importantly, this allegation is contradicted by the Complainants’ own statements. The Independent Investigator interviewed all four witnesses at the September 13, 2012 staff meeting, including Rebecca Baeza, and all four witnesses told the Independent Investigator that “Judge Goettelman’s comments about women in this September 13, 2012 meeting were the same as the comments he made in the September 17, 2012 meeting.” This is memorialized in the Independent Investigator’s report of investigation on page 9, under the conclusions for Allegation A2. Based on the original statements of Complainants, the Independent Investigator found the statements made at the September 13, 2012 meeting to be the same as the statements made at the September 17, 2012 meeting. She ultimately concluded that, like the allegations regarding the September 17, 2012 meeting, the allegations regarding the September 13, 2012 meeting were unfounded and did not constitute a violation of the county rules or the Code of Judicial Conduct.

The second allegation regarding the September 13, 2012 meeting is that during that meeting, Judge Goettelman slammed his hand down on the table at some point. There is no dispute that this occurred. Judge Goettelman admits he slapped his hand down on the table at one point, and he admitted such to the Independent Investigator. However, Judge Goettelman denies, and the Independent Investigator did not find, that doing so constituted a violation of any policy, rule, statute or Canon. The Meeting of September 13, 2012 was to plan court operations for the following year. Over a two year period with little progress in areas he considered important such as the production of policies and procedures, training and file backlogs, Judge Goettelman was becoming frustrated with excuses and foot-dragging. The meeting became accusatory, with raised voices and arguments taking place over training and other issues. In order to regain order in the meeting, and to stress the importance of his point, Judge Goettelman slapped his hand, open and flat, down upon the table; of course that unexpected and uncharacteristic action startled some present. This was in no way intended to, nor could it reasonably be interpreted as, trying to threaten or intimidate any employee. Rather, it was an effort to create

a loud noise to regain order in the out-of-control meeting. This act was similar to, and served the exact same purpose as, loudly rapping a gavel upon the bench to regain order in a courtroom – an act that occurs hundreds of times a day in courtrooms all across our state. The statement by one of the Complainants to the Independent Investigator that she “feared for her life,” that Judge Goettman must suffer from dementia and that she believes he is going to shoot up the courthouse, all because of a simple hand slap onto a table that took place during a meeting with senior staff, speaks volumes as to how over the top and incredible the Complainants’ allegations have become.

In reviewing this allegation, the Independent Investigator found that the conduct, having been admitted, did in fact occur. However, she was unable to find that it violated any policy, rule, statute or Canon. While she did not issue a formal conclusion of unfounded and instead deferred to the respective agencies as to whether it violated their rules, she did offer her opinion on the matter, stating “It would not appear that a single example of physically aggressively behavior, such as a supervisor pounding his hand or fist on his desk or a table, constitutes violation of these rules.” Again, Judge Goettman agrees with the Independent Investigator’s findings, as the simple act of slapping one’s hand on a table to restore order and command attention, does not violate any policy, rule, statute or Canon.

#### **THE JUNE 11, 2011 MEETING**

While not directly alleged in the complaint forwarded to the Committee by Presiding Judge Cahill, the justice court staff made an additional allegation against Judge Goettman accusing him of age discrimination. In the spirit of full disclosure and openness, Judge Goettman wants the Committee to be aware of the allegation and the Independent Investigator’s findings with respect to it. Specifically, the staff alleged that Judge Goettman (who is 70 years old), referred to staff as “has-beens” during a meeting in June of 2011. Again, the words used by Judge Goettman have been taken out of context to attempt to make them appear to have improper intent or meaning that was not present. This meeting was also openly recorded by Judge Goettman. Judge Goettman admits using the term “has-beens,” but notes the context in which it was used. Judge Goettman had just returned from a Judicial Conference where one of the presenters had presented on how every industry was constantly changing and they were falling behind in keeping up with the change. During the staff meeting that Judge Goettman held after returning from this Judicial Conference, the staff was telling Judge Goettman that he was trying to change too fast. It was at this point that Judge Goettman said:

You know, for the most part we’re all has-beens here, [the newer employees], those people are the future of the courts out there, those are the people that are the ones we need to encourage and we need to train and we need to find out, you know, what we can offer them as far as an advancement or future in the court system like this. It shouldn’t be just a dead end job, you know what I mean, so if you guys are interested in anything like that, let me know because I’m more than willing to, I’m more than willing to work with you on anything like that.

While it's clear that Judge Goettman did passingly refer to himself and some staff members as has-beens, the context reveals that he was referring to everyone's adaptability to change and attempting to convey that they needed to focus on training and developing the newer staff members, who were the future of the court. Judge Goettman never intended to, nor could his statement reasonably be interpreted as, discriminating against older employees or making improper generalizations about any class of employee. The statement was a harmless way of conveying the importance of change and training to the staff.

The Independent Investigator analyzed this statement as well, finding that the statement was not "severe" and appeared intended to stress the importance of training and developing the newer staff members, not to discriminate against any person or people. The Independent Investigator noted that no evidence was presented suggesting that any employees had been treated adversely because of their age and found this allegation by the Complainants to be unfounded as well.

#### **OTHER MISCELLANEOUS ALLEGATIONS**

Finally, Complainants raise several miscellaneous complaints about their interactions with Judge Goettman. As previously indicated, there is indeed a very difficult and strained working relationship between some of the court staff members and Judge Goettman. However, this strained relationship stems from the fact that Judge Goettman has placed stricter expectations, oversight and accountability on the staff than they were previously held to or accustomed to. It is not due to any inappropriate, rude or discourteous behavior on behalf of Judge Goettman. We will address each of the specific allegations made in the Complaint forwarded by Presiding Judge Cahill. However, in their complaints to county administration, the Complainants have raised literally dozens of complaints about even miniscule interactions between themselves and Judge Goettman, so if there are additional allegations the Committee would like addressed, we would respectfully request the ability to amend this response and address any such concerns.

In the complaint letter forwarded to the Committee, Mary Mendez complains that Judge Goettman dropped a stack of files onto the floor next to her already full desk. Judge Goettman adamantly denies ever, in any work environment, purposely throwing or dropping files on the floor or in a person's work area. Judge Goettman acknowledges that Ms. Mendez has been asked many times to clear the accumulated files from her work area, that she has failed to do so, and the Manager has not attempted remedial action. Judge Goettman believes that Ms. Mendez may have told him to just put the files on the floor next to her work area. If the files were placed there, it was only at her request and direction. As indicated by the Complainant herself, her desk was full and unable to hold further files.

Judy Moss indicated in the complaint letter that while she was on the phone helping a citizen, Judge Goettman yelled at her to get off the phone. Judge Goettman denies ever yelling, but

he does recall instructing and telling her that she needed to handle consumer calls in a more timely fashion, as the length of time she was spending on the phone with each consumer was far greater than that required for the task at hand or for her to be able to complete all of her work. Judge Goettelman, Mary Navarro and Mickie Mendez have all attempted to improve Ms. Moss' telephone techniques. Judge Goettelman has discussed telephone techniques training for the court staff with Manager Navarro and LJ Court Administrator Jacque Durbin; nonetheless, no efforts to resolve this issue have been made. Judge Goettelman makes every effort to maintain a courteous and civil working environment. While he may have raised his voice during arguments with staff on occasion, he does not yell or shout at them. As noted by Jonathan Bearup, Judge Goettelman is a big person and "tends to talk loud."

Karrie Alvino indicated in the complaint letter that Judge Goettelman had made "rude comments" to staff when visitors are in the office. Judge Goettelman denies making any rude or inappropriate comments. However, when staff has engaged in personal business or family matters at the court during business hours that became a distraction to other court employees, Judge Goettelman has indeed instructed them that they needed to stop engaging in personal business or that they needed to take their family matters "outside" so as to stop the interruption to the court activities. Neither of these instructions is rude, discourteous or inappropriate.

In the complaint letter, Jonathan Bearup is quoted as saying that the discourteous manner in which Goettelman spoke to staff and the negative work environment is downright poisonous. Notably, the only actual quotation here from Mr. Bearup is "downright poisonous," and that quotation is so taken out of context and so contrary to his actual statement as to render the allegation a complete fabrication. To the contrary, Mr. Bearup told the Independent Investigator that he respected Judge Goettelman as a Judge and mentor, that Judge Goettelman "...was never disrespectful to me at all," and that he had never heard Judge Goettelman speak negatively or in a derogatory fashion about women in general. The only criticisms he leveled of Judge Goettelman at all were that Judge Goettelman wasn't a people person, so he could come off as brash or abrasive in ways. Mr. Bearup indicated that the staff was having "growing pains" in adjusting to the new management style and that "the Justice Court staff was offended by Judge Goettelman even before he was elected as that Justice Court Judge, which may have contributed to their negative attitude towards him once he was elected." Furthermore, in describing the morale in the justice court as "downright poisonous," Mr. Bearup went on to explain that "They gripe all the time, they don't work." It is abundantly clear from Mr. Bearup's statements, contained on pages 39 and 40, and 45 through 48 of the Report of Investigation that he was referring to the court staff, not Judge Goettelman.

Mary Allen is quoted as saying "it's almost a hostile environment." Interestingly, Ms. Allen appears to hold that belief because "the staff is expected to come in and immediately go to their desks to start working." Judge Goettelman respectfully submits that there is indeed a very difficult working environment currently at the court, but that such is due to the unwillingness of staff to adapt to set procedures and performance expectations. As will be discussed later, Judge Goettelman has sought, and continues to seek, assistance from a variety of sources in improving

the staffing situation at the Globe Justice Court.

## **THE INDEPENDENT INVESTIGATION**

Having received the charge filed by court staff, the Gila County Human Resources Department retained Pamela Williams of Investigative Research, Inc. to conduct an independent investigation into the allegations. Ms. Williams engaged in an exhaustive investigation of the allegations that included identifying the relevant federal regulations, state statutes, county polices and sections of the Arizona Code of Judicial Conduct. Ms. Williams interviewed over thirteen persons, including current and former court staff, the complainants and Judge Goettman. She collected and reviewed the relevant documentation as well as the audio recordings of the events in question.

After having thoroughly investigated the allegations made against Judge Goettman and having reviewed all of the evidence that investigation uncovered, the Independent Investigator addressed each of the specific allegations against Judge Goettman, finding them to be "UNFOUNDED." The only exception being that Ms. Williams found that, in the allegation that Judge Goettman slammed his hand down on the table during a meeting, the conduct did actually occur, but she still concluded that she could not find such to be a violation of the County Rules or the Code of Judicial Conduct. More specifically, the Independent Investigator's conclusions in regard to each of the allegations are as follows:

Allegations A1 and A2 – Sexual Harassment/Discrimination based on Gender

### **UNFOUNDED**

**Conclusion:** "The preponderance of evidence does not establish that Mr. Goettman was making a sweeping negative statement about all women, women in general, his staff in particular, or particular members of his staff. Further, there is no evidence that Mr. Goettman displayed a pattern of making negative comments about women. The comments he made do not appear to be sufficiently severe to constitute harassment or discrimination based on gender, and comments of this type by Goettman have not been pervasive, according to information received."

Allegation B – Slamming hand down on table

### **SUSTAINED as to Alleged Event Occurring; UNRESOLVED as to Policy Violations**

**Conclusion:** "It would **not** appear that a single example of physically aggressive behavior, such as a supervisor pounding his hand or fist on his desk or a table, constitutes violation of [County Rules and the Arizona Code of Judicial Conduct]. The investigator in this instance defers to the Appointing Authority for determination whether the conduct described constitutes a violation..."(Emphasis added).

Allegation C – Discrimination based on Age

### **UNFOUNDED**

**Conclusion:** "...the preponderance of the evidence reflects that, during the course of the meeting, Judge Goettman, who is 70 years of age, did refer to himself and some staff

members as has-beens, stating that they needed to focus on training and developing the newer staff members, who were the future of the court. There is no evidenced pattern of Mr. Goettelman making similar statements, nor is the statement particularly severe. That Mr. Goettelman made this statement does not rise to the level of discrimination based upon age, nor was evidence presented in the investigation suggesting that any employees have been treated adversely because of their age.”

The Independent Investigator conducted an exhaustive investigation into the allegations at issue in this charge. Judge Goettelman fully cooperated with her investigation, submitted to a full interview, and provided her with any and all documents and evidence she requested. She interviewed the Complainants and analyzed the evidence in light of the relevant county policies, statutes and the Code of Judicial Conduct. Ultimately she found each of the allegations to be unfounded, and/or could not conclude that they violated the policies, statutes or Code. Judge Goettelman agrees with the Independent Investigator’s conclusions and urges the Committee to accept them as well.

#### **SUBSEQUENT EFFORTS TO FIX THE ADMINISTRATIVE PROBLEMS AT THE JUSTICE COURT**

Since the allegations were raised against Judge Goettelman by the court staff, Judge Goettelman has exercised great care to ensure that he has taken no personnel actions that could even remotely be considered to be retaliatory or hostile to the complaining employees. That being said, the backlog of files still exists, and the administrative dysfunction that has plagued the Globe Justice Court for years remains to be dealt with. Judge Goettelman has sought assistance in fixing the justice court and establishing policies and procedures that would ensure the proper operation of the court, but unfortunately has been blocked at every juncture. Judge Goettelman has sought assistance from county administration, from Presiding Judge Cahill, through his appointed LJ Court Administrator, and from the Supreme Court’s Administrative Office of the Courts. Contrary to the allegations in the complaint letter that Judge Goettelman has not attempted to constructively address the personnel problems at the Globe Justice Court, Judge Goettelman has requested Court Administration’s assistance in correcting the problems and establishing policies and procedures on multiple occasions. Undersigned Counsel even personally contacted Presiding Judge Cahill with an offer to assist in seeking a resolution, establishing policies, mediating disputes or getting the Administrative Office of the Courts involved in fixing the administrative dysfunction being experienced by the justice court, but that offer was declined outright. Judge Goettelman remains open to, and actively seeks to resolve the administrative dysfunction being experienced at the Globe Justice Court. He has repeatedly requested the assistance of the county administration, Presiding Justice of the Peace, Dorothy Little and the Administrative Office of the Courts. The Administrative Office of the Courts has expressed interest to Undersigned Counsel in becoming involved and assisting in the resolution of the issues, but wishes to wait until this pending charge is resolved.

## **PRIOR CASE**

Judge Goetteman received a Reprimand for violation of Canon 3B(4) in case 96-CJC-199 for using profanity and acting inappropriately by yelling at female staff members. The order required Judge Goetteman to work with Samuel Daniels as a “mentor judge,” which Judge Goetteman did. Judge Goetteman also attended and completed development training on the topic of sexual harassment, a copy of which is attached as Exhibit F. Judge Daniels monitored Judge Goetteman’s judicial demeanor and operations, and found them to be appropriate. On October 5, 1998, H. Keith Stott, executive director of the Commission, advised Judge Goetteman in writing that Judge Daniels recommended that all further requirements of the 1997 order be waived, which the Commission adopted. The letter, attached as Exhibit G, further commended Judge Goetteman for his cooperation in resolving the matter. Any and all other charges received by the Commission regarding Judge Goetteman have been closed or dismissed without findings of wrongdoing or further action.

While the current charge also relates to interactions with staff members, we note that the prior matter took place over 16 years ago and that Judge Goetteman has not repeated the conduct related to the 1996 case. More specifically, Judge Goetteman has not used profanity or engaged in inappropriate conduct, such as yelling at staff members.

## **ANALYSIS OF RELEVANT RULES**

I have, to the best of my ability, interpreted what concerns may exist in relation to each of the rules and addressed them each below. If there are any further issues you need addressed in relation to a specific rule, please advise us and we will be happy to supplement with further explanation.

### **Rule 2.3 – Bias, Prejudice and Harassment**

Rule 2.3 requires judges to perform judicial duties, including administrative duties, without bias or prejudice. Rule 2.3 further prohibits judges from manifesting bias or prejudice, or engaging in harassment by use of their words or conduct. Comment 2 to the Rule goes on to give examples of prohibited conduct, which include epithets, slurs, demeaning nicknames, negative stereotyping, attempted humor based on stereotypes, threatening, intimidating or hostile acts.

Judge Goetteman has no bias or prejudice against women or the elderly, nor any other classification of person. Throughout his career, Judge Goetteman has worked with both men and women of all skill levels and believes that both men and women can make essential and helpful contributions to a workplace. Furthermore, Judge Goetteman has engaged in none of the serious conduct listed in Comment 2, nor any other conduct that could reasonably be considered to manifest bias or prejudice. As discussed earlier and as found by the Independent Investigator, Judge Goetteman’s comments made no sweeping generalizations about all women or even women in general. Nor were Judge Goetteman’s comments intended to convey any negative bias or prejudice about women or about any person he was speaking to. While

Judge Goettelman recognizes that his words could have been chosen more carefully in order to prevent misinterpretation, he was merely attempting to explain that he had dealt with similar problems in the past and offer his assistance to any staff members that were experiencing difficulties with other staff members. Judge Goettelman values his staff members, men and women, and has never disadvantaged, reprimanded or treated any staff member differently because of their gender or age.

#### Rule 2.8(B) – Decorum, Demeanor and Communication with Jurors

While the title of Rule 2.8 references jurors, Rule 2.8(B) requires a judge to be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials and others with whom the judge deals in an official capacity. Notably, the Rule also requires the judge to require the same of court staff and those subject to his discretion and control. The comments to the Rule note that judges can be efficient and businesslike while being patient and deliberate.

Judge Goettelman has been placed in the difficult position of taking over a justice court that was previously in disarray and not functioning to the point that the previous justice of the peace was removed from office. To correct the situation and make the court operate at even minimal efficiency, he has been required to institute policies and procedures that require much more of the staff in terms of efficiency and accountability than was previously required. This has resulted in great push back and hostility from several staff members. While the transition has been difficult and trying, Judge Goettelman has, at all times, maintained a professional and courteous demeanor with respect to the staff members. He has not yelled at staff members nor used profanity with them. He has not threatened or intimidated any staff members. While their relationship has been difficult and the transition painful for many staff members, requiring basic levels of proficiency, such as showing up and leaving at the assigned work times, is not evidence of discourtesy or impatience.

Several employees gave interviews to the Independent Investigator in which they described the situation at the court. Sue Williams told the Investigator that in the few months she has been at the court, she has noticed that some of the staff members often socialize instead of working. She also complained that those staff members distract her from her job. She further told the Investigator that there are certain employees who do not appear to listen to Judge Goettelman's instructions, including Mary Navarro, Judy Moss and Mickie Mendez. Ms. Williams' interview is on pages 44 and 45 of the Report of Investigation. Miriam Jones also expressed frustration with Mary Navarro and Mickie Mendez, and speculated that they purposely structured the training in a manner so that employees could not cover for each other, thereby creating job security for themselves. Jonathan Bearup, a now former employee of the justice court, told the Independent Investigator that it was not Judge Nolan who was the problem, but that it was the clerks, who "wouldn't move a file to save their Judge." In describing Judge Goettelman's task in having to come in to the existing situation, Mr. Bearup said that:

...it seemed like the clerks, even at that time were already, you know, honestly I don't think you could have put anybody in that, I think it was a no win, I don't think there was...

[Investigator: ...no matter who came into that position, because it wasn't Pat Nolan, it wasn't going to be welcoming?]

Exactly, exactly, there wasn't anybody that they were going to, I know Judge Nolan's husband did run but he didn't win. Maybe had he won it would have been someone that they accepted, but that little clique of clerks was, senior clerks, was really powerful, just in terms of, you know, office politics, that kind of crap, excuse me.

This information is presented, not to try to lay fault for the difficult working environment at the feet of these employees, but to demonstrate that, despite Complainants' contentions, other staff members of the Globe Justice Court do not believe that Judge Goettman has created a hostile work environment, but rather, that he is attempting to deal with a difficult staffing situation and implement policies that are not particularly popular with the existing staff. The best evidence of how Judge Goettman interacts with his staff however, is not the interviews given by multiple staff members, but rather, the audio recordings of staff meetings themselves. The Committee is urged to review the meeting recordings that have been enclosed with this response to hear for themselves how Judge Goettman interacts with his staff.

## **CONCLUSION**

Judge Goettman takes his duties and responsibilities as a Justice of the Peace, and under the Rules of Judicial Conduct, very seriously. In fact, he only returned to the bench because of the problems that were identified at the Globe Justice Court and his desire to see it function properly again. The allegations made against Mr. Goettman by the Complainants are unfortunate and unfounded. Judge Goettman harbors no bias or prejudice towards any class of person, and certainly not against women. Nor has he expressed any bias or prejudice against women or the elderly. When the Complainants allegations were first made, they were thoroughly investigated and analyzed by an Independent Investigator. She found the allegations to be unfounded and was unable to find any violation of county policy, rule, statute or Rule of Judicial Conduct. The county accepted those findings and has closed the matter with no further action. Judge Goettman agrees with those findings and requests that the Commission do the same.

Judge Goettman is currently in the difficult place of someone who is tasked with placing an amount of work, training and accountability upon staff members that they are unaccustomed to, but that is necessary for the proper functioning of the court. This has made the working environment at the court difficult, to say the least. However, despite the difficulties encountered in making this transition, Judge Goettman has at all times maintained a professional, business-like demeanor in his interactions with the staff members. He has

attempted to provide a healthy work environment for them, even implementing reward systems, such as gift card rewards for exemplary employee work or conduct. Although the staff difficulties have resulted in these unfortunate allegations, Judge Goetteman holds no ill will towards the involved staff members and looks forward to continuing to improve the operations of the court with the assistance of county management, Presiding Judge Cahill and the Administrative Office of the Courts. Because the allegations made by Complainants are unfounded and lack merit, we respectfully request that you close this matter with no further action.

Sincerely,

Steve Little  
Managing Attorney  
Steve Little & Associates