

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. JC-15-0002
HONORABLE HOWARD GRODMAN,)
Flagstaff Justice Court,) Commission on Judicial
Coconino County,) Conduct
State of Arizona,) No. 14-216
)
Respondent.)
) **FILED 9/23/2015**
)
_____)

O R D E R

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 Recommendation having been waived by Respondent, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of the Commission on Judicial Conduct,

IT IS ORDERED that Judge Howard Grodman is hereby suspended for a period of 90 days without pay from the date of this order for violations of the Code of Judicial Conduct as set forth in the Recommendation which is attached hereto.

IT IS FURTHER ORDERED that Judge Howard Grodman shall pay the costs and attorney's fees incurred by the Commission in preparing and conducting the formal hearing in this matter.

DATED this 23rd day of September, 2015.

_____/s/
Janet Johnson
Clerk of the Court

TO:

Hon Howard B Grodman

Robert B Van Wyck

Meredith L Vivona

George A Riemer

Kimberly Welch

Hon Mark R Moran

Commission on Judicial Conduct
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FILED

AUG 24 2015

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning
Judge Howard Grodman
Flagstaff Justice Court
Coconino County
State of Arizona,

Respondent.

Case No.: 14-216

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDATIONS**

The Commission on Judicial Conduct ("Commission") commenced formal proceedings against Justice of the Peace Howard Grodman ("Respondent") on May 4, 2015, by filing a statement of charges pursuant to Rule 24, Rules of the Commission on Judicial Conduct ("Commission Rules"). Respondent filed an answer to the statement of charges on May 28, 2015.

On July 1, 2015, Acting Disciplinary Counsel, Meredith Vivona, and Respondent's counsel, Robert Van Wyck, filed a document with the Commission entitled "Stipulated Facts." Counsel later reached stipulations regarding all but one of the violations alleged in the statement of charges, as evidenced by their August 3, 2015 filing entitled "Stipulated Code of Judicial Conduct Violations." With minor modifications set forth below, the Commission adopts the parties' factual stipulations

and, after independent review, concludes that the stipulated Code violations have been established by clear and convincing evidence.

A hearing was held on August 7, 2015, before a seven-member hearing panel comprised of Presiding Member Judge Margaret H. Downie and Commission members Christopher Ames, Roger Barton, Colleen Concannon, Judge Louis Frank Dominguez, Judge George H. Foster, Jr., and Art Hinshaw. The hearing panel included a member from each category of Commission membership, as contemplated by Commission Rule 3(f). No member of the hearing panel served on or participated in the investigative panel.

On August 11, 2015, the Clerk of the Commission advised the hearing panel and counsel that a digital recording of the August 7 hearing was available. Pursuant to Commission Rule 28(a), this report and recommendation is submitted within 15 days of that notification.

The Commission has jurisdiction pursuant to Article 6.1 of the Arizona Constitution.

FINDINGS OF FACT

The hearing panel adopts the following findings of fact:

1. Respondent has served as a justice of the peace in Coconino County, Arizona since January 2011.
2. Respondent was serving in his capacity as a judge at all times relevant to these proceedings.

3. Respondent is subject to the Arizona Code of Judicial Conduct (“Code”). Ariz. R. Sup. Ct. 81.

4. Respondent sought re-election to his position as justice of the peace. Warren Sanford opposed Respondent in the primary election held on August 26, 2014. Sanford had been serving as a *pro tem* Justice of the Peace for Coconino County and as an on-call Flagstaff Municipal Court Magistrate.

5. As part of his re-election efforts, Respondent engaged in numerous campaign-related activities, including email communications, a campaign Facebook page (facebook.com/judgehowardgrodman), and a campaign website (www.howardgrodman.com).

6. The Arizona Administrative Office of the Court (“AOC”) provides Respondent with a work email address: HGrodman@courts.az.gov (hereafter, “AOC email account”). Respondent has had access to and control over his AOC email account since January 2011.

7. Around September 2013, Respondent began using his AOC email account for non-work, campaign-related communications, including the following:

- a. October 4, 2013 message from Respondent to G.M. stating: “[Judge Sanford]’s one of my pro tems. I fired him yesterday. He’s been a pro tem a long time, but not a lawyer.”

- b. November 25, 2013 message from Respondent to E.A., stating: “I want to get an official badge that identifies me to wear to events, to court fuckface’s elect warren [sic] Sanford justice of the peace badge. I could use your help in design.”
- c. January 28, 2014 message from Respondent to C.B., stating, in part: “I don’t see a problem receiving email at my court address.” C.B. replied: “City attorney told us that we are not allowed to us [sic] public property for campaign purposes. . . . Don’t know if the same rule applies to judges.”
- d. February 20, 2014 message from Respondent to B.M. discussing Sanford and asking: “Would you allow me to list you as an endorsement on my website?”
- e. March 11, 2014 email from Respondent to L.F. regarding Sanford’s Facebook post about being “unanimously endorsed for Justice of the Peace by To’Nanees’ Dizi Chapter,” asking: “This showed up on Warren Sanford’s Facebook page. Can you help me to undo it?”
- f. March 14, 2014 email from Respondent to R.K. with a subject line “your endorsement of Sanford,” stating: “Here’s how he [Sanford] fixed it, so it only implies that you are endorsing him. What a sleaze!” This email message included the Coconino County logo and Respondent’s judicial title.

- g. March 25, 2014 email from Respondent to L.L., stating, in part: “I was at the last DORR breakfast and spoke Warren didn’t and was pissed. You could help me by letting Steve know how full of shit Warren is and how decent I’ve been. Warren pretends like he has a significant role in the Coconino County justice courts when all he’s ever been is one on a roster of about a dozen on call pro tems. . . . I know I have 5 more months to deal with his gimmicks and bullshit.” This email message included the Coconino County logo and Respondent’s judicial title.
- h. June 5, 2014 email from Respondent to the President of the Coconino County Democratic Party, stating that certain statements by Sanford in the Compass newsletter were “both a direct (not even veiled) attack on me and an outright lie. I request that you enforce your cardinal rule and ban Judge Sanford from the Compass hereafter.” This email message included Respondent’s judicial title.
- i. June 16, 2014 message to B.B. stating, in part: “[C.B.] asked me to contact you she wonders if she can post a campaign sign at the addresses you have allowed me.” This email message included Respondent’s judicial title.

8. Respondent advised the Commission that he stopped using his AOC email account for campaign-related activities when he learned of a public records request by Sanford. Respondent learned of the public records request by July 1, 2014.

9. On July 1, 2014, Respondent emailed L.C. to advise: “[Y]ou should use my *judgegrodman@gmail.com* for campaign related stuff. The Ss are doing a freedom of information act request of my work emails that have certain key words. . . .”

10. Within a few days of July 7, 2014, Court Administrator Gary Krcmarik and Deputy Court Administrator Sharon Yates contacted Respondent and instructed him to stop improperly using his AOC email account, which, at the time, Respondent confirmed he had done.

11. Respondent continued to use his AOC email account for campaign-related purposes after July 1, 2014, including:

- a. July 2, 2014 email to E.R., stating: “[P]lease delete the PO box as a donation option, since I no longer have it. If not Paypal, then have them email *judgegrodman@gmail.com*.”
- b. July 5, 2014 email to M.T., stating: “I’m canvassing your neighborhood and no one’s home. Would you allow me to post a yard sign until the primary?”
- c. July 7, 2014 email to T.M., stating: “May I post a reelect me sign on your Humphreys property?”
- d. July 14, 2014 email to J.A., stating: “I had in my memory that you said it would be ok for me to post a sign at your shop. Sorry if I just dreamed it up.”

- e. July 17, 2014 email to E.R. stating: “[P]lease post this on Facebook. And indicate that a similar resolution was passed by the Leupp Chapter on June 20, 2014.”
- f. July 19, 2014 email to L.C. setting forth the text of a proposed campaign radio advertisement asking for votes.

12. In his answer to the statement of charges, Respondent admitted that his previous avowal he had stopped using his AOC email account for campaign purposes after July 1, 2014 was incorrect.

13. After July 1, 2014, Respondent continued to receive campaign Facebook page notifications on his AOC email account.

14. In a July 28, 2014 article that appeared in the *Arizona Daily Sun*, Respondent admitted improperly using his AOC email account, stating:

I acknowledge responding to some emails that were sent to my court account on my court account even though they contained some campaign related content. I also initiated some emails from that account. I regret doing so, and should have taken the extra time to use a personal account. I do that now.

15. In his September 5, 2014 response to the Commission, Respondent admitted he was “wrong to use my courts [sic] email account for any campaign related communications and I have corrected that.”

16. In a July 8, 2014 Facebook post, Respondent, wearing his judicial robe, appears in a photograph in front of the judicial bench with an unnamed woman. The caption to the photo reads: "Judge reconciles county's relationship with Navajo" and provides a link to an article in the National Association of Counties County News dated June 30, 2014. The article does not have any associated photographs. The same photograph appeared on Respondent's campaign website, where the woman is identified as Coconino County Supervisor Lena Fowler. The photograph does not link to any news articles and does not contain a disclosure regarding the photograph.

17. In an October 20, 2014 Facebook post, Respondent, wearing his judicial robe, is depicted in a photograph taken in front of the judicial bench wherein he appears to be marrying two people.

18. Respondent organized an open-court session to take place on April 22, 2014, at the Cameron Chapter Facility. Respondent created, or caused to be created, advertisements for the event that included the following information:

Coconino County Flagstaff Justice Court

Holds Open Court in Cameron

Tuesday 4/22/14 @ 10 am DST Cameron Chapter Facility

This effort is made possible by Judge Howard Grodman, Constable Linda Kuczynski and Coconino County Supervisor Mandy Metzger

Who Should Register??

- Those with an open felony, misdemeanor, or traffic case with the Coconino County Flagstaff Justice Court, including cases with warrants. Individuals will be able to pay their fines and fees in full or make a payment on their case. We will accept cash, checks and credit cards. Please note we will be unable to make change.

- People who want to ask the Judge to cancel their warrant may appear without fear of being arrested in court.

19. In his September 5, 2014 response to the Commission, Respondent stated: “I did take the opportunity to hand out fliers while there. I viewed it as a political rather than court appearance.” This is so despite the fact Respondent noted he “may have had a chat with one person who had an unpaid balance on an old civil traffic matter.”

20. Respondent admitted in his November 10, 2014 supplemental response to the Commission that “the Cameron event was planned as a court event. It never formally changed to a campaign event.”

21. Respondent participated as a judge at the May 16, 2014 High Country Stand Down (“HCSD”). The HCSD was an event presented by the Coconino County Superior Court, the Flagstaff Justice Court, the Flagstaff Municipal Court and other agencies to “help veterans resolve any outstanding warrants they may have in these courts.”

22. HCSD promotional materials stated: **“You can appear before the Judge without fear of being arrested”** and also stated: “Those with an open felony, misdemeanor, or traffic case, including cases with warrants, will be able to pay their fines and fees in full, make a payment on their case, or ask the Judge to cancel either warrant.”

23. Respondent appeared at the HCSD as a judge for the purpose of performing judicial duties.

24. Prior to the HCSD, Deputy Court Administrator Sharon Yates advised Respondent that, in her opinion, he should not bring or hand out campaign flyers at the event.

25. Respondent does not “recall clearly,” but does not deny handing a campaign flyer to a veteran for whom he provided judicial services while at the HCSD.

26. Title 39, § 232.1(h)(1) of the United States Code prohibits posting political literature on postal property. This prohibition applies to campaign advertisements or flyers.

27. Respondent personally posted campaign signs at the Cameron Post Office in violation of federal law on or around the following dates:

- a. February 16, 2014
- b. March 23, 2014
- c. May 5, 2014
- d. June 21, 2014

28. On or around August 18, 2014, Respondent became aware that court employee K.S. had posted support for Sanford on her personal Facebook page.

29. K.S. had previously worked under Respondent’s direction but had recently moved to a different position at the Coconino County Superior Court.

30. Approximately a week before the primary election,¹ and during court business hours, Respondent sought out K.S. and asked to speak with her privately. K.S. followed Respondent to a nearby area, whereupon Respondent inquired about her Facebook post expressing support for Sanford. Respondent specifically asked whether K.S. was voting for Sanford and whether she would take down her Facebook post showing support for him. Respondent reminded K.S. of all that he did for the justice court and the kind of person he was. K.S. felt uncomfortable and reported the interaction with Respondent to her supervisors.

31. Respondent received a letter of reprimand dated August 20, 2014, from the Presiding Judge of the Coconino County Superior Court. The reprimand letter stated, in pertinent part:

It was brought to my attention yesterday by Sharon Yates that during the business hours of the court, you confronted a clerk in the Collections Department [K.S.] regarding her support expressed on her Facebook page of your opponent, Warren Sanford.

On two prior occasions we have met and I discussed with you concerns that had been raised about alleged ethical violations by you during this campaign. I again remind you that you cannot conduct political activities on County time. A.R.S. 11-410. In particular, A.R.S. 11-410(C) states: "Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee." If the situation above happened as described, your conduct is a violation of this statute, and violates the spirit of Canon 4 which states in part: "A judge . . . shall not engage in olitical or campaign activity that is inconsistent with the independence, *integrity*, or

¹ See Respondent's hearing testimony.

impartiality of the judiciary.” You are also reminded that your time on the clock is a county resource pursuant to Rule 4.1(8).

Your actions undermined the integrity of your position as a judge. It was also a misuse of your position of authority over a court employee. What a county employee does on their Facebook on private time is protected speech and not subject to review, discussion, criticism, etc. by a judicial officer.

Although Sharon and Gary have talked to you about this specific situation, consider this letter a formal reprimand.

32. In responding to inquiries from the Commission on September 5, 2014, and November 12, 2014, Respondent did not disclose the incident involving K.S., the letter of reprimand from the Presiding Judge, or the fact that the Presiding Judge had met with him twice previously to discuss concerns about alleged ethical violations relating to campaign activities.

33. In addition to improperly using his AOC email account for campaign-related purposes, Respondent used unprofessional and undignified language in his email communications, including calling Warren Sanford a “sleaze” and “fuckface” and stating that Sanford was “full of shit.”

34. Respondent also used his AOC email account to obtain a campaign endorsement from an individual who was then providing services to the Flagstaff Justice Court.

35. After Sanford announced he was running against Respondent, Respondent caused his work hours to be significantly reduced and ultimately precluded him from serving on the justice court.

36. Specifically, on or around October 8, 2013, Respondent asked Judge Arlington to communicate with Sanford and cancel his existing court coverage dates. As a direct result of Respondent's request, Judge Arlington emailed Sanford on October 8, 2013, stating: "Per your discussion with Howard last week, I am making different coverage arrangements for the six December dates I had previously scheduled with you." Additionally, Respondent communicated directly with the superior court presiding judge, advising that he did not want Sanford serving at the justice court. Respondent also communicated to the presiding judge that he did not want Sanford to be paid out of the justice court budget.

37. Based on Respondent's urging, the presiding judge issued a memorandum setting forth a compromise whereby Sanford would serve in matters for which the city court paid him as a *pro tem*, but he was not permitted to serve on matters paid from the justice court budget.

38. Respondent did not want Sanford working at the justice court for reasons unrelated to Sanford's judicial performance.

CONCLUSIONS OF LAW

Conclusions of law 1 through 8 are based on the parties' stipulations set forth in the August 3, 2015 filing entitled, "Stipulated Code of Judicial Conduct Violations." The only Code violation remaining in dispute is the allegation that Respondent violated Rule 2.16, which requires a judge to "cooperate and be candid and honest with judicial and lawyer disciplinary agencies." As conclusions of law 9 through 10 reflect,

the Commission concludes that one of the Rule 2.16 violations alleged in the statement of charges has been proven by clear and convincing evidence.

1. By improperly using his AOC email account, Respondent violated:

Rule 1.1 (“A judge shall comply with the law, including the Code of Judicial Conduct.”)

Rule 1.2 (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”)

Rule 1.3 (“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”)

Rule 3.1(E) (A judge shall not “make use of court premises, staff, stationery, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.”)

Rule 4.1(A)(8) (A judge shall not “use court staff, facilities, or other court resources in a campaign for judicial office.”)

Rule 4.2(A)(1) (A judicial candidate shall “act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary.”)

Rule 4.2(A)(2) (A judicial candidate shall “comply with all applicable election, election campaign, and election campaign fund-raising laws and regulation.”)

2. By using improper campaign photographs, Respondent violated **Rule 1.2** (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”).

3. Respondent's improper campaign activities at two official court events where he was acting in his judicial capacity violated:

Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.")

Rule 1.3 ("A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.")

Rule 4.1(A)(8) (A judge shall not "use court staff, facilities, or other court resources in a campaign for judicial office.")

Rule 4.2(A)(1) (A judicial candidate shall "act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary.")

4. Respondent's improper posting of campaign materials at a United States Post Office in contravention of federal law violated:

Rule 1.1 ("A judge shall comply with the law, including the Code of Judicial Conduct.")

Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.")

Rule 4.2(A)(1) (A judicial candidate shall "act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary.")

5. Respondent's improper campaigning during court hours violated:

Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.")

Rule 1.3 (“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”)

Rule 4.2(A)(1) (A judicial candidate shall “act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary.”)

6. Respondent’s use of crude, offensive, and disparaging language directed at his campaign opponent violated:

Rule 1.2 (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”)

Rule 2.8(B) (“A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge’s direction and control.”)

7. Respondent’s improper efforts to obtain campaign endorsements violated:

Rule 1.2 (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”)

Rule 1.3 (“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”)

Rule 3.1(E) (A judge shall not “make use of court premises, staff, stationery, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.”)

8. Respondent's improper retaliation against his campaign opponent violated:

Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.")

Rule 1.3 ("A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.")

9. By failing to disclose the incident involving K.S. (*see* findings of fact 28–31), Respondent violated Rule 2.16(A) ("A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies."). Acting Disciplinary Counsel's November 6, 2014 letter clearly called for Respondent to disclose that incident. Although Respondent testified at the hearing that he did not think of that incident when responding to Acting Disciplinary Counsel's inquiry, the Commission did not find that testimony credible, particularly given the fact that Respondent had recently received a strongly worded written reprimand from his presiding judge for that very conduct and had also been approached by the court administrator regarding the incident.

10. The hearing panel does not find clear and convincing evidence of the other Rule 2.16 violations alleged in the statement of charges.

AGGRAVATING AND MITIGATING FACTORS

Commission Rule 19 sets forth a number of factors to consider in determining the appropriate sanction for Code violations. The hearing panel finds as follows regarding relevant aggravating and mitigating factors.

Aggravating Factors

1. **The nature, extent, and frequency of the misconduct.** Respondent's misconduct, beginning in approximately September 2013 was serious, broad, and ongoing. Even after being warned three times by court personnel about various campaign-related activities, the improper conduct continued. The Commission accords significant weight to this factor.

2. **The judge's experience and length of service on the bench.** Respondent was not a new judge at the time of the Code violations. In addition, Respondent was and is a member of the Arizona Judicial Ethics Advisory Committee.

3. **Whether the conduct occurred in the judge's official capacity or private life.** Respondent's misconduct occurred in his official capacity, which is an aggravating factor. *See In Re Peck*, 177 Ariz. 283, 288 (1994) ("We must treat official conduct even more strictly than improprieties in a judge's private life because it goes to the very integrity of our judicial system.").

4. **The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent conceded at the hearing that his conduct harmed Warren Sanford. Additionally, court employee K.S. was made to feel uncomfortable in the workplace when Respondent, her former supervisor, confronted her in the courthouse about her stated support of Sanford on Facebook and asked her to remove the post. Finally, Respondent's campaign-related misconduct was publicized in the media, bringing disrepute to the judicial branch.

5. Whether and to what extent the judge exploited his or her position for improper purposes. Respondent's misconduct occurred in his official capacity and resulted in an exploitation of his judicial position for personal gain.

6. Whether the judge cooperated fully and honestly with the commission in the proceeding. As discussed *supra*, the hearing panel concludes that Respondent was not forthcoming in his November 6, 2014 response to the Commission regarding the K.S. incident.

Mitigating Factors

1. Whether the judge has recognized and acknowledged the wrongful nature of the conduct and manifested an effort to change or reform the conduct. Respondent testified that he recognizes and acknowledges the wrongful nature of his conduct, and he entered into stipulations conceding most of the Code violations alleged. Respondent testified he has taken corrective actions and positive steps to ensure similar misconduct will not occur again, including having a third party handle campaign-related matters in the future.

2. Whether there has been prior disciplinary action concerning the judge, and if so, its remoteness and relevance to the present proceeding. Respondent has no prior disciplinary history.

3. Whether the judge complied with prior discipline or requested and complied with a formal ethics advisory opinion. Not applicable in this case.

4. Whether the judge was suffering from personal or emotional problems or from physical or mental disability or impairment at the time of

the misconduct. Respondent testified that he was encountering personal difficulties during at least some portion of the relevant time frame.

PROPORTIONALITY

Commission Rule 5 describes the purpose of Arizona's judicial discipline system as follows:

The purpose of the judicial discipline and incapacity system is to protect the public and to maintain high standards for the judiciary and the administration of justice. Any disciplinary remedy or sanction imposed shall be sufficient to restore and maintain the dignity and honor of the position and to protect the public by assuring that the judge will refrain from similar acts of misconduct in the future.

The goal of judicial discipline "is not to punish but, rather, to impose sanctions to protect the public and foster judicial integrity." *Peck*, 177 Ariz. at 287. The Arizona Supreme Court has held that in determining a "proper and proportionate" sanction, it is helpful to examine prior judicial misconduct cases. *Id.*

A meaningful proportionality analysis is challenging because no reported Arizona decision presents a similar fact pattern. However, the Arizona Supreme Court has held that "absent significant mitigation, suspension or removal is the only proper sanction for repeated and serious misconduct." *Id.* at 288.

The aggravating factors in this case substantially outweigh the mitigating factors. On the other hand, Respondent's lack of disciplinary history, his acknowledgement of the improper nature of his conduct (albeit after-the-fact), and his avowal that he will not personally handle his own judicial campaigns in the future,

lead the hearing panel to conclude that removal is not necessary to protect the public and maintain high standards for the judiciary and the administration of justice.

In the case of *In re Lorona*, a justice of the peace was suspended after she repeatedly contacted another judge and “lent the prestige of her office to advance the private interests of her friend and her step-grandson,” both of whom “were given preferential treatment” in pending cases, 178 Ariz. 562, 567 (1994). The court cited the respondent judge’s refusal to acknowledge the wrongful nature of her conduct and noted her pattern of misconduct and multiple offenses that “were prejudicial to the administration of justice and brought her office into disrepute.” *Id.* Rejecting the Commission’s recommended 15-day suspension as “woefully inadequate,” the court held that the judge’s actions “represent an abuse of her office that goes to the heart of judicial integrity” and suspended her for 90 days. *Id.* at 569.

In the case of *In re Jett*, the court suspended a justice of the peace for the remainder of her term due to “willful misconduct” after she went to the jail where her boyfriend was being held and instructed staff to prepare a release order for him that she then signed in her judicial capacity, 180 Ariz. 103, 104–105, 111 (1994). In discussing the distinction between willful misconduct and conduct prejudicial to the administration of justice, the court stated:

The more serious charge [willful misconduct] should be reserved for unjudicial conduct which a judge acting in his judicial capacity commits in bad faith, while the lesser charge [conduct prejudicial to the administration of justice that brings the judicial office into disrepute] should be applied to conduct which a judge undertakes in good faith but which nevertheless would appear to an objective

observer to be not only unjudicial conduct but conduct prejudicial to the public esteem for the judicial office.

Id. at 107. The court identified “two types of judicial acts [that] fall within the scope of bad faith”:

(1) “intentionally committed acts which [the judge] knew or should have known were beyond [the judge’s] lawful power” and that involve “actual malice as the motivation for a judge’s acting ultra vires”; and (2) intentionally committed “acts within the lawful power of a judge which nevertheless are committed for a corrupt purpose, i.e., *for any purpose other than the faithful discharge of judicial duties.*”

Id. *Jett* is instructive regarding the cited legal tenets, but is less helpful when it comes to determining the appropriate length of suspension. Unlike Respondent here, Judge Jett had a lengthy disciplinary history, and the court concluded that she presented a threat to the public. *Id.* at 108–09.

Even if Respondent’s initial ethical missteps could be attributed to ignorance of Code-based campaign restrictions (a doubtful proposition given his service on the Judicial Ethics Advisory Committee), Respondent ignored numerous entreaties by court staff and the presiding judge to modify his behavior. Even a cursory review of the Code and relevant Judicial Ethics Advisory Committee opinions would have alerted Respondent to the impropriety of his actions. The hearing panel is also concerned that, at the hearing, Respondent would not initially concede that the written reprimand from the Presiding Judge was a major event in his professional career.

The hearing panel concludes that Respondent intentionally committed numerous Code violations for a purpose other than the faithful discharge of judicial duties,

warranting a period of suspension that is not the functional equivalent of an “unpaid vacation.” *Peck*, 177 Ariz. at 290.

RECOMMENDATIONS

Based on the foregoing, the hearing panel unanimously recommends that the Arizona Supreme Court:

1. Suspend Respondent from judicial office without pay for a period of 90 days. *See* Commission Rule 18(a).
2. Remove Respondent as a member of the Judicial Ethics Advisory Committee.
3. Order Respondent to pay the costs and fees incurred by the Commission in preparing and conducting the formal hearing in this matter. *See* Rule 18(e).
4. Grant such other relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED this 24th day of August, 2015.

Dated this 24th day of August, 2015.

COMMISSION ON JUDICIAL CONDUCT

/s/ Margaret H. Downie

Hon. Margaret H. Downie

Hearing Panel Presiding Member

SUPREME COURT OF ARIZONA

In the Matter of)	Arizona Supreme Court
)	No. JC-15-0002
HONORABLE HOWARD GRODMAN,)	
Flagstaff Justice Court,)	Commission on Judicial
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)	
Respondent.)	
)	ORDER OF INTERIM SUSPENSION
)	FILED 9/10/2015

On September 9, 2015, the Commission on Judicial Conduct filed with this Court its Findings of Fact, Conclusions of Law, and Recommendations, in which it recommended that Respondent be suspended without pay for ninety days. Article 6.1, § 2 of the Arizona Constitution provides that "[a] judge is disqualified from acting as a judge, without loss of salary," while a recommendation for suspension is pending before this Court. Therefore,

IT IS ORDERED that Respondent shall be disqualified and suspended with pay as of the close of business on the date shown below. The suspension shall remain in effect until the Court's final decision in this matter.

DATED this 10th day of September, 2015.

SCOTT BALES
Chief Justice

TO:

Hon. Howard B Grodman, Judge, Flagstaff Justice Court

Robert B Van Wyck, Goldman & Zwillinger PLLC

Meredith L Vivona, Commission on Judicial Conduct

Hon. George A Riemer, Executive Director, Commission on Judicial
Conduct

Kimberly Welch, Commission on Judicial Conduct

Hon. Mark R Moran, Presiding Judge, Coconino County Superior Court

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FILED

MAY 04 2015

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
)	Case No. 14-216
Judge Howard Grodman)	
Flagstaff Justice Court)	
Coconino County)	
State of Arizona)	STATEMENT OF CHARGES
)	
Respondent)	

An investigative panel of the Commission on Judicial Conduct (Commission) determined that there is reasonable cause to commence formal proceedings against Judge Howard Grodman (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction 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 and the Rules of the Commission.
2. This Statement of Charges is filed pursuant to Rule 24(a) of those rules (Commission Rules).
3. Respondent has served as a justice of the peace in Coconino County, Arizona since January 2011 and continues to hold that position. He was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

FACTUAL BACKGROUND

5. Respondent recently sought re-election to his position as a justice of the peace for Coconino County Justice Court, Flagstaff, Arizona. He ran against Warren Sanford in the 2014 Arizona primary election, which was held on August 26, 2014.

6. At all times relevant, Warren Sanford was a Coconino County Justice of the Peace Pro-tem and Flagstaff City Magistrate.

7. As part of his re-election efforts, Respondent engaged in numerous campaign related emails, maintained a Facebook page, and maintained a webpage in addition to other campaign related activities.

8. Respondent's Facebook page was and is: *facebook.com/judgehowardgrodman*.

9. Respondent's webpage at all relevant times was: *www.howardgrodman.com*.

Facts Regarding Respondent's Improper Use of Arizona Administrative Office of the Court Email for Campaign Purposes

10. As part of his employment as a judge, the Arizona Administrative Office of the Court ("AOC") provides Respondent a work email address: *HGrodman@courts.az.gov*.

11. Respondent has access and control of the email address *HGrodman@courts.az.gov* and had such access and control uninterrupted since January 2011 (hereinafter "AOC email").

12. Around August 2013, Respondent began using his AOC email for non-work, campaign related emails. Respondent sent and received non-work, campaign related emails from his AOC email address.

13. Some of Respondent's improper AOC emails include:

- a. October 4, 2013 email from Respondent to G.M. stating, "He's one of my pro tems. I fired him [Sanford] yesterday. He's been a pro tem a long time, but not a lawyer." **Exhibit 1.**

- b. November 25, 2013 email from Respondent to E.A. stating, "I want to get an official badge that identifies me to wear to events, to court fuckface's elect warren (sic) Sanford justice of the peace badge. I could use your help in design." **Exhibit 2.**
- c. January 28, 2014 email from Respondent to C.B. stating in part, "I don't see a problem receiving email at my court address." To which C.B. replied in part, "City attorney told us that we are not allowed to us (sic) public property for campaign purposes. . . . Don't know if the same rule applies to judges." **Exhibit 3.**
- d. February 20, 2014 email from Respondent to B.M. stating in part, "Would you allow me to list you as an endorsement on my website?" **Exhibit 4.**
- e. March 11, 2014 email from Respondent to L.F. stating, "Hi . . ., This showed up on Warren Sanford's Facebook page. Can you help me undo it?" **Exhibit 5.**
- f. March 14, 2014 email from Respondent to R.K. stating in part, "Here's how he [Sanford] fixed it, so it only implies that you are endorsing him. What a sleaze!" This email contained the Coconino County logo and Respondent's title. **Exhibit 6.**
- g. March 25, 2014 email from Respondent to L.L. stating in part, "You could help me by letting Steve know how full of shit Warren is and how decent I've been." This email contained the Coconino County logo and Respondent's title. **Exhibit 7.**
- h. June 5, 2014 email from Respondent to the President of the local Democratic Party stating in part, Judge Sanford's campaign information is "both a direct (not even veiled) attack on me and an outright lie. I request that you enforce your cardinal rule and ban Judge Sanford from the Compass hereafter." This email contains Respondent's title. **Exhibit 8.**

- i. June 16, 2014 email to B.B. stating in part, "...[C.B.] asked me to contact you . . . she wonders if she can post a campaign sign at the addresses you have allowed me." This email contains Respondent's title. **Exhibit 9.**

14. In a July 28, 2014 article in the Arizona Daily Sun, Respondent admitted improperly using his AOC email, stating:

I acknowledge responding to some emails that were sent to my court account on my court account even though they contained some campaign related content. I also initiated some emails from that account. I regret doing so, and should have taken the extra time to use a personal account. I do that now.

15. Similarly, in his September 5, 2014 response to the commission, Respondent admitted he was "wrong to use my courts email account for any campaign related communications and I have corrected that."

16. On July 1, 2014, Respondent emailed L.C. to advise "you should use my *judgegrodman@gmail.com* for campaign related stuff. The Ss are doing a freedom of information act request of my work emails that have certain key words including E.M's wife."

17. Respondent informed the commission that he stopped improperly using his AOC email for campaign related activities when he learned of Judge Sanford's public records request. As evidenced by paragraph 16, Respondent learned of the public records request by July 1, 2014.

18. Further, upon information and belief, within a few days of July 7, 2014, Court Administrator Gary Krcmarik, and Deputy Court Administrator Sharon Yates, contacted Respondent and instructed Respondent to stop improperly using his AOC email, which Respondent confirmed he had.

19. Nonetheless, Respondent continued to improperly use his AOC email for campaign related purposes after July 1, 2014 including the following emails:

- a. July 2, 2014 email from Respondent to E.R. stating, "please delete the PO box as a donation option, since I no longer have it. If not Paypal, then have them email *judgegrodman@gmail.com*." **Exhibit 10.**

- b. July 5, 2014 email from Respondent to M.T. stating, "I'm canvassing your neighborhood and no one's home. Would you allow me to post a yard sign until the primary?" **Exhibit 11.**
- c. July 7, 2014 email from Respondent to T.M. stating, "May I post a reelect me sign on your Humphreys property?" **Exhibit 12.**
- d. July 14, 2014 email from Respondent to J.A. stating, "I had in my memory that you said it would ok (sic) for me to post a sign at your shop. Sorry if I just dreamed it up." **Exhibit 13.**
- e. July 17, 2014 email from Respondent to E.R., "please post this on Facebook. And indicate that a similar resolution was passed by the Leupp Chapter on June 20, 2014." **Exhibit 14.**
- f. July 19, 2014 email from Respondent to L.C. setting forth the text of a proposed campaign radio advertisement asking for votes. **Exhibit 15.**

20. Similarly, after July 1, 2014, Respondent continued to receive Facebook notifications on this AOC email and he did not unsubscribe himself from the Coconino Democratic Party newsletter.

Facts Regarding Respondent's Improper Campaign Photographs

21. In a July 8, 2014, Facebook post, Respondent, wearing his judicial robe, appears in a photograph in front of the judicial bench with an unnamed woman. The caption to the photograph reads: "Judge reconciles county's relationship with Navajo" and provides a link to *www.naco.org*. The link connects to an article in the National Association of Counties County News dated June 30, 2014. The article does not have any associated photographs. **Exhibits 16 & 17.**

22. The photograph described in Paragraph 21 also appeared on Respondent's campaign website, however, the woman is identified as Coconino County Supervisor Lena Fowler. The photograph does not link to any news articles and it does not contain a disclosure regarding the photograph.

23. In an October 20, 2014 Facebook post, Respondent, wearing his judicial robe, appeared in a photograph taken in front of the judicial bench wherein it appears he is marrying two people. **Exhibit 18.**

**Facts Regarding Respondent's Improper Campaign Activities at Two
Official Court Events Wherein
Respondent Was Acting in his Judicial Capacity**

24. Respondent organized an open court session to take place on April 22, 2014, at the Cameron Chapter Facility.

25. Respondent created, or caused to be created, advertisements for the Cameron open court session that included the following information:

**Coconino County Flagstaff Justice Court
Holds Open Court in Cameron**

Tuesday 4/22/14 @ 10 am DST Cameron Chapter Facility

This effort is made possible by Judge Howard Grodman, Constable Linda Kuczynski and Coconino County Supervisor Mandy Metzger

Who Should Register??

- Those with an open felony, misdemeanor, or traffic case with the Coconino County Flagstaff Justice Court, including cases with warrants. Individuals will be able to pay their fines and fees in full or make a payment on their case. We will accept cash, checks and credit cards. Please note we will be unable to make change.
- People who want to ask the Judge to cancel their warrant may appear without fear of being arrested in court. **Exhibit 19.**

26. As admitted by Respondent in his November 10, 2014 supplemental response to the commission, "the Cameron event was planned as a court event. It never formally changed to a campaign event." The public was at all times led to believe the April 22, 2014 Cameron open court session was an official court event.

27. Nonetheless, Respondent acknowledged in his September 5, 2014 response to the commission that, “I did take the opportunity to hand out fliers while there. I viewed it as a political rather than court appearance.” This is so despite the fact that Respondent noted that he “may have had a chat with one person who had an unpaid balance on an old civil traffic matter.”

28. Similarly, Respondent participated as a judge at the May 16, 2014, High Country Stand Down (“HCSD”).

29. The HCSD was an event presented by the Coconino County Superior Court, the Flagstaff Justice Court, and the Flagstaff Municipal Court to “help veterans resolve any outstanding warrants they may have in these courts.” **Exhibit 20.**

30. As advertised, the HCSD stated, “**You can appear before the Judge without fear of being arrested.**” (Emphasis in original). It further stated, “Those with an open felony, misdemeanor, or traffic case, including cases with warrants, will be able to pay their fines and fees in full, make a payment on their case, or ask the Judge to cancel either warrant.” **Exhibit 20.**

31. Judge Grodman appeared at the HCSD as a judge for the purpose of performing judicial duties.

32. Prior to attending the HCSD, Deputy Court Administrator Sharon Yates, advised Respondent that in her opinion, Respondent should not bring or hand out campaign flyers at the HCSD.

33. Respondent admitting bringing campaign flyers with him to the HCSD.

34. During the HCSD, Respondent, while appearing as a judge, “provided relevant services to two or three veterans” and also handed out campaign flyers.

Facts Regarding Respondent’s Improper Posting of Campaign Signs at a United States Post Office in Violation of Federal Law

35. Title 39, Section 232.1(h)(1), United States Code, prohibits posting political literature on postal property. This prohibition applies to campaign advertisements or flyers.

36. According to United States Postal Inspector Rivas, the law prohibiting posting campaign signs at the post office was visibly posted at the Cameron Post Office at all relevant times.

37. Respondent personally posted campaign signs at the Cameron Post Office in violation of federal law on or around the following dates:

- a. February 16, 2014
- b. March 23, 2014
- c. May 5, 2014
- d. June 21, 2014

**Facts Regarding Respondent's Improper Campaigning
During Court Hours**

38. On or around August 18, 2014 Respondent became aware that K.S. posted support for Judge Sanford on her personal Facebook page.

39. K.S. previously worked under Respondent's direction, but had recently moved to a different position at the Coconino Superior Court.

40. Respondent sought K.S. out and asked to speak with her privately. Respondent's request of K.S. was made during regular business hours.

41. K.S. followed Respondent to a nearby area and Respondent confronted K.S. about her Facebook support for Judge Sanford.

42. Respondent specifically asked K.S.:

- a. if she was voting for Judge Sanford;
- b. if she would take down the posting on her Facebook page that showed support for Judge Sanford; and
- c. Respondent reminded K.S. of all that he did for justice court and the kind of person he was.

43. K.S. felt uncomfortable and reported the interaction to her supervisors.

44. Respondent ultimately received a letter of reprimand from the presiding superior court judge, dated August 20, 2014 for this conduct. This reprimand came after the presiding judge had met with Respondent on two prior occasions to discuss concerns raised about Respondent's alleged ethical violations in the campaign.

45. Respondent failed to disclose this incident, his letter of reprimand or the fact that on two prior occasions the presiding judge met with him to discuss concerns raised about Respondent's alleged ethical violations related to his re-election campaign conduct, in either his September 5, 2014, or November 12, 2014 responses to the commission regarding this complaint.

Facts Regarding Respondent's Improper Name Calling

46. Respondent knew his AOC emails were subject to a public records request.

47. In addition to improperly using his AOC email for campaign related purposes as set forth above, in several emails, Respondent resorted to using unprofessional language to describe Judge Sanford including, but not limited to: "Fuckface;" "he's pretty much unemployed;" "he's full of shit;" and "sleaze."

Facts Regarding Improper Efforts to Obtain Campaign Endorsements

48. In addition to improperly using his AOC emails for campaign related purposes as set forth above, Respondent used his AOC email to obtain the campaign endorsement from someone then currently providing services to the Flagstaff Justice Court. **Exhibit 21.**

Facts Regarding Improper Retaliation Against Judge Sanford

49. After Judge Sanford announced that he was running against Respondent, Respondent caused Judge Sanford's work hours to be significantly reduced and ultimately precluded him from serving on the justice court.

50. Specifically, on or around October 8, 2013, Respondent requested Judge Arlington communicate with Judge Sanford and cancel his current court coverage dates. As a direct result of Respondent's request, on October 8, 2013, Judge Arlington emailed Judge Sanford stating, "Per your discussion with Howard last week, I am making different coverage arrangements for the six December dates I had previously scheduled with you." **Exhibit 22.**

51. Further, Respondent communicated directly with the superior court presiding judge that he did not want Judge Sanford serving at the justice court.

52. Respondent also communicated directly with the presiding judge that he did not want Judge Sanford to be paid out of the justice court budget.

53. As a result of Respondent's demands, the presiding judge issued a memorandum setting forth a compromise whereby Judge Sanford could still serve in matters for which the city court paid the judge as a pro tem, but that he was not permitted to serve on matters paid out of the justice court budget.

54. Respondent did not want Judge Sanford working for him for reasons unrelated to Judge Sanford's judicial performance and in abuse of the prestige of Respondent's judicial office and to advance his personal and economic interests.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

55. Respondent's conduct, as described above in Paragraphs 5-20, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.1, which requires a judge to "comply with the law, including the Code of Judicial Conduct";
- b. Rule 1.2, which requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary";
- c. Rule 1.3, which states, "a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge";
- d. Rule 3.1(E), which states that when engaging in extrajudicial activities, a judge shall not, "make use of court premises, staff, stationary, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law";
- e. Rule 4.1(A)(8), which states that a judge shall not "use court staff, facilities, or other court resources in a campaign for judicial office";
- f. Rule 4.2(A)(1), which requires a judicial candidate to "act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary";

- g. Rule 4.2(A)(2), which requires a judicial candidate “comply with all applicable election, election campaign and election campaign fund-raising laws and regulations;” and
- h. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

56. Respondent’s conduct, as described above in Paragraphs 5-9 and 21-23, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2, which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”; and
- b. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

57. Respondent’s conduct, as described above in Paragraphs 5-9 and 24-34, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2, which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”;
- b. Rule 1.3, which states, “a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge”;
- c. Rule 4.1(A)(8), which states that a judge shall not “use court staff, facilities, or other court resources in a campaign for judicial office”;
- d. Rule 4.2(A)(1), which requires a judicial candidate to “act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary”; and
- e. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

58. Respondent's conduct, as described above in Paragraphs 5-9 and 35-37, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.1, which requires a judge to "comply with the law, including the Code of Judicial Conduct";
- b. Rule 1.2 which requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary";
- c. Rule 4.2(A)(1), which requires a judicial candidate to "act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary"; and
- d. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

59. Respondent's conduct, as described above in Paragraphs 5-9 and 38-45, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2 which requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary;"
- b. Rule 1.3, which states, "a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge";
- c. Rule 2.16, which requires a judge to "cooperate and be candid and honest with judicial and lawyer disciplinary agencies."
- d. Rule 4.2(A)(1) which requires a judicial candidate to "act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary"; and
- e. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

60. Respondent's conduct, as described above in Paragraphs 5-9 and 46-47, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2 which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”;
- b. Rule 2.8(B) which requires a judge to be “patient, dignified and courteous” to court staff, court officials and others the judge deals with in an official capacity; and
- c. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

61. Respondent’s conduct, as described above in Paragraphs 5-9 and 48, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2 which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”;
- b. Rule 1.3, which states, “a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge”;
- c. Rule 3.1(E), which states that when engaging in extrajudicial activities, a judge shall not, “make use of court premises, staff, stationary, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law”; and
- d. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

62. Respondent’s conduct, as described above in Paragraphs 5-9 and 49-54, violated the following provisions of the Code and Arizona Constitution. Specifically:

- a. Rule 1.2 which requires a judge to “act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary”;

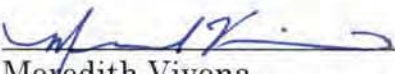
- b. Rule 1.3, which states, “a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge”; and
- c. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge to engage in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be 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 it deems appropriate.

Dated this 4th day of May, 2015.

COMMISSION ON JUDICIAL CONDUCT


Meredith Vivona
Acting Disciplinary Counsel

Copy of this pleading served this 4th day of May, 2015, on:
Respondent Judge Howard Grodman
via email to his gmail account:
judgegrodman@gmail.com

By: 
Kimberly Welch

EXHIBIT 1

[REDACTED]
From: [REDACTED]
Sent: Friday, October 04, 2013 7:42 PM
To: Grodman, Howard
Subject: Re: Mt. Humphrey

You fired him yesterday? Is that why he decided to run against you?

On Oct 4, 2013, at 10:36 PM, Grodman, Howard wrote:

> He's one of my pro'tems. I fired him yesterday. He's been a pro tem
> a long time, but not a lawyer.

>
> Sent from my iPhone
>

>> On Oct 4, 2013, at 10:11 PM, "[REDACTED]"
>> <[REDACTED]> wrote:

>>
>> When did you find out about the non-slouch? What are his quals (or
>> is it a woman)?
>>
>>
>>

>>> On Oct 1, 2013, at 11:35 PM, Grodman, Howard wrote:

>>>
>>> Recovered, but bummed that I will have competition for my 2014
>>> election. And not a slouch...not a lawyer either, but some people
>>> prefer that.

>>>
>>> Sent from my iPhone
>>>

>>>> On Oct 1, 2013, at 7:31 PM, "[REDACTED]"
>>>> <[REDACTED]> wrote:

>>>>
>>>> How are you doing today? Fully recovered?
>>

EXHIBIT 2

[REDACTED]

From: [REDACTED]
Sent: Monday, November 25, 2013 11:13 AM
To: Grodman, Howard
Subject: RE: Badge

Always

From: Grodman, Howard
Sent: Monday, November 25, 2013 11:07 AM
To: [REDACTED]
Subject: FW: Badge

I want to get an official badge that identifies me to wear to events, to court fuckface's elect warren Sanford justice of the peace badge. I could use your help in design.

From: [REDACTED]
Sent: Monday, November 25, 2013 11:05 AM
To: Grodman, Howard
Subject: FW: Badge

The badges come from Flagstaff Stamp and Engraving. Let me know if you would like for us to order you one. I can have one of our interns order it. If you do please let me know what you would like on the badge.

Thanks,
[REDACTED]



Sharon Yates
Deputy Court Administrator
Superior Court of Arizona
Coconino County
[REDACTED]

From: [REDACTED]
Sent: Monday, November 25, 2013 11:03 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Badge

Yes! Sorry for the confusion. You can order them from Flag Stamp and Engraving.

2534 E 7th Ave, Flagstaff, AZ 86004
(928) 526-2053

Just let them know you want a magnetic name badge and they ask your department and how you would like your name to appear. Then they call you when it is ready.

Thanks!
[REDACTED]

EXHIBIT 3

Vivona, Meredith

From: [REDACTED]
Sent: Wednesday, January 08, 2014 7:43 PM
To: Grodman, Howard
Subject: Re: that woman

i thought your email was hgrodman@gmail.com.
I will resend it.

city attorney told us that we are not allowed to use public property for campaign purposes.... don't know if the same rule applies to judges.

On Jan 8, 2014, at 7:30 PM, Grodman, Howard wrote:

It never arrived. My personal email is judgegrodman@gmail.com. Is that where you sent it? I don't see a problem receiving email at my court address. Would you resend it, please? Either address.
Howard

Sent from my iPhone

On Jan 8, 2014, at 7:25 PM, [REDACTED] <[REDACTED]> wrote:

yes. i sent the email to your gmail account since it is personal business. i didn't send it to your court email address.

On Jan 8, 2014, at 6:56 PM, Grodman, Howard wrote:

Hi [REDACTED]. Have you touched base with her for connecting us for coffee?

xoxoxo,

Howard

*** SENDER'S INFORMATION***

[REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT 4

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 20, 2014 5:18 PM
To: Grodman, Howard
Subject: Re: dv treatment

Judge,

Great, I will plan on attending and I think I can attend the 5th. Where do you all hold your staffing? I think the mental health courts are excellent for the community.

Yes you can definitely use my name as an endorsement.

[REDACTED]

On Thursday, February 20, 2014 2:45 PM, "Grodman, Howard" [REDACTED] > wrote:
[REDACTED], you're welcome to observe mental health court any time. We staff every other Wednesday at 8:15 and run court immediately after the staffing, usually around 9:15. We held mental health court yesterday, so the next time is March 5. Feel free to come without notice.

My opponent is a nonlawyer on call pro tem, mostly city court; I stopped using him, of course. He's politically connected, and he lacks employment most of the time, so he's pretty much a full-time candidate and that's what's worrisome.

Would you allow me to list you as an endorsement on my website?

From: [REDACTED]
Sent: Thursday, February 20, 2014 9:57 AM
To: Grodman, Howard
Subject: Re: dv treatment

Hi Howard,

How are you? For DV treatment it is NOT a best practice to bring victim and perp together for counseling. We never have perps and victims in group therapy together. The best authority I know of in town on DV is Dr. Neal Websdale. Neal is a professor at NAU and has a lot of expertise on Fatality Review Boards. He has written award winning books on DV. Neal is very sharp. I don't have a current contact for him but Judge Moran probably does. They keep in touch.

I have not heard of your opponent. You have my vote for sure. I hear you are doing well on the bench and I'm confident you will be reelected.

I ran into Fanny Steinlage the other day and she told me the Mental Health Program has 20 participants. That is great. I would love to come and observe the program.

I was hired by Globalocal Visions to work on an evaluation project of the two drug courts in Navajo County. One is in Show Low and the other in Holbrook. Interesting project. Mountain Counseling is busy running weekly DV groups, outpatient treatment groups, monthly DUI education classes, and 8 hour substance abuse education classes. We have been receiving some referrals from Justice Court.

Nice to hear from you.

EXHIBIT 5

From: [REDACTED]
Sent: Tuesday, March 11, 2014 11:39 AM
To: Grodman, Howard
Subject: RE: My opponent

You need to go out to the chapters to let them know who you are and that its you that brought the Flagstaff Justice Court to Navajo. The people are maybe thinking he is the judge who conducts the court out there.

From: Grodman, Howard [REDACTED]
Sent: Tuesday, March 11, 2014 11:33 AM
To: [REDACTED]
Subject: My opponent

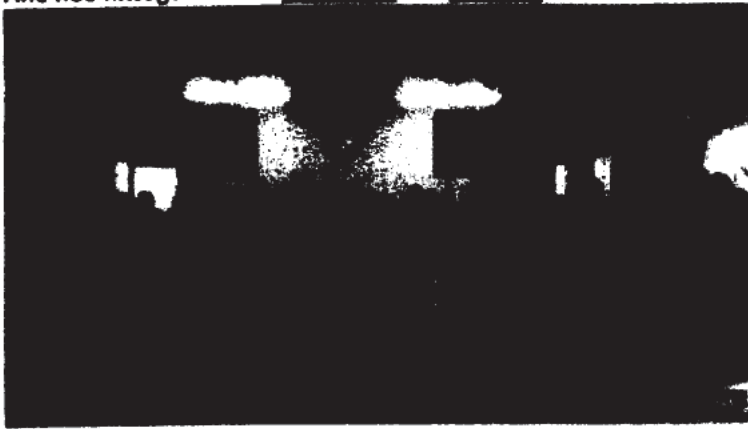
Hi [REDACTED]. This showed up on Warren Sanford's Facebook page. Can you help me to undo it?

Howard

Warren Sanford For Justice of the Peace

March 9

I am honored to have been unanimously endorsed for Justice of the Peace by To'Nanees'Dizi Chapter (Tuba City Chapter) today. Ahe'hee nitsagol — with Ben Shelly and 2 others.



1 Like · Share

- 9 people like this.

EXHIBIT 6

[REDACTED]

From: [REDACTED]
Sent: Friday, March 14, 2014 10:21 AM
To: Grodman, Howard
Subject: RE: your endorsement of Sanford

It should say,

"From an email cc'd to me from an anonymous source a couple of years ago"

From: Grodman, Howard
Sent: Friday, March 14, 2014 9:36 AM
To: [REDACTED]
Subject: your endorsement of Sanford

"Judge Sanford's experience is, and will continue to be critical in our courts."

-from a Nov 2012 letter to the City Manager of Williams

Here's how he fixed it, so it only implies that you are endorsing him. What a sleaze!



Howard Grodman
Flagstaff Justice of the Peace
Coconino County
[REDACTED]

EXHIBIT 7

[REDACTED]

From: [REDACTED]
Sent: Tuesday, March 25, 2014 2:20 PM
To: Grodman, Howard
Subject: RE: election

Howard,

I'll talk to Williamson about this. But I hope that you have other get togethers with DORR and convey this same message to them, as well as to other groups here in Sedona. It's important for the public to be told and to understand the differences between the two of you and the consequences for continued effective judicial service if Sanford is elected.

[REDACTED]

>>> "Grodman, Howard" [REDACTED] 3/25/2014 1:32 PM >>>

Hi [REDACTED]. He's pretty much unemployed so he has 24/7 to court everyone. I was at the last DORR breakfast and spoke.....Warren didn't and was pissed. You could help me by letting Steve know how full of shit Warren is and how decent I have been. Warren pretends like he has a significant role in the Coconino County justice courts when all he's ever been is one on a roster of about a dozen on call pro tems. He hasn't been in my court in over 6 months and Williams for over a year, though you'd never know by hearing him introduce himself. He only retains the title because he does weekend IAs that include our cases and he only does those every 4th weekend for an hour and a half or 2 each day.

His website says Restore Fiscal Discipline to Flagstaff Justice Court when I've operated under budget every year and brought extra services like felony guilty pleas that save jail costs, mental health court that saves competency costs, and traveling court to the reservation.

It used to say Restore Integrity to Flagstaff Justice Court (now it says Promote Deeper Integrity....), while I'm the only JP in the state on the Judicial Ethics Advisory Committee which I was invited to join.

He knows that this restorative justice concept that he and Elizabeth Yancy are promoting has next to no application in the kinds of misdemeanors we handle in justice court (dui, suspended license, criminal speed, mj, minor consumption, trucking violations, and dv) just as it couldn't be used in your court and wasn't by Yancy.

It's good to hear from you and I know I have 5 more months to deal with his gimmicks and bullshit.

Howard Grodman
Flagstaff Justice of the Peace
Coconino County
[REDACTED]

From: [REDACTED]
Sent: Tuesday, March 25, 2014 12:52 PM

EXHIBIT 8

Vivona, Meredith

From: [REDACTED]
Sent: Tuesday, June 10, 2014 11:25 PM
To: Grodman, Howard
Cc: [REDACTED]
Subject: Re: neutrality?

Hi Howard,

I'm now back in town and I looked into your complaint. I read the piece which Warren Sanford wrote and which was subsequently placed in the 'Compass' newsletter.

Because I take complaints of this nature quite seriously, I took the matter to our Executive Committee for deliberation. During the meeting, I distributed to the ExCom both your email and the piece which Mr. Sanford produced and which we subsequently placed in the 'Compass'. I also went over our policy of "Speak no ill of a fellow Democrat". I then opened it for discussion, and I asked everyone their opinion on the matter.

After discussion, the following motion was made and unanimously approved:

Motion on the table: Court Reform is a systemic issue that supersedes his [Howard's] office. Therefore this is dismissible and Warren does not need to be banned from the Compass. Passed Unanimously

I truly believe there was no bias in the discussion. I did not convey to the Executive Committee my personal opinion on the matter until after the vote was taken, to insure no one was influenced by my feelings. Relative now to my personal opinion, I agree fully with the conclusion reached by the Executive Committee. When I read the piece after you had advised me of your concern, I did not feel that it was a personal attack on you, but rather a general comment on the Court system, which has been an issue which has come up in the past and surely will, from time to time, come up in the future. I also do not see such a statement as an "outright lie" as you described, but rather as the expression of opinion on the Court system.

I really do appreciate that you raised this concern and even though you may be disappointed in the outcome, I do want you to feel free to express your concerns to me, should they arise in the future, as I encourage all of our candidates to do.

Thank you,

[REDACTED]
Coconino County Democratic Party

Grodman, Howard

[REDACTED] I am troubled that you would allow something like this in the Compass:

"Court reform is needed to heal the social and economic costs we are experiencing due to the mass incarceration of nonviolent offenders."

It is both a direct (not even veiled) attack on me and an outright lie. I request that you enforce your cardinal rule and ban Mr. Sanford from the Compass hereafter.

<image003.jpg>Howard Grodman

Flagstaff Justice of the Peace

Coconino County

928-679-7650

EXHIBIT 9

On Top of Flagstaff Real Estate

On Mon, Jun 16, 2014 at 9:19 AM, Grodman, Howard

[REDACTED] > wrote:

Hi [REDACTED] asked me to contact you because she hasn't been able to reach Patrice. She wonders if she can post a campaign sign at the addresses you have allowed me.

[cid:image002.jpg@01CF8944.1E724360] <<http://www.coconino.az.gov/index.aspx>> Howard Grodman
Flagstaff Justice of the Peace
Coconino County

EXHIBIT 10

Vivona, Meredith

From: [REDACTED]
Sent: Wednesday, July 02, 2014 3:35 PM
To: Grodman, Howard
Subject: Re: Donation address

Do you want or have a paypal link set up? It's easier to click and donate than to send an email.

[REDACTED]
Law Office of [REDACTED]
Santa Clarita | Ventura

[REDACTED]
[REDACTED]
Tel: [REDACTED]
[REDACTED]
[REDACTED]

Fax: [REDACTED]
[REDACTED]

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On Wed, Jul 2, 2014 at 3:31 PM, Grodman, Howard <HGrodman@courts.az.gov> wrote:

[REDACTED], please delete the PO box as a donation option, since I no longer have it. If not Paypal, then have them email judgegrodman@gmail.com

EXHIBIT 11

Vivona, Meredith

From: [REDACTED]
Sent: Monday, July 07, 2014 9:38 AM
To: Grodman, Howard
Subject: RE: [Howard Grodman] Arrowhead Village and development proposal

Howard,
I saw the signs this morning. That is fine. Good luck. You have my vote.
[REDACTED]

From: Grodman, Howard [mailto:HGrodman@courts.az.gov]
Sent: Saturday, July 05, 2014 1:20 PM
To: [REDACTED]
Subject: Re: [Howard Grodman] Arrowhead Village and development proposal

Hi [REDACTED] I'm canvassing your neighborhood and no one's home. Would you allow me to post a yard sign until the primary?

Sent from my iPhone

On Apr 16, 2014, at 10:16 AM, "[REDACTED]" <[REDACTED]> wrote:

Understandable. Thank you for your consideration and interest in the project anyway. I will keep you on the mailing list if that is ok with you, just in case.

From: Grodman, Howard [mailto:HGrodman@courts.az.gov]
Sent: Wednesday, April 16, 2014 9:41 AM
To: [REDACTED]
Subject: RE: [Howard Grodman] Arrowhead Village and development proposal

Hi [REDACTED] I've been giving some thought to attending, and I think I probably shouldn't attend because I may have to preside over any evictions that are filed in court.

<image004.jpg> Howard Grodman
Flagstaff Justice of the Peace
Coconino County
928-679-7650

From: [REDACTED]
Sent: Friday, April 11, 2014 12:17 PM
To: Grodman, Howard
Subject: RE: [Howard Grodman] Arrowhead Village and development proposal

Yes. I hope to see you there.
[REDACTED]

From: Grodman, Howard [mailto:HGrodman@courts.az.gov]
Sent: Thursday, April 10, 2014 3:00 PM

EXHIBIT 12

Vivona, Meredith

From: [REDACTED]
Sent: Tuesday, July 08, 2014 9:21 AM
To: Grodman, Howard
Subject: RE: Sign

Hi Howard,

You bet you can!! And I will pull some of the darn weeds!! [REDACTED]

-----Original Message-----

From: Grodman, Howard [mailto:HGrodman@courts.az.gov]
Sent: Monday, July 07, 2014 5:40 PM
To: [REDACTED]
Subject: Sign

Hi [REDACTED] May I post a reelect me sign on your Humphreys property?
Howard

Sent from my iPhone

EXHIBIT 13

Vivona, Meredith

From: [REDACTED]
Sent: Monday, July 14, 2014 5:10 PM
To: Grodman, Howard
Subject: RE: pledge sheet +

Oh don't worry about it, I don't think you dreamed it up-I might have said it at a function for sure-my mistake. We generally don't do it as I have had others ask and we just don't do it so that we don't upset clients. I once had a Board member ask and we declined, so I just wanted to be consistent. You're the best candidate hands down and I tell anyone who will listen the same. Thanks for doing such a good job. [REDACTED]

From: Grodman, Howard [mailto:HGrodman@courts.az.gov]
Sent: Monday, July 14, 2014 4:51 PM
To: [REDACTED]
Subject: pledge sheet +

Hi [REDACTED] I had in my memory that you said it would ok for me to post a sign at your shop. Sorry if I just dreamed it up.

Howard

EXHIBIT 14

Vivona, Meredith

From: [REDACTED]
Sent: Thursday, July 17, 2014 4:55 PM
To: Grodman, Howard
Subject: Re: T?C resolution

Sweet. Did you receive a copy of the Leupp resolution?

[REDACTED]
Law Office of [REDACTED]
Santa Clarita | Ventura

[REDACTED]
[REDACTED]
Tel: [REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]

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On Thu, Jul 17, 2014 at 11:16 AM, Grodman, Howard <HGrodman@courts.az.gov> wrote:

[REDACTED] please post this on Facebook. And indicate that a similar resolution was passed by the Leupp Chapter on June 20, 2014.

Thanks.

EXHIBIT 15

Vivona, Meredith

From: Grodman, Howard
Sent: Saturday, July 19, 2014 7:00 PM
To: Grodman, Howard; [REDACTED]
Subject: radio ad

Flagstaff Justice of the Peace Howard Grodman is the first and only Coconino County judge ever to hold court on the Navajo Nation. In partnership with County Supervisor Lena Fowler, he has held court in Tuba City six times so far and 3 times in Leupp with Supervisor Mandy Metzger, quashing over 100 warrants, restoring driving privileges, and allowing people to travel freely and no longer live like fugitives. He treats all who appear before him, including Native Americans, with respect and fairness. He asks for your vote in the Democratic Primary Election to reelect him, the first attorney-Flagstaff Justice of the Peace, for 4 more years of reaching out to all he serves, including Native Americans.

EXHIBIT 16

3/6/2015

EXHIBIT 17

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Judge reconciles county's relationship with Navajo

By Charlie Ban
STAFF WRITER

Outside Navajo country, even minor infractions of the law can lead to major paranoia.

"Many people who live on the nation get a ticket while they're driving into Flagstaff, or anywhere off the Navajo Nation, and they don't pay it and stop going into Flagstaff because they're afraid they'll be arrested," said Lena Fowler, a Coconino County supervisor.

Now a Coconino County judge is volunteering his time to go to these Navajo Nation members to help them clear up their offenses and ease their legal reconciliation and reintegration with the county.

"The perception of some of these folks is that as soon as they cross over the border into Coconino County from the reservation, they're going to be picked up by the sheriff's department or Flagstaff police department," Court Administrator Krcmarik said.

Their fears mimic an agoraphobic's fears of public places.

"Some of the folks said they hadn't been to Flagstaff in three years because of that outstanding warrant," he said. "They were afraid of being arrested as soon as they crossed the border."

Fowler's inquiries reached Judge Howard Grodman, who decided to take an afternoon to travel to Tuba City, on the edge of the reservation, to quash warrants and figure out payment for the tickets. Twenty-five Navajo signed up for Grodman's first appearance, but Deputy Court Administrator Sharon Yates said it took some getting used to.

"The first meeting, there was some distrust," she said. "So they called the nation's staff attorney to find out if it was sting operation. She assured them we'd have to jump through a lot of hoops to get arrest warrants, but there were a few people checking it out tentatively and then telling the others."

What they found was an informal setting, different from going into a courtroom.

"The judge is not sitting above anybody; he's at a table," Yates said. "He's wearing a robe so you know he's the judge and to give some semblance of formality to the proceedings."

Since Grodman started making these trips in 2011, 87 cases have been cleared.

Most are failure to pay warrants, and almost all are misdemeanor cases. Grodman works out payment plans with the defendants and provides some education as to how the courts work.

"We survey customers and they're appreciative of the fact that we came up there and did that," Krcmarik said. "But, you have to weight it because when we went out to Lupe, there were only two people, so you have to have enough people out there to make it worth the judge's trip. When we're seeing 25-30 people, that's worth the effort."

Fowler appreciates what that means.

"They feel free to come into Flagstaff and they lose a lot of fear of the county's legal system," Fowler said. "Local government is all about access to service. You have a variety of populations in your county, and here's one with no access to the courts unless they drive to Flagstaff. Judge Grodman is bringing that service to them."

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EXHIBIT 18



Like · Comment · Share · 37 2

Judge Howard Grodman
November 5, 2014 ·

Grodman re-elected in Justice of Peace race

MICHELLE McMANIMON Sun Staff Reporter

Democratic incumbent Howard Grodman has been elected to a second term as Flagstaff justice of the peace. ... See More

Like · Comment · 92 15

Judge Howard Grodman
October 30, 2014 ·

Our new and amazing website is up today for the first time. Check it out:
<http://coconino.az.gov/index.aspx?NTD=510>



Coconino County, AZ - Official Website - Flagstaff Justice Court

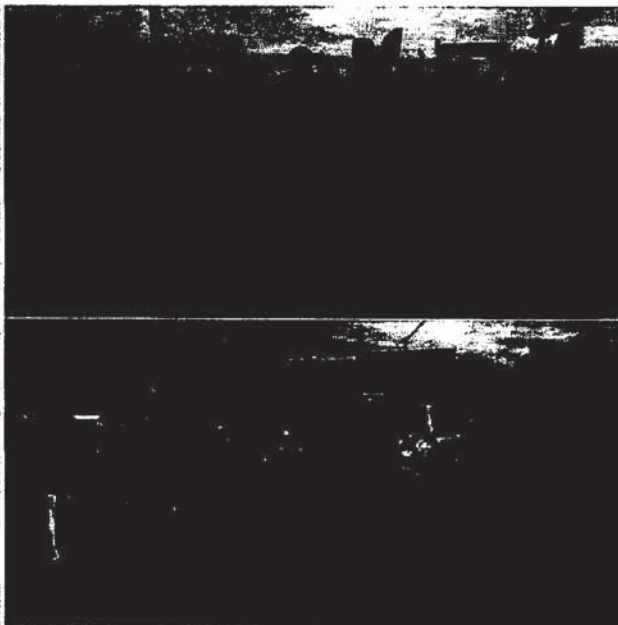
Flagstaff Justice Court, Traffic Cases, Fee schedules, CAPP class Schedule, Criminal Cases, Pre-Trial conference, Civil Cases, Justice Court Information

COCONINO.AZ.GOV

Like · Comment · Share · 35 1

Judge Howard Grodman added 2 new photos.
October 24, 2014 ·

Tuba City Parade last Saturday.



Like · Comment · 40 3

Judge Howard Grodman added 4 new photos.
October 20, 2014 ·

PEOPLE

726 likes

ABOUT

Flagstaff Justice of the Peace, elected November 2010.
www.howardgrodman.com

<http://www.howardgrodman.com/>

PHOTOS



VIDEOS



45 3

Fun and historic day, October 17, 2014, performing marriages at the courthouse and the Weatherford along with Judge Erika Arlington, as Arizona now recognizes marriage equality.



Like · Comment · 119 8 1

POSTS TO PAGE



Andrew Conte
January 13 at 1:44pm

I don't know why he's reelected? He let thieves keep my property and... See More

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1



Sherlyn Reilly
October 8, 2014 at 8:12am

You might find this interesting.
<http://www.msn.com/en-us/news/crim...> See More

Like · Comment · Share

1



Lisa Jobin
August 28, 2014 at 11:26am

YAY YAY YAY YAY!!!!!!

Like · Comment · Share

8 2

English (US) · Privacy · Terms · Cookies · More
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Judge Howard Grodman
October 7, 2014 ·

Hi All, Facebook pointed out to me that I haven't posted anything in 40 days, so here's what's happening lately.

Today I was asked to be on Coconino County's DUI/Drug Court Advisory Board, which is an honor.

I am a faculty member at a statewide court leadership conference later in the month in Mesa presenting on establishing a mental health court..

Like · Comment · 52 1



Judge Howard Grodman
August 27, 2014 ·

I am so grateful to everybody for your 'likes,' 'shares,' 'posts,' letters to the editor, signs, contributions, house parties, professional services, encouragement and general support. I couldn't have won without you. I'd like to keep my signs up, for those who can stand it, because there is still a general election challenger. If not, I understand and will be happy to retrieve them. Please message me on Facebook with your address.

Thanks again!

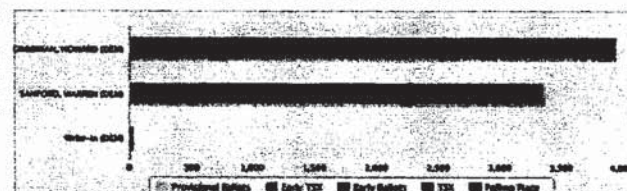
Like · Comment · 50 4



Judge Howard Grodman
August 26, 2014 ·

THANK YOU!

Thanks to everyone who voted for me, for your trust and confidence!



Like · Comment · Share · 110 36 2

EXHIBIT 19



Tuesday 4/22/14 @ 10 am DST

Cameron Chapter Facility

This effort is made possible by Judge Howard Grodman, Constable Linda Kuczynski, and Coconino County Supervisor Mandy Metzger

Who Should Register??

- Those with an open felony, misdemeanor, or traffic case with the Coconino County Flagstaff Justice Court, including cases with warrants. Individuals will be able to pay their fines and fees in full or make a payment on their case. We will accept cash, checks, and credit cards. Please note we will be unable to make change.

- People who want to ask the Judge to cancel their warrant may appear without fear of being arrested in court.

Information Needed:

- Full Name & Date of Birth
- Flagstaff Justice Court Case # (if known)
- Contact Telephone Number

**CONTACT: Coconino County District 4 Supervisor Metzger's Office To Register at (928) 679-7141
Or if you have additional questions regarding your case Flagstaff Justice Court Directly at (928) 679-7650**

For Cameron Open Court
Register with Philian Tree
(928) 679-7141

For Cameron Open Court
Register with Philian Tree
(928) 679-7141

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For Cameron Open Court
Register with Philian Tree
(928) 679-7141

EXHIBIT 20

2014 HIGH COUNTRY STAND DOWN

By:
The Coconino Superior Court

Fla. Superior Court

Have an open criminal or traffic case?

Have an outstanding warrant?

Those with an open felony, misdemeanor, or traffic case, including cases with warrants, will be able to pay their fines and fees in full, make a payment on their case, or ask the Judge to cancel their warrant.

You can appear before the Judge without fear of being arrested

May 16, 2014

1 pm – 5 pm

**AZ National Guard Armory
on Thorpe Road**

PLEASE NOTE:

WE CANNOT GIVE YOU LEGAL ADVICE REGARDING YOUR CASE.

Coconino County Courts to Help Veterans with Warrants

Flagstaff Justice of the Peace Howard Grodman, Coconino County Superior Court Judge Cathleen Brown Nichols, and Flagstaff Municipal Court Judge Michael Araujo will be participating in the Veterans Stand Down on May 16, 2014, from 1:00-5:00 p.m. at the AZ National Guard Armory on Thorpe Road in Flagstaff. The Flagstaff Justice Court, Coconino County Superior Court, and Flagstaff Municipal Courts are providing this service to help veterans resolve any outstanding warrants they may have in these courts.

Individuals who have an outstanding warrant in criminal or traffic cases with the Superior Court, Flagstaff Justice Court, or Flagstaff Municipal Court may appear without fear of being arrested.

For more information, please contact Court Administration at 928-679-7514.

EXHIBIT 21

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 20, 2014 5:18 PM
To: Grodman, Howard
Subject: Re: dv treatment

Judge,

Great, I will plan on attending and I think I can attend the 5th. Where do you all hold your staffing? I think the mental health courts are excellent for the community.

Yes you can definitely use my name as an endorsement.

[REDACTED]

On Thursday, February 20, 2014 2:45 PM, "Grodman, Howard" [REDACTED] > wrote:
[REDACTED], you're welcome to observe mental health court any time. We staff every other Wednesday at 8:15 and run court immediately after the staffing, usually around 9:15. We held mental health court yesterday, so the next time is March 5. Feel free to come without notice.

My opponent is a nonlawyer on call pro tem, mostly city court; I stopped using him, of course. He's politically connected, and he lacks employment most of the time, so he's pretty much a full-time candidate and that's what's worrisome.

Would you allow me to list you as an endorsement on my website?

From: [REDACTED]
Sent: Thursday, February 20, 2014 9:57 AM
To: Grodman, Howard
Subject: Re: dv treatment

Hi Howard,

How are you? For DV treatment it is NOT a best practice to bring victim and perp together for counseling. We never have perps and victims in group therapy together. The best authority I know of in town on DV is Dr. Neal Websdale. Neil is a professor at NAU and has a lot of expertise on Fatality Review Boards. He has written award winning books on DV. Neal is very sharp. I don't have a current contact for him but Judge Moran probably does. They keep in touch.

I have not heard of your opponent. You have my vote for sure. I hear you are doing well on the bench and I'm confident you will be reelected.

I ran into Fanny Steinlage the other day and she told me the Mental Health Program has 20 participants. That is great. I would love to come and observe the program.

I was hired by Globalocal Visions to work on an evaluation project of the two drug courts in Navajo County. One is in Show Low and the other in Holbrook. Interesting project. Mountain Counseling is busy running weekly DV groups, outpatient treatment groups, monthly DUI education classes, and 8 hour substance abuse education classes. We have been receiving some referrals from Justice Court.

Nice to hear from you.

EXHIBIT 22

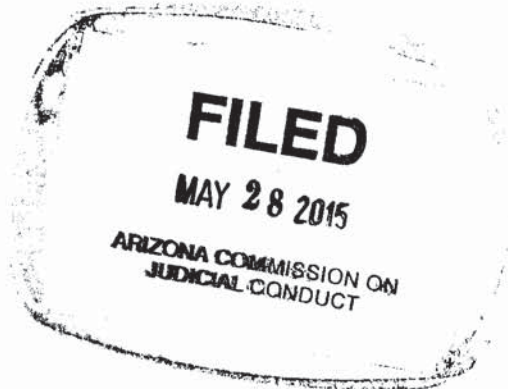
Sanford, Warren

From: Sanford, Warren
Sent: Tuesday, October 08, 2013 9:15 PM
To: [REDACTED]
Subject: FYI: FW: coverage cancellation

From: [REDACTED]
Sent: Tuesday, October 08, 2013 15:52
To: Sanford, Warren
Subject: coverage cancellation

Per your discussion with Howard last week, I am making different coverage arrangements for the six December dates I had previously scheduled with you.

Respectfully yours,
[REDACTED]



1 Robert B. Van Wyck (Bar No. 007800)
2 **GOLDMAN & ZWILLINGER PLLC**
3 7047 East Greenway Parkway, Suite 150
4 Scottsdale, Arizona 85254
5 Main: (480) 626-8483
6 Facsimile: (480) 383-6224
7 Email: rvanwyck@gzlawoffice.com
8 *Attorney for Respondent Judge Howard Grodman*

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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning
Judge Howard Grodman
Flagstaff Justice Court
Coconino County
State of Arizona,

Case No. 14-216

ANSWER

Respondent.

JURISDICTION

1. Answering paragraph 1, Respondent admits the statements contained therein.
2. Answering paragraph 2, Respondent admits the statements contained therein.
3. Answering paragraph 3, Respondent admits the statements contained therein.
4. Answering paragraph 4, Respondent admits the statements contained therein.

FACTUAL BACKGROUND

5. Answering paragraph 5, Respondent admits the statements contained therein.
6. Answering paragraph 6, Respondent admits that Warren Sanford was a Pro Tem

Justice of the Peace for Coconino County and on-call Flagstaff (Municipal) Magistrate.

1 7. Answering paragraph 7, Respondent admits that he sent and received various e-
2 mails, maintained a Facebook page, and a webpage as part of his personal activities and as part
3 of his election campaign. He further admits he engaged in other campaign related activities.
4

5 8. Answering paragraph 8, Respondent admits the Facebook page was as alleged.
6

7 9. Answering paragraph 9, Respondent admits the statements contained therein. He
8 has made and continues to make changes to ensure compliance with all Ethical Rules.

9 10. Answering paragraph 10, Respondent admits the statements contained therein.
10

11 11. Answering paragraph 11, Respondent admits the statements contained therein.
12

13 12. Answering paragraph 12, Respondent admits the statements contained therein but
14 affirmatively alleges that the time frame was likely later than August 2013, possibly September
15 or October 2013.

16 13. Answering paragraph 13, Respondent admits that the e-mails listed in paragraph
17 13, a-i, were excerpts from e-mails sent or received by Respondent from the AOC e-mail
18 address, were campaign related, and therefore not a proper use of the AOC address. The rules
19 do allow some use of the email for personal use.
20

21 14. Answering paragraph 14, Respondent admits that he made the statement contained
22 in the Arizona Daily Sun article dated July 28, 2014, and that the statement was true and
23 accurate to the best of his knowledge at the time.
24

25 15. Answering paragraph 15, Respondent admits that he made this response to the
26 commission and that such statement was accurate and truthful to the best of Respondent's
27 knowledge at the time.
28

1 16. Answering paragraph 16, Respondent admits that he wrote and sent an e-mail
2 containing this statement to L.C.

3
4 17. Respondent admits that he informed the commission in his September 5th response
5 that he had discontinued the use of the AOC e-mail address on or about July 1, 2014.
6 Respondent maintains that at the time of his response, he believed that on or about July 1, 2014,
7 he stopped the use of the AOC e-mail for campaign related activities. After further review, he
8 realizes and therefor admits that he sent and received further e-mails after that time.
9

10 18. Answering paragraph 18, Respondent admits the statements contained therein.
11

12 19. Respondent admits that he authored and sent e-mails containing the statements set
13 forth in a-f of paragraph 19. Respondent affirmatively alleges that he believed he had stopped all
14 such e-mail transmissions; upon further review he realizes that he did send those e-mails and
15 they were not appropriate.
16

17 20. Answering paragraph 20, Respondent admits the statements contained therein but
18 affirmatively asserts that he no longer receives notifications of any kind to his Facebook account
19 through the AOC address; and any reference to the Democratic Party newsletter and the like are
20 delivered to his personal accounts.
21

22 21. Answering paragraph 21, Respondent admits the statements contained therein.
23 The Respondent believed the picture was from a Navajo Hopi Observer article from 2011.
24 Respondent acknowledges that picture should not have been posted to his Facebook page or
25 used in any campaign related manner.
26
27

28 22. Answering paragraph 22, Respondent admits the statements contained therein.

1 23. Answering paragraph 23, Respondent admits the statements contained therein.
2 Respondent admits that while he did not personally post it on the Facebook page, he was in
3 charge of the account and responsible for its content, and it should not have been on Facebook.
4

5 24. Answering paragraph 24, Respondent admits the statements contained therein.

6 25. Answering paragraph 25, Respondent admits the statements contained therein.
7 Respondent affirmatively alleges that the Court sessions scheduled on the reservation were
8 appropriate and helpful to those living on the reservation (as many lived in fear of leaving the
9 reservation, often with only minor payment issues and the state warrants cannot be served on the
10 reservation, often with only minor payment issues and the state warrants cannot be served on the
11 reservation).
12

13 26. Answering paragraph 26, Respondent admits that the event was originally
14 scheduled as a judicial event; however, upon arrival, he failed to make it clear that the judicial
15 event was cancelled and was no longer going to be held. Respondent admits he did hand out
16 campaign brochures when the event was not clearly delineated a political event.
17

18 27. Answering paragraph 27, Respondent admits he made the statements contained in
19 this paragraph and, in hindsight, any exchange about a minor traffic matter could have been seen
20 as a court activity. In general, if approached in the street or at a grocery store, Respondent
21 provides the clerk's number to the person who approaches him. He never discusses the merits
22 of any case. Respondent should have replied "I cannot speak with you about this matter except
23 in a formal court setting", or in some manner to make it absolutely clear that he could not be
24 approached informally on any court matter.
25
26
27
28

1 28. Answering paragraph 28, Respondent admits the statements contained therein.
2 Respondent affirmatively asserts that in order to handle a case in a traveling court session, they
3
4 were required to register so that Respondent could be could bring their file.

5 29. Answering paragraph 29, Respondent admits the event took place; however,
6 numerous agencies were involved in organizing the event, was only
7

8 30. Answering paragraph 30, Respondent admits the event took place; Respondent
9 affirmatively states that he was present simply to perform any court services. Respondent did
10 not have any involvement in the promotion or organization for the event.
11

12 31. Answering paragraph 31, Respondent admits the statements contained therein.

13 32. Answering paragraph 32, Respondent admits the statements contained therein and
14 affirmatively states that it was a poor decision on his part that will not be repeated.
15

16 33. Answering paragraph 33, Respondent admits the statements contained therein.
17 Respondent acknowledges this was an error in judgment and such conduct will not be repeated.
18

19 34. Answering paragraph 34, Respondent admits that he provided judicial services and
20 after the session, handed out campaign flyers. This was not appropriate and Respondent will not
21 do this again under any circumstances.
22

23 **CAMPAIGN SIGNS IN POST OFFICE**

24 35. Answering paragraph 35, Respondent admits the statements contained therein.
25

26 36. Answering paragraph 36, Respondent admits that it was not proper to have
27 campaign signs in the Cameron Post Office, whether or not it was visibly posted.
28

1 37. Answering paragraph 37, Respondent admits the statements contained therein.
2 Respondent understood at the time that he was posting a flyer on a community billboard, but
3 acknowledges that it was improper to post the flyer at the post office as he did in those
4 instances.
5

6 38. Answering paragraph 38, Respondent admits the statements contained therein.
7

8 39. Answering paragraph 39, Respondent admits the statements contained therein.
9 Respondent affirmatively states K.S. was a friend and a valuable county employee. Respondent
10 performed the wedding ceremony for K.S. and her husband.
11

12 40. Answering paragraph 40, Respondent admits the statements contained therein.
13 Respondent affirmatively alleges that at the time he questioned K.S., he believed he was merely
14 asking a friend a question and was not using his authority to gain information. In hindsight,
15 Respondent now sees that he acted inappropriately and his position as "judge" is one of
16 authority and that speaking with her would have made her uncomfortable. Respondent
17 acknowledges that the fact of their friendship in some ways made it more uncomfortable for
18 K.S. and Respondent regrets this action both as an ethical matter and from a personal standpoint.
19
20

21 41. Answering paragraph 41, Respondent admits that he spoke with K.S. in the work
22 setting but denies that it was meant as a confrontation; Respondent sees how it would reasonably
23 be interpreted as such.
24

25 42. Answering paragraph 42, Respondent admits the statements contained therein, and
26 affirmatively acknowledges that he should not have had this conversation with K.S., in the work
27 setting, or frankly, anywhere.
28

43. Answering paragraph 43, Respondent admits K.C. felt uncomfortable and made the report. Respondent affirmatively states he did not intend to make her uncomfortable and deeply regrets that these events took place and holds himself responsible for his actions.

44. Answering paragraph 44, Respondent admits that the Presiding Judge issued the reprimand which Respondent took seriously, and recognizes the Judge had spoken with him twice before about other campaign related concerns. Respondent affirmatively states that he understands the presiding judge believes that Respondent performs his judicial duties properly and efficiently, but did have appropriate concerns about Respondent's conduct as it related to his campaign.

45. Answering paragraph 45, Respondent did not intentionally or knowingly fail to disclose the reprimand, the prior meetings or the incident with K.S. Respondent affirmatively alleges that at no time was he trying to hide any of the actions referenced in paragraph 45 of the Complaint.

NAME CALLING

46. Answering paragraph 46, Respondent was not aware AOC e-mails were subject to a public records request; however, in hindsight he should have known and appreciated the consequences of these being public records. Respondent further recognizes that whether or not they are public records, he should not have used the e-mail improperly.

47. Answering paragraph 47, Respondent admits he used unprofessional language in the e-mails referenced above, and affirmatively states that such language should not been used

1 in AOC e-mails or, frankly, in any other form of communication. Respondent is embarrassed by
2 the use of this language and regrets that he acted in this manner.
3

4 **ENDORSEMENTS**

5
6 48. Answering paragraph 48, Respondent admits the statements contained therein.
7 Respondent now realizes he should not have posed the question under these circumstances.
8

9 **RETALIATION**

10 49. Answering paragraph 49, Respondent admits the statements contained therein, but
11 affirmatively asserts, not as an excuse, but as context, that he believed the policy was akin to the
12 code of conduct for judicial employees and like that in other government agencies. An
13 employee running against their superior must first resign. Respondent realizes this assumption
14 was a mistake and such restrictions do not apply to judges, but it was a good faith belief at the
15 time.
16
17

18 50. Answering paragraph 50, Respondent admits a conversation took place with Judge
19 Arlington regarding coverage. However, Respondent believes the conversation was initiated by
20 Judge Arlington to reduce the tension between Respondent and Judge Sanford.
21

22 51. Answering paragraph 51, Respondent admits the statements contained therein.
23

24 52. Answering paragraph 52, Respondent admits the statements contained therein.
25

26 53. Answering paragraph 53, Respondent admits that as a result of the concerns he
27 raised, the Presiding Judge entered the agreement as set forth in this paragraph.
28

1 54. Respondent denies the characterizations of paragraph 54, but acknowledges that
2 he should not have terminated the services of Sanford at that time. In hindsight, he should have
3 brought his concerns to the presiding judge and taken whatever direction he received from the
4 presiding judge.
5

6 55. Answering paragraphs 55 through 62 regarding violations of particular Rules,
7 Respondent affirmatively alleges that he admits to most of the facts forming the basis for this
8 Complaint. Respondent holds himself accountable for his conduct. However, whether these
9 admitted facts demonstrate a violation of a particular Rule, should be left for a hearing on the
10 issue of violations and any sanction to be imposed. The facts may suggest the violation of
11 certain Rules and not others. The facts may suggest Respondent's actions were not so egregious
12 as to call for the sanction of censure or above. This request for a hearing on the issue of the
13 violations and any sanction should not be taken as an attempt to escape his responsibility.
14
15
16

17 **RULE 19 MITIGATING AND AGGRAVATING FACTORS**

18 Further answering the Complaint, Respondent accepts full responsibility for his conduct.
19 To place his actions in context, during the election campaign, Respondent sincerely desired to
20 uphold the integrity and dignity of the judiciary. He believed that in order to do that, he had to
21 counter the false representations made by his opponent, a non-lawyer in a campaign wherein
22 many citizens did not know what a judge, particularly a Justice of the Peace, actually does.
23 Without excusing Respondent's bad decisions, Respondent reacted to the actions of Sanford,
24 who Respondent believed was besmirching the judiciary and not being forthright with the
25 public.
26
27
28

1 Respondent's reactions and responses to Sanford's tactics were not proper and
2 Respondent should have taken other steps to address these issues. In the future, Respondent will
3 just do his job to the best of his ability and separate his judicial and campaign activities.
4 Respondent has also sought professional assistance regarding his tendency to overreact or make
5 impulsive decisions when addressing the inevitable affronts that come with a difficult campaign.
6 These corrective actions, and others he is taking, will protect the public and help Respondent to
7 conduct a campaign that is consistent with the high standard expected of him and to which he
8 aspires as a judge.

11 Addressing the specifics of Rule 19, the Respondent affirmatively alleges as follows:

13 (a) This has been addressed in the answer above, but the allegations and admissions are
14 restricted to the campaign alone and do not involve his judicial performance either on the bench
15 or in his administrative capacity. and

17 (b) Respondent was a pro tem juvenile judge in Maricopa County for three years from
18 1996 to 1999, and a Phoenix Municipal Judge Pro Tem for a few months before moving to
19 Flagstaff. Before becoming Justice of the Peace in Flagstaff, he was a long-term member of the
20 State Bar of Arizona (1993) and before that in Michigan (1983 admission).

22 (c) The activities complained of and admitted to are restricted to campaign activities.

24 (d) While regrettable, the election conduct did not appear to injure another person and has
25 had little negative effect on the judiciary.

26 (e) He did not intentionally or knowingly exploit his position for an improper purpose. In
27 hindsight, Respondent understands the conduct itself was not proper.
28

1 (f) The judge acknowledges and recognizes the wrongful nature of his conduct and has
2 made changes and put in place evaluative tools to ensure compliance with the Rules.

3
4 (g) Respondent has no prior disciplinary action as a lawyer or a judge.

5 (h) His only prior discipline, was not involving the commission, but was in the form of
6 written reprimands from the Presiding Judge as set forth above which the Respondent has taken
7 seriously.
8

9 (i) The judge has and will continue to cooperate fully and honestly with the commission
10 proceeding.
11

12 (j) Respondent may not have fully appreciated the emotional impact of an election, while
13 doing the job of Justice of the Peace together with the responsibilities to his family. He
14 recognizes that he should have sought professional help before, rather than after the campaign.
15 He is now aware of the these pressures and will prepare for them.
16

17 Other factors set forth in Rule 19: Flagstaff is a relatively small community but the
18 county is generally rural and very large geographically. This is a very busy court and any
19 disruptions in the court will hurt the community unnecessarily. Since Respondent is a lawyer,
20 he handles Mental Health Court which has been a real success. Consistency is the byword for
21 this court and any disruption would affect adversely the public and persons involved in this
22 court proceeding. Respondent also accepts guilty pleas for felonies which is efficient, and saves
23 time and expense for the county.
24
25

26 The above programs are conducted in conjunction with the Superior Court. A non-lawyer
27 could not do them. There is a very small, and likely, non-existent pool of lawyers to take over
28

1 the position for a period of suspension. Respondent is also a competent administrator, an often
2 overlooked asset for a judge. He oversees a large staff, has authorized new case management
3 procedures to address the large volume of case. There are now more cases being resolved than
4 being new cases coming in. That is significant progress. The Clerk's office received a grant for
5 two years to clean up or reconcile prior dispositions in order for accurate information to be
6 provided in background checks and the like. These are examples of what has taken place under
7 Respondent's leadership and demonstrate his qualifications for the position.
8

9
10 Finally, a sanction of a suspension could easily become a campaign issue in the future. It
11 might have a very negative effect on this Respondent who has otherwise shown he is highly
12 qualified as a judge. This could be factor in a campaign and may potentially harm the public
13 more than help the public in the future. Since a lesser sanction will correct the misconduct and
14 demonstrate to the public that the misconduct has been addressed, it is suggested that a lesser
15 sanction is proper.
16
17

18 **REQUESTED RELIEF**

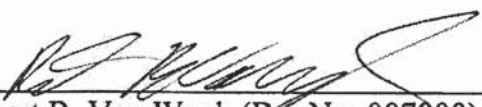
19
20 A corrective action, an informal reprimand or at most a Censure is appropriate under the
21 circumstances. A sanction less than suspension will assure the public regarding the campaign the
22 conduct of judges, will uphold the dignity and respect for the judiciary and will deter this judge
23 as well as others from similar misconduct.
24

25 //

26 //

1 DATED this 28th day of May, 2015.

2
3 GOLDMAN & ZWILLINGER PLLC

4
5 
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7 7047 East Greenway Parkway, Suite 150
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9 Attorney for Respondent Judge Howard Grodman

10 ORIGINAL of the foregoing filed
11 this 28th day of May, 2015, with:

12 Commission on Judicial Conduct
13 1501 W. Washington, Suite 229
14 Phoenix, Arizona 85007

15
16 Copies of the foregoing emailed this
17 28th day of May, 2015, to:

18 Meredith L. Vivona (#023515)
19 Acting Disciplinary Counsel
20 Arizona Commission on Judicial Conduct
21 Email: mvivona@courts.az.gov

22 by: 
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