

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. JC-17-0001
HONORABLE PAULA ABOUD,)
Pima Justice Court,) Commission on Judicial
Pima County,) Conduct
State of Arizona,) No. 17-019
)
Respondent.) **FILED 12/4/2017**
)
_____)

O R D E R

This matter having come before the Commission on Judicial Conduct, it having duly rendered and filed its Recommendation, and no objections to or petition for modification of the recommendation having been filed by either party, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of Procedure of the Commission on Judicial Conduct,

IT IS ORDERED that Justice of the Peace Paula Aboud is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation, which is attached hereto.

IT IS FURTHER ORDERED that Justice of the Peace Aboud obtain additional judicial ethics training, the course(s) and provider(s) to be approved by the chair of the Commission. Justice of the Peace Aboud shall submit proof of attendance to the executive director of the Commission upon completion of the assigned course(s).

IT IS FURTHER ORDERED that Justice of the Peace Aboud shall pay the costs and attorney's fees incurred by the Commission in preparing and conducting the formal hearing in this matter.

DATED this 4th day of December, 2017.

/s/
Janet Johnson
Clerk of the Court

Arizona Supreme Court No. JC-17-0001
Page 2 of 2

TO:

Thomas E Higgins Jr
April Phillips Elliott
Hon. Margaret Downie
Kimberly Welch
Sandra Montoya
Maret Vessella
Mary Pieper
Raziel Atienza
LexisNexis
Hon. Kyle Bryson
sj

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. JC-17-0001
HONORABLE PAULA ABOUD,)
Pima Justice Court,) Commission on Judicial
Pima County,) Conduct
State of Arizona,) No. 17-019
)
Respondent.)
_____) FILED 12/27/2017

O R D E R

The "Statement of Costs and Attorney's Fees" having been filed by the Commission on Judicial Conduct, and no objection having been filed by Respondent Aboud,

IT IS ORDERED, ADJUDGED AND DECREED that pursuant to this Court's Order filed December 4, 2017, Respondent Paula Aboud shall pay the costs and attorney's fees, totaling \$2,132.60, incurred by the Commission in preparing and conducting the formal hearing in this matter.

DATED this 27th day of December, 2017.

_____/s/
Janet Johnson
Clerk of the Court

TO:
Thomas E Higgins Jr
April Phillips Elliott
Kimberly Welch
Hon. Margaret Downie
Hon. Lawrence F Winthrop
Hon. Kyle Bryson
kd

April P. Elliott, SBN 016701
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

**IN THE SUPREME COURT
STATE OF ARIZONA**


Inquiry concerning	)	Arizona Supreme Court
	)	Case No. JC-17-0001
Judge Paula Aboud)	
Pima County Justice Court	)	Commission on Judicial Conduct
Precinct 6	)	Case No. 17-019
State of Arizona)	
	)	CERTIFICATE OF SERVICE
Respondent)	

I certify that on the 7th day of December, 2017, I served, by email, the Statement of Costs and Attorney’s Fees and Affidavit of April P. Elliott, upon Respondent, via counsel, to the following:

Thomas E. Higgins, Esq.
Attorney for Respondent
Law Offices of Thomas E. Higgins, P.L.L.C.
higginsinvail@aol.com; higginsoffice@gmail.com

DATED this 7th day of December, 2017.

COMMISSION ON JUDICIAL CONDUCT



April P. Elliott
Disciplinary Counsel

Original of the foregoing filed electronically, this 7th day of December, 2017, with:

Clerk's Office
Arizona Supreme Court
1501 W. Washington St.
Phoenix, AZ 85007

By:  _____
Kim Welch, Commission Clerk

April P. Elliott, SBN 016701
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: aelliott@courts.az.gov

**IN THE SUPREME COURT
STATE OF ARIZONA**

Inquiry concerning	)	Arizona Supreme Court
	)	Case No. JC-17-0001
Judge Paula Aboud)	
Pima County Justice Court	)	Commission on Judicial Conduct
Precinct 6	)	Case No. 17-019
State of Arizona)	
	)	STATEMENT OF COSTS AND
Respondent	)	ATTORNEY'S FEES

TO THE CLERK OF THE SUPREME COURT AND RESPONDENT:


1. I am the Disciplinary Counsel of the Commission on Judicial Conduct (Commission), the prevailing party in this matter.
2. The Commission did not incur any documented costs that this Court has previously deemed recoverable in Commission cases.
3. Pursuant to the Supreme Court's December 4, 2017 Order in this matter, I submit the attached affidavit detailing the attorney time directly attributable to the formal hearing in this case. The amount of attorney time documented is 51.45

hours, and at Disciplinary Counsel's rate of \$41.45 per hour, the Commission seeks an award of attorney's fees in the total amount of \$2,132.60.

4. The Commission's total amount of costs and attorney fees is, therefore, \$2,132.60, which the Commission requests the Court order Respondent to pay.

DATED this 7th day of December, 2017.

COMMISSION ON JUDICIAL CONDUCT



April P. Elliott
Disciplinary Counsel

April P. Elliott, SBN 016701
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: aelliott@courts.az.gov

**IN THE SUPREME COURT
STATE OF ARIZONA**

Inquiry concerning	)	Arizona Supreme Court
	)	Case No. JC-17-0001
Judge Paula Aboud)	
Pima County Justice Court	)	Commission on Judicial Conduct
Precinct 6	)	Case No. 17-019
State of Arizona)	
	)	AFFIDAVIT OF
Respondent	)	APRIL P. ELLIOTT

I, April P. Elliott, hereby declare that the following statements made by me are true and correct to the best of my knowledge and belief:

1. During the pendency of the above-captioned matter, I served as Disciplinary Counsel to the Arizona Commission on Judicial Conduct (Commission). I have served in that capacity full-time from October 2014 through the present.

2. In my capacity as Disciplinary Counsel, I served as the primary attorney responsible for litigating this matter from its inception through its completion.

3. My gross annual salary with the Commission is \$86,213.92.

My hourly rate of pay is, therefore, \$41.45 per hour.

4. I was not required to, nor did I maintain, an hourly time log. I did, however, keep contemporaneous records of time related to formal proceedings in the form of calendar notes, case management notes, and electronic mail messages.

5. The attached table details the hours I spent litigating this matter that are: (a) directly attributable to the formal proceedings; and (b) that I have contemporaneous notes, emails and/or pleadings to substantiate.

6. According to my summary, I spent 51.45 hours of work directly attributable to the formal proceedings in this matter. Based on my hourly rate of \$41.45 per hour, the Commission's attorney fees in this proceeding total \$2,132.60.

FURTHER AFFIANT SAYETH NAUGHT.

///

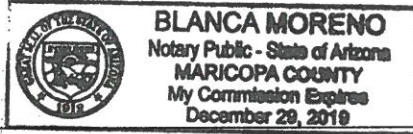
DATED this 7th day of December, 2017.

COMMISSION ON JUDICIAL CONDUCT

April P. Elliott
April P. Elliott
Disciplinary Counsel

SUBSCRIBED AND SWORN to before me this 7th day of December, 2017, by April P. Elliott, who satisfactorily proved her identity to me.

Blanca Moreno
Notary Public



My Commission Expires

Attorney Time Log for 17-019 Aboud
Hours Attributable to Formal Proceeding

Date	Time	Task
03/17/17	0.75	Prepare Notice of Institution of Formal Proceedings; Begin drafting Statement of Charges.
03/20/17	0.75	Finalize draft of Statement of Charges; Prepared and sent letter to Judge Aboud advising formal charges are forthcoming and inquiring if she will accept service electronically or by certified mail.
03/29/17	0.20	Sent email to Judge Aboud requesting she confirm receipt of 3/20/17 letter and to advise of decision on service of formal charges. Judge Aboud advised she did receive my letter and she would accept service electronically.
03/30/17	0.10	Sent email to Judge Aboud attaching Statement of Charges and Notice of Institution of Formal Proceedings.
04/03/17	0.10	Reviewed email from Judge Aboud confirming receipt of Statement of Charges and Notice of Institution of Formal Proceedings.
04/05/17	0.25	Reviewed email from Judge Aboud requesting an extension of time to file response; Sent email to Judge Aboud advising of no objection to extension when written request is filed; Reviewed order appointing Judge Winthrop as Hearing Officer.
04/06/17	0.35	Reviewed email from Judge Aboud indicating she is retaining counsel; Telephone call with John Tully who will be representing Judge Aboud.
04/07/17	0.35	Reviewed email from John Tully with draft of motion for extension of time attached; Sent email to John Tully advising of no objection until April 28 th ; Review filed motion for extension of time to file response; Review email from Judge Winthrop granting motion.
04/27/17	0.20	Review Response to Statement of Charges.
04/28/17	0.50	Telephone call with John Tully regarding discovery process and other issues related to formal hearing.
05/01/17	0.20	Sent email to John Tully attaching sample case management order; Sent email to Judge Winthrop and Tully regarding status conference.
05/02/17	0.40	Review email from Judge Winthrop setting telephonic conference for May 23, 2017 at 2:00 p.m.; Email correspondence with John Tully regarding interview dates and other issues related to formal hearing.
05/08/17	0.20	Draft Press Release announcing formal charges; Emailed draft of press release to John Tully.
05/09/17	0.30	Review email from John Tully approving press release and advising he is working on interview dates and respond to same; Send email to Judge Sampanes advising of formal charges and asking for his copy of the test/answer key for hearing; Send email

		to Paul Julian advising of formal charges and asking for contact information for Steve Strzelczyk.
05/10/17	0.40	Meeting with Judge Sampanes to receive his copy of the test/answer key for hearing.
05/16/17	1.0	Draft Rule 26 Disclosure Statement.
05/17/17	0.30	Telephone call with Judge Strzelczyk; Email correspondence with John Tully to set teleconference for May 22, 2017 at 10am to discuss CMO; Emailed Judge Winthrop and John Tully a copy of KVOA's request to record the proceedings.
05/17/17	0.60	Finalize Rule 26 Disclosure Statement and serve on John Tully; Review Judge Aboud's Disclosure Statement;
05/22/17	0.75	Teleconference with John Tully to discuss case management order, potential hearing dates, and other issues.
05/23/17	0.45	Attend telephonic status conference with Judge Winthrop and John Tully; Hearing dates are August 14, 2017, and August 15, 2017 (if necessary); Reviewed email from Sandy Gates of anonymous voicemail left with Judge Winthrop's chambers on Judge Aboud.
05/23/17	0.60	Drafted case management order and emailed to John Tully.
05/25/17	0.50	Received telephone call from Pro Tem Judge Ted Forgach regarding knowledge he has on the case.
05/26/17	0.20	Review email from John Tully requesting to discuss case on 5/30/17; Sent email to John to confirm availability on that date.
05/31/17	0.50	Telephone calls with John Tully setting interviews of his client and Judge Pesquiera on 6/15/17 and discussing my conversation with Pro Tem Judge Forgach. Sent confirming email to John Tully regarding interviews on 6/15/17.
06/02/17	0.30	Prepare Supplemental Disclosure Statement, disclosing Pro Tem Judge Forgach; Email same to John Tully.
06/02/17	0.20	Review Supreme Court Rule 123 in light of KVOA's request to videotape hearing.
06/05/17	0.30	Email correspondence with Paul Julian regarding formal hearing date and KVOA's request to videotape the hearing; Email correspondence with John Tully and Tom Higgins regarding Tom taking over as counsel for Judge Aboud.
06/09/17	0.10	Telephone call with Tom Higgins discussing possible reschedule of interviews on 6/15/17.
06/12/17	0.20	Review Notice of Substitution of Counsel; Sent email to Tom Higgins regarding case management order and interviews on 6/15/17.
06/13/17	0.30	Reviewed email from Tom Higgins approving case management order; Sent email to Judge Winthrop and Tom Higgins attaching proposed case management order; Sent email to Tom Higgins asking if interviews on 6/15/17 were being rescheduled.
06/13/17	0.30	Begin preparing for interviews of Judge Pesquiera and Judge Aboud.

06/14/17	1.0	Reviewed email from Tom Higgins confirming interviews will occur on 6/15/17 starting at 11a. Finish preparing for interviews of Judge Pesquiera and Judge Aboud; Emailed Judge Sampanes, Judge Strzelczyk, Judge Forgach, and Jeff Schrade regarding formal hearing date and KVOA's request for coverage.
06/15/17	6.0	Travel to/from Tucson and conduct pre-hearing interviews of Judge Aboud and Judge Pesquiera at the Pima County Justice Court.
06/16/17	0.60	Sent email to Tom Higgins attaching prior email correspondence with Paul Julian re: security cameras; Sent email to Paul Julian asking for clarification on why the cameras were not operating. Telephone call with Jeff Schrade. Sent email to Tom Higgins further elaborating on why the cameras at the Judicial Education Center did not record this incident.
06/19/17	0.20	Review Case Management Order from Judge Winthrop; Sent email to Tom Higgins attaching press release for hearing date.
06/22/17	0.20	Email correspondence (multiple emails) with Tom Higgins re: cameras at Judicial Education Center and witness interviews.
06/30/17	0.10	Received email from Tom Higgins re: witness interviews and respond to same.
07/06/17	0.10	Received email from Tom Higgins re: setting up witness interviews and respond to same with unavailable dates.
07/17/17	0.50	Prepare Subpoenas for Witnesses.
07/17/17	0.20	Prepare Second Supplemental Rule 26 Disclosure Statement.
07/17/17	0.20	Begin drafting Joint PreHearing Statement
07/18/17	0.60	Send Subpoenas out to Witnesses (Judge Pesquiera, Judge Sampanes, Judge Strzelczyk, Judge Forgach, Paul Julien and Jeff Schrade) requesting they acknowledge receipt; Reviewed emails from Judge Forgach and Paul Julien acknowledging receipt; Sent email to Tom Higgins inquiring if he will agree to Stipulated Facts to be included in Joint PreHearing Statement.
07/19/17	0.20	Telephone call with Judge Strzelczyk. He received the subpoena, but he does not want to be shown on the videotape.
07/20/17	0.20	Reviewed email from Tom Higgins re: hearing date conflict. Sent email to Tom Higgins re: objection to continuance.
07/20/17	0.20	Email correspondence with Paul Julien re: witness interview. Email correspondence with Tom Higgins and Ted Forgach re: witness interview.
07/20/17	0.60	Reviewed Motion to Continue Hearing. Prepared and filed Objection to Motion to Continue and Request for Expedited Ruling. Reviewed Order setting Telephonic Status Conference for 7/21/17 at 8:30 a.m.
07/21/17	0.30	Review email from Judge Pesquiera confirming receipt of subpoena. Review emails from Tom Higgins re: witness interview and his continuance request. Telephone call with Tom
07/21/17	0.50	Attend Telephone Status Conference – Hearing Continued. Review Amended Case Management Order from Judge Winthrop.

07/21/17	1.0	Telephone call with Tom Higgins re: witness interviews and potential settlement options. Email correspondence with Jeff Schrade and Paul Julien re: witness interviews. Sent email to Tom Higgins confirming phone call. Draft new press release. Sent emails to all witnesses attaching order and advising of continuance.
07/23/17	0.10	Received and reviewed email from Judge Sampanes acknowledging September 18, 2017 hearing date and discussing witness interview.
07/24/17	0.10	Sent email to Judge Sampanes and Tom Higgins advising I would like to be present for his interview if scheduling permits.
07/25/17	0.10	Received and reviewed email from Tom Higgins advising he completed interviews of Judge Forgach and Jeff Schrade. He will either send me the recordings or a copy of the transcripts when available.
08/02/17	0.10	Telephone call with Judge Strzelczyk regarding interview dates.
08/03/17	0.40	Draft Position Statement on KVOA Request.
08/04/17	0.10	Sent email to Tom Higgins attaching Position Statement on KVOA Request.
08/09/17	0.10	Sent email to Tom Higgins asking if he intended to submit a settlement offer for me to present to Commission on 08/11/17, and asking about the status of the remaining interviews.
08/10/17	0.10	Email correspondence with Tom Higgins regarding settlement offer.
08/11/17	0.20	Discussed settlement offer with Commission.
08/17/17	0.10	Email correspondence with Tom Higgins regarding settlement offer; Email correspondence with Judge Sampanes and Tom Higgins regarding Judge Sampanes witness interview and that I will need to waive my presence due to scheduling conflict.
08/18/17	0.10	Email correspondence with Paul Julien and Tom Higgins regarding witness interview the following week.
08/22/17	0.30	Interview of Paul Julien set for 11:00 a.m. Tom Higgins' office later advised Tom had it calendared for the following week. Email correspondence with Paul Julien and Tom Higgins regarding rescheduling. Telephone call with Judge Sampanes to discuss his interview with Tom Higgins today.
08/29/17	0.10	Interview of Paul Julien set for 11:00 a.m. Tom Higgins' office advised Tom is tied up in court and needs to reschedule.
08/31/17	0.60	Email correspondence with Paul Julien and Tom Higgins scheduling Paul Julien's interview for 9/5/17 at 9:00 a.m. Continue drafting Joint PreHearing Statement
09/01/17	0.40	Continue drafting Joint PreHearing Statement. Sent email to Tom Higgins re: Status of transcripts and interviews.
09/05/17	0.40	Email correspondence with Tom Higgins regarding availability for additional interview of Jeff Schrade. Telephone call to Judge Stzelczyk to set up interview. Email correspondence with Tom Higgins confirming Judge Strzelczyk interview. Sent email to Tom Higgins attaching a draft of the Joint Prehearing Statement.

09/05/17	1.1	Telephonically attend interview of Paul Julien; Sent email to Tom Higgins and Paul Julien regarding original report of incident to CJC.
09/05/17	0.25	Prepared Third Supplemental Disclosure Statement and emailed same to Tom Higgins.
09/06/17	0.10	Email correspondence with Tom Higgins and Jeff Schrade setting time for rescheduled interview.
09/08/17	0.10	Sent email to Tom Higgins regarding status of his portion of Joint Prehearing Statement.
09/11/17	0.40	Email correspondence with Heather Murphy and Alicia Moffatt confirming hearing is going forward on September 18, 2017, and requesting that Court Communications be present due to media presence. Sent email to Judge Stzelczyk confirming hearing date. Reviewed email from Tom Higgins with his Position Statement on KVOA request.
09/11/17	0.50	Received and reviewed email from Tom Higgins including attached transcripts of interviews of Judge Aboud, Judge Pesquiera, Judge Sampanes, and Judge Forgach.
09/11/17	0.50	Review Tom Higgins' input on Joint Prehearing Statement and make edits. Sent revised statement to Tom Higgins via email and he approved. Filed Joint Prehearing Statement with Commission Clerk.
09/11/17	0.70	Telephone call with Judge Forgach to discuss upcoming hearing, and sent confirming email including a copy of his interview transcript. Reviewed email from Judge Winthrop's JA advising that media request will be discussed at prehearing conference on September 13. Telephone call with Paul Eckerstrom regarding Judge Pesquiera. She does object to media coverage. Sent email to Paul confirming Judge Pesquiera's subpoena for hearing, and attaching transcript/recording of interview.
09/12/17	0.30	Research issue regarding recovering of witness fees/costs. Review email from Tom Higgins with attached transcript of Jeffrey Schrade's interview.
09/12/17	0.30	Review pleadings filed by KVOA seeking to participate and be heard on Judge Aboud's objection to media coverage and various emails associated therewith.
09/12/17	1.90	Hearing preparation.
09/13/17	0.70	Attend PreHearing Conference and review Judge Winthrop's order relating to media coverage. Emailed Judge Sampanes with confirming information on hearing. Emailed Judge Strzelczyk and Paul Eckerstrom for Judge Pesquiera regarding media coverage. Sent email to Jeff Schrade and Paul Julien confirming formal hearing information.
09/13/17	0.80	Continued hearing preparation.
09/14/17	0.50	Review Paul Julien's transcript; Confer with Paul Julien regarding testimony.
09/14/17	0.60	Continued hearing preparation.

09/14/17	0.10	Email to Tom Higgins regarding status of Judge Strzelczyk's interview and advising that certain exhibits will be redacted to protect judges' personal information.
09/14/17	0.20	Email correspondence with Judge Sampanes regarding date on copy of assessment I was provided.
09/15/17	1.75	Review Judge Strzelczyk's transcript and forward same to Judge Strzelczyk for his review; Finalize preparation for hearing.
09/18/17	5.60	Attend formal hearing.
09/19/17	0.75	Begin drafting proposed Findings of Fact, Conclusions of Law, and Recommendations.
09/20/17	2.50	Begin reviewing recording of formal hearing; Continue drafting proposed Findings of Fact, Conclusions of Law, and Recommendations (two versions – one if conduct was a prank and one if conduct was not a prank).
09/21/17	2.30	Continue reviewing recording of formal hearing and drafted proposed Findings of Fact, Conclusions of Law, and Recommendations.
09/22/17	0.75	Finalize proposed Findings of Fact, Conclusions of Law, and Recommendations.
09/25/17	0.30	Prepare Motion to Accept Proposed Findings of Fact, Conclusions of Law and Recommendations; File same with Clerk and submit to Judge Winthrop.
09/26/17	0.20	Review Judge Aboud's proposed Findings of Fact, Conclusions of Law and Recommendations.
10/02/17	0.10	Review Judge Winthrop's Findings of Fact, Conclusions of Law and Recommendations.
10/18/17	0.40	Prepared Proposed Censure Order; Prepared Notice of Filing with Supreme Court; Emailed Tom Higgins a copy of the proposed order.
12/04/17	0.10	Review Supreme Court Order.

TOTAL HOURS: 51.45

FILED

NOV 07 2017

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	RECOMMENDATION
Precinct 6	)	OF COMMISSION
State of Arizona)	
)	
Respondent)	

On March 30, 2017, the Commission on Judicial Conduct (“Commission”) filed a Statement of Charges against Justice of the Peace Paula Aboud (“Respondent”) following a finding of reasonable cause to pursue the stated charges in a formal proceeding by the Commission. Subsequently, on April 5, 2017, the Commission chairperson appointed a hearing officer, Hon. Lawrence F. Winthrop, to hear and take evidence in the case, as a hearing panel was unable to function within the intent of the rules based on the participation of the commission in the decision to file formal charges.

Respondent filed her response to the Statement of Charges, through counsel, on April 27, 2017. A formal hearing was conducted on September 18, 2017, before the hearing officer. On October 2, 2017, the hearing officer submitted his Findings of Fact, Conclusions of Law, and Recommendation that Respondent be censured for her conduct, ordered to undergo additional ethics training, and pay the Commission’s fees and costs incurred in preparing and conducting the formal hearing in this matter. On November 3, 2017, the eight members of the Commission present unanimously voted

to adopt the Findings of Fact, Conclusions of Law, and Recommendation from the hearing officer.

Based on the foregoing, the Commission now recommends to the Arizona Supreme Court that Respondent be censured for misconduct in office as set forth in the Findings of Fact, Conclusions of Law, and Recommendation of the hearing officer.

DATED this 7th day of November, 2017.

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Chair of the Commission

Copies of this pleading were electronically served this 7th day of November, 2017, to:

Thomas E. Higgins
Law Offices of Thomas E. Higgins, P.L.L.C.
higginsinvail@aol.com; higginsoffice@gmail.com
Attorney for Respondent

April P. Elliott
Commission on Judicial Conduct
aelliott@courts.az.gov
Disciplinary Counsel

By: /s/ Kim Welch
Kim Welch, Clerk of the Commission

TO:

Thomas E Higgins Jr

April Phillips Elliott, Commission on Judicial Conduct

George A Riemer, Executive Director, Commission on Judicial Conduct

Kimberly Welch, Commission on Judicial Conduct

Lawrence F Winthrop, Judge, Court of Appeals - Division One

Kyle Bryson, Presiding Judge, Pima County Superior Court

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

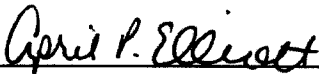
STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	NOTICE OF FILING WITH
Precinct 6	)	THE SUPREME COURT
State of Arizona)	
)	
Respondent)	

PLEASE TAKE NOTICE that on this date, the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendations, the Commission's Statement of Formal Charges, the Commission's Notice of Institution of Formal Proceedings, the Commission's Record of Appointment of Hearing Officer, Respondent's Answer, Respondent's Notice of Substitution of Counsel, and Proposed Order for Censure regarding the above-entitled matter were filed with the Clerk of the Arizona Supreme Court. A copy of this notice was promptly served on Respondent. All aforementioned documents were previously served on all appropriate parties in accordance with the Commission's rules.

Dated this 18th day of October, 2017.

COMMISSION ON JUDICIAL CONDUCT

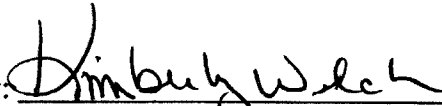


April P. Elliott
Disciplinary Counsel

Copy sent via email this 18th day of October, 2017 to:

Thomas E. Higgins
Law office of Thomas E. Higgins, P.L.L.C.
325 W. Franklin St.
Tucson, AZ 85701
higginsinvail@col.com
higginsoffice@gmail.com
Counsel for Respondent, Judge Paula Aboud

Hon. Lawrence F. Winthrop
Hearing Officer
Commission on Judicial Conduct
lwinthrop@appeals.az.gov

By: 

Kimberly Welch, Commission Clerk

FILED

OCT 02 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	FINDINGS OF FACT,
Precinct 6	)	CONCLUSIONS OF LAW AND
State of Arizona	)	RECOMMENDATIONS
)	
Respondent)	

The Commission on Judicial Conduct ("Commission") commenced formal proceedings against Justice of the Peace Paula Aboud ("Respondent") on March 30, 2017, 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 April 27, 2017.

A hearing was held on September 18, 2017, before Hearing Officer Lawrence F. Winthrop, who was appointed pursuant to Commission Rule 27(c). The Commission was represented by April P. Elliott, Disciplinary Counsel, and Respondent was represented by Thomas E. Higgins. On September 20, 2017, the Clerk of the Commission advised the hearing officer that a digital recording of the September 18 hearing was available, and distributed a copy to all parties. Pursuant to Commission Rule 28(b), 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, and has the burden of proving any violations of the Code of Judicial Conduct by clear and convincing evidence. *See* Commission Rule 27(f),

FINDINGS OF FACT

1. Respondent has served as a justice of the peace in Pima County, Precinct No. 6, since January 2017, and continues to hold that position. Previously, Respondent worked as an educator, an athletic coach, a property manager and as a state legislator.
2. Respondent was acting in her capacity as a judge at all times relevant to these proceedings.
3. Respondent is subject to the Arizona Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (“Code”) as set forth in Arizona Supreme Court Rule 81.
4. As a newly elected justice of the peace, Respondent was required to attend the Limited Jurisdiction New Judge Orientation (“LNJO”), a comprehensive judicial training program conducted by the Administrative Office of the Courts (AOC). LNJO runs for three weeks – two weeks in January, and one week in April. The first week of LNJO took place January 9-13, 2017.
5. As part of LNJO and initial judicial training, new judges are required to take and pass three written assessments – one on civil law, one on criminal law, and one comprehensive assessment. These assessments

gauge a new judge's knowledge of the material covered, and help determine if a new judge may need additional training and/or mentoring. The assessments are administered to the new judges in an open book/open note format, and the new judges are allowed to use their materials to look up answers, just as they would be able to do on the bench.

6. At LNJO, experienced judges are assigned as mentor judges to new judges in the limited jurisdiction courts. During LNJO sessions, the mentor judge sits at an assigned u-shaped table with his/her new judges.
7. Phoenix Municipal Court Judge James Sampanes served as co-chair, presenter, and as a mentor for the 2017 LNJO.
8. Judge Sampanes was initially assigned as Respondent's mentor judge for the 2017 LNJO. Respondent and Judge Sampanes had no prior personal relationship with each other, but entered a mentor/mentee relationship at LNJO.
9. The first comprehensive written assessment of LNJO was to be administered at the end of the first week, on Friday, January 13, 2017.
10. To ensure all questions on the test had been covered by the material presented during the LNJO sessions, the mentor judges had access to the written assessment questions and answer key. Prior to taking the written assessment, new judge attendees are not provided a copy of the assessment questions and answer key.

11. The assessment questions and answer key for the assessment to be given on Friday, January 13, 2017 were printed on bright pink or fuchsia-colored paper.
12. On the evening of Thursday, January 12, 2017, after the conclusion of the regular session of LNJO for that day, a voluntary, group study session was available to help the new judges prepare for the written assessment to be given the following day. The Judicial Education Center provided pizza for this study session.
13. Along with several other new judges, Respondent attended the voluntary study session. Judge Sampanes attended at least a portion of the study session, and had his copy of the assessment questions/answer key in his possession.
14. At the end of the study session, Judge Sampanes placed his copy of the assessment questions/answer key face down on the table where he was seated, along with his other materials and resources, and exited the classroom to get a piece of pizza. The door to the classroom remained open, allowing Judge Sampanes an unobstructed view of his table area.
15. Charlene Pesquiera, another new judge who attended the voluntary study session that night, understood that the materials printed on the bright pink paper were the assessment questions. This understanding was based on her observations that all mentors had copies, and the judge conducting the review session earlier that evening referred to the pink

paper documents when discussing questions that may appear on the assessment.

16. After Judge Sampanes left the room, Judge Pesquiera came over to the table where Respondent was sitting. She and Respondent knew each other from previous service together in the Arizona legislature. Judge Pesquiera observed the bright pink papers on the table in front of Judge Sampanes' chair, and told Respondent that this was the assessment test to be administered the next day.
17. In describing the taking of the test papers, Judge Pesquiera testified that, while Judge Sampanes was out of the room, and after she told Respondent that these were the test papers, she observed Respondent openly reach over and pick up Judge Sampanes' copy of the assessment questions/answer key that had been left on the table. She stated Respondent did not verbalize her alleged intent to take the document as a prank; however, she deduced Respondent was pulling a prank based on:
 - a. Her prior knowledge of Respondent as a "prankster" or "jokester" from their time together in the legislature; and
 - b. On seeing Respondent's facial expression, which she mimicked as an exaggerated grin.
18. Respondent testified that when Judge Pesquiera told her the documents printed on pink paper were the assessment questions/answer key,

Respondent saw an opportunity to prank Judge Sampanes. She testified that she then stated to Judge Pesquiera, "You must be kidding," and then made a "broad gesture" to pick up the papers. Respondent put the test papers in her own stack of papers, but made no effort to leave the room.

19. While in the hallway picking up a piece of pizza, Judge Sampanes looked through the doorway into the classroom and observed Respondent take the assessment questions/answer key from his area of the table, and place them with her own papers.
20. Judge Sampanes re-entered the classroom and walked to Respondent to ask her about what he had observed.
21. The testimony from eye witnesses varied on the exact language used by Judge Sampanes and whether Judge Sampanes' demeanor could be characterized as angry when he talked to Respondent. By his own testimony, Judge Sampanes was concerned and upset, but denied yelling or using anger to frighten or intimidate Respondent. His testimony on this encounter appeared credible based upon:
 - a. The hearing officer's observations of Judge Sampanes' demeanor during his testimony;
 - b. Paul Julien's testimony that Judge Sampanes typically has a reserved demeanor; and

- c. The detailed summary of the encounter as documented in Judge Sampanes' contemporaneously-written e-mail report prepared shortly after these events.
22. Another attendee, Pro Tem Judge Steve Strzelczyk, was not at the table, and did not observe Respondent take the papers, but was in such proximity to be able to observe and hear what was said during the subsequent encounter with Judge Sampanes.
23. Judge Sampanes asked Respondent at least twice what she was doing with the assessment questions/answer key. All witnesses agree that Judge Sampanes appeared upset and that, as he asked his question, Respondent appeared shocked, surprised or concerned.
24. The testimony from the eyewitnesses varied on what, if anything, those in proximity said and/or as to what Respondent stated in response to Judge Sampanes' questions about what she was doing with the test.
 - a. Judge Sampanes testified that Respondent was initially silent, but then later stated, "I probably wasn't even going to read it."
 - b. Both Judge Pesquiera and Pro Tem Judge Strzelczyk testified that Respondent did not make any statements to Judge Sampanes during this interaction.
 - c. Judge Pesquiera testified that, in response to Judge Sampanes' question at the table, she stated she had told Respondent these were the test papers.

- d. Respondent testified that she did not respond immediately to Judge Sampanes, but eventually responded to the effect of “What is this [apparently referencing the test papers], anyway?” and “Oh, this is the test?”
25. It is undisputed, however, that Respondent did not tell Judge Sampanes then or later that she had taken the test for the purposes of attempting to play a joke or prank on him. Respondent testified that she was so shocked by Judge Sampanes’ “angry, rude, and disrespectful” conduct that she was initially unable to respond to his question and, further, why she did not tell Judge Sampanes it was a prank.
26. Judge Sampanes retrieved the assessment questions/answer key from Respondent’s collection of her own papers, and left the table to advise judicial education administrators Judge Jill Davis and Judicial Education Officer Paul Julien about these events, and to determine whether steps needed to be taken to insure the integrity of the assessment to be administered the following day.
27. After Judge Sampanes left the table, and in response to inquiry from Pro Tem Judge Strzelczyk, Respondent indicated that Judge Sampanes was upset because she had taken the assessment and answer key. She did not tell Judge Strzelczyk this was a spontaneous joke she was playing on Judge Sampanes.

28. As Judge Sampanes, Judge Davis, and Mr. Julien were discussing the matter, Judge Pesquiera joined them in the other room. Judge Pesquiera confirmed that she had advised Respondent the documents on the bright pink paper were the assessment questions/answer key.
29. In an undated statement attached to Respondent's initial response to the Commission (Hearing Exhibit 3), and in her testimony at the hearing, Judge Pesquiera indicated she informed Judge Sampanes, Judge Davis, and Mr. Julien during the conversation that night that she believed Respondent's actions were a prank.
30. Judge Sampanes, Judge Davis, and Mr. Julien contacted Jeffrey Schrade, AOC Division Director for Education Services, on the evening of January 12, 2017. A collective decision was made that Respondent would continue in LNJO, would be assigned to a different mentor, and that Mr. Schrade and Mr. Julien would speak to Respondent the following day about this incident.
31. On the morning of January 13, 2017, Mr. Julien and Mr. Schrade spoke to Respondent about the incident. The purpose of the conversation was two-fold – (1) to obtain Respondent's side of the story and (2) to verify the integrity of the test.
32. Respondent confirmed to Mr. Julien and Mr. Schrade that she did in fact have the assessment questions/answer key in her possession for a brief time. Respondent also told Mr. Julien and Mr. Schrade that she had

taken the assessment questions/answer key in an attempt to prank Judge Sampanes.

33. Respondent completed LNJO with Mr. Julien serving as her mentor, and she received passing scores on all three assessments.
34. It is undisputed that Respondent knew that she was taking a copy of the assessment questions that did not belong to her. It is also undisputed that these documents were in her possession for a brief time.
35. Respondent admitted that, at the time, she never verbalized her intention to pull a prank on Judge Sampanes. She further admitted that after Judge Sampanes asked her about having the assessment questions/answer key, she never told Judge Sampanes she was playing a joke/prank on him. The first time she verbalized that her conduct was intended to be a joke was to Mr. Julien and Mr. Schrade on Friday, January 13, 2017. She also acknowledged that on Friday, January 13, 2017, she told Judge Sampanes she was sorry, but still did not tell him it was intended to be a joke.
36. While the hearing officer is skeptical of Respondent's explanation that she was so in shock that she could not speak, there was not clear and convincing evidence presented that Respondent took the assessment questions/answer key with the intent to cheat.
37. While Respondent testified that she is apologetic for her conduct which caused a "scene" and caused her "stress," her demeanor while testifying

did not convey an understanding of the impropriety of her actions, or true remorse concerning same. Respondent was often evasive and argumentative in her responses to questioning, and seemed more interested in quibbling over semantics.

38. Respondent either fails to grasp, or is unwilling to acknowledge, the impropriety associated with her conduct, and that public confidence in the integrity of the judiciary has been compromised by what she did. Even as a former educator, Respondent did not recognize any impropriety in a student outside of the teacher's immediate presence taking a test and answer key off that teacher's desk. Further, Respondent's lack of understanding was clearly conveyed by her response to a question from Disciplinary Counsel who asked Respondent if a violation of the Code was found, what Respondent believed would be an appropriate sanction. Respondent stated that she should be "forced" to teach ethics at LNJO. Respondent also admitted that she has never read, or "didn't absorb" reading, the Code of the Judicial Conduct, even after formal ethics charges were filed against her.

CONCLUSIONS OF LAW

Respondent's conduct in taking the assessment questions and answer key 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 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”)

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 officer finds as follows regarding relevant aggravating and mitigating factors.

Aggravating Factors

- 1. The nature, extent, and frequency of the misconduct.**
Respondent’s conduct involved an isolated incident; however, the nature of the conduct (playing a prank regarding a testing instrument at a judicial training session) was highly inappropriate. Significant weight is accorded to this factor. Further, Respondent demonstrated a lack of immediate candor when confronted with the impropriety of her actions.
- 2. Whether the conduct occurred in the judge’s official capacity or private life.** Respondent’s misconduct occurred in her 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.”).

3. **The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent's conduct has eroded public confidence in the integrity of the judiciary. Her conduct has been widely publicized in the media, bringing disrepute to the judicial branch.
4. **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 she regrets her conduct; however, she failed to concede that her conduct even arose to the level of a Code violation. Her manner and demeanor while testifying conveyed irreverence for the proceedings, including her flippant response that an appropriate sanction would be for her to be “forced” to teach ethics at LNJO.

Mitigating Factors

1. **The judge's experience and length of service on the bench.** Respondent was a new judge at the time of the Code violations.
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; however,

given the brevity of Respondent's service on the bench prior to this incident, no weight is accorded to this factor.

3. **Whether the judge cooperated fully and honestly with the commission in the proceeding.** Respondent has been cooperative with the Commission; however, the hearing officer does not accord great weight to this factor as the Code requires a judge to cooperate and be candid with the Commission.

Factors Not Applicable

The remaining factors listed in Commission Rule 19 are not applicable.

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, other judicial disciplinary bodies have recently sanctioned judges for their conduct in playing pranks or jokes.

In *In Re Leibson*¹, the Kentucky Judicial Conduct Commission publicly reprimanded Judge Jennifer H. Leibson when she, as a joke, held an attorney in contempt for adding cases to her docket in contravention of a “no add-on” order. Judge Leibson had court security escort the attorney from the courtroom to a holding area, and then told the people in the courtroom that she was playing a joke on the attorney. Judge Leibson self-reported the conduct and stipulated to the reprimand, agreeing that her conduct violated the relevant portions of the following canons of the Kentucky Code of Judicial Conduct:

Canon 1, which requires judges to maintain high standards of conduct and uphold the integrity and independence of the Judiciary; and

Canon 2, which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Next, the California Commission on Judicial Performance in *Inquiry Concerning Williams*² publicly censured Judge Michael S. Williams for taking two business card holders from the City Club of San Francisco while attending a dinner. Judge Williams told the California Commission that he took the card holders so that he could display some “joke business cards.” Judge Williams entered a stipulation for discipline by consent, agreeing that the matter would be resolved with the imposition of a censure, and that Judge Williams would tender his resignation from

¹
[http://courts.ky.gov/commissionscommittees/JCC/Documents/Public Information/PublicReprimandLeibson.pdf](http://courts.ky.gov/commissionscommittees/JCC/Documents/Public%20Information/PublicReprimandLeibson.pdf)

²
https://cjp.ca.gov/wp-content/uploads/sites/40/2016/08/Williams_Censure_07-17-17.pdf

office and agree not to seek judicial office in the future. The California commission noted that Judge Williams' conduct ". . . seriously undermines public confidence in the integrity of the judiciary. The judge's agreement to resign . . . and not to seek or hold judicial office thereafter affords protection to the public and the reputation of the judiciary"

Finally, in *In Re Zabel*³, the Ontario, Canada Judicial Council publicly reprimanded and suspended for 30 days without pay Justice Bernd Zabel for wearing a "Make America Great Again" baseball hat in his courtroom on the day following the November 2016 United States presidential election. Justice Zabel stated he wore the hat as a joke to mark a moment in history. The incident was widely reported in the media, and the Ontario Judicial Council received 81 complaints regarding Justice Zabel's conduct. The ruling in *Zabel* spends considerable time discussing the expression of partisan political views by a sitting judge. The ruling noted:

Justice Zabel insists that he did not intend to indicate his support for Donald Trump. He testified that he was trying to make a joke about a result few had expected and that he was not expressing support for Trump, but rather celebrating his prediction that Trump would win the election. While Justice Zabel's intentions are relevant, his conduct must be measured by an objective test. . . . In our view, and indeed as Justice Zabel now acknowledges, a reasonable member of the public would think that Justice Zabel was making a political statement and endorsing Donald Trump's campaign. . . . We have no hesitation in finding that Justice Zabel's actions amounted to a serious breach of the standards of judicial conduct, that it had an adverse impact upon public confidence in the judiciary and the administration of justice. . . .

³ <http://www.ontariocourts.ca/ocj/ojc/public-hearings-decisions/d2017/zabel/>

The aggravating factors in this case outweigh the mitigating factors. Respondent's conduct illustrates that she does not yet understand the integrity and judgment expected of a judicial officer. While she insists that her conduct was a prank, a reasonable person seeing Respondent take the assessment questions the night before the test was to be given could easily conclude that Respondent was taking them with the intent to cheat. Respondent has not acknowledged that her conduct rose to the level of a Code violation, perhaps due in part to her self-acknowledged failure to actually read the Code. Her conduct is unacceptable and inconsistent with the standard expected of a judge. As noted in *Zabel*, perceptions matter. The sanction must be sufficient to protect the public and restore confidence in the judiciary's integrity.

RECOMMENDATIONS

As noted in the Preamble to the Code:

An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in the rules contained in this code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

Based on the foregoing, the hearing officer recommends that the Arizona

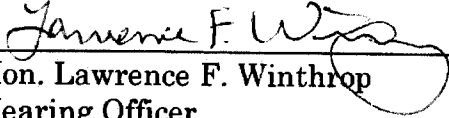
Supreme Court:

1. Issue a strong public rebuke and censure Respondent for her serious misconduct. While this misconduct may have only occurred once, it is too offensive to ignore or to resolve informally. Such action will also serve as a public warning to other judges. *See* Commission Rule 18(a).
2. Respondent testified that, notwithstanding the requirement that judges understand and follow the Code of Judicial Conduct, and the fact that its importance was stressed at LNJO, she has never read the Code. Accordingly, it is recommended that Respondent be ordered to read the Code of Judicial Conduct. Further, it is recommended that Respondent be ordered to attend one or more judicial ethics training programs, offered by either the National Judicial College or some other provider, with the course(s) and provider to be approved by the Executive Director of the Commission. Ideally, such training program(s) will provide a comprehensive overview of judicial ethics and why adhering to a judicial code of conduct is important in ensuring public confidence in the judiciary and the judicial process. Respondent shall submit proof of her attendance and her written notes from the training to the Executive Director of the Commission upon completion of the program.
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.

Dated this 21 day of October 2017.

COMMISSION ON JUDICIAL CONDUCT



Hon. Lawrence F. Winthrop
Hearing Officer

FILED

SEP 25 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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Attorney for: Judge Paula Aboud - Respondent

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry Concerning	)	CASE NO. 17-019
)	
)	
Judge Paula Aboud	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW and
Pima County Justice Court	)	RECOMMENDATIONS
)	
Precinct 6)	
)	
State of Arizona)	
)	
)	
)	

The Commission on Judicial Conduct began formal proceedings against Justice of the Peace Paula Aboud (Pima County Consolidated Justice Court) by filing a Statement of Charges on March 30, 2017. Respondent Judge Aboud filed her response to the charges on April 27, 2017. Case Management Orders were entered and a pre-hearing conference on September 13, 2017.

The matter was heard before the Honorable Lawrence Winthrop on September 18, 2017 in the Arizona Courts Building, 1501 West Washington in Phoenix, Arizona, Hearing Room No. 109.

At the hearing on this matter, on September 18, 2017, the Judicial Commission was represented by April Elliott and the Respondent, Judge Paula Aboud by her attorney, Thomas E. Higgins.

Evidence at the hearing consisted of testimony revolving around an incident occurring at the Limited Jurisdiction New Judge Orientation (hereinafter NJO) on January 12, 2017. As per common practice, a test, or assessment, was to be held for the new judges the following day, Friday, January 13, 2017 at the conclusion of the first week of NJO classes. On the day in question, January 12, 2017, new judges were invited to attend a review session for the assessment to be given the next day after regular class on Thursday.

The testimony at the September 18, 2017 hearing revolved around a "mentor" judge, Judge James Sampanes who observed Respondent Judge Paula Aboud pick up a stapled group of bright pink papers that were the question and answer key to the assessment the next day and made available to all of the mentor judges.

JURISDICTION

1. The Judicial Commission has jurisdiction over this case pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent Judge Paula Aboud was elected to her position at the Pima County Consolidated Justice Court, Precinct No. 6, in November of 2016.
3. As a Justice of the Peace, Respondent Judge Paula Aboud is subject to all of the Canons of the Code of Judicial Conduct found in Arizona Supreme Court Rule 81.

FINDINGS OF FACT

1. That, on January 12, 2017, Judge James Sampanes witnessed, from approximately 17 feet away, what he thought was the theft of the assessment questions and answers from his materials, due to be given to the new judges on the next day, January 13, 2017 by Judge Paula Aboud.
2. That Judge Paula Aboud openly picked up the pink sheets which were the assessment questions and answers after it was pointed out by another new judge attending orientation, Judge Charlene Pesquiera that those pink sheets were the questions.
3. That Judge Aboud made no effort whatsoever to conceal her taking of the assessment questions and let Judge Pesquiera know she was doing so while looking directly at her.

4. That Judge James Sampanes was a mentor judge at NJO who was leading a discussion group of approximately four to six judge attendees including Judge Aboud and Judge Steven Strzelczyk .

5. That when Judge Sampanes looked up from the hallway where drinks and food were set out and observed Judge Aboud pick up the pink sheets and put them with her papers.

6. At no time did Judge Aboud attempt to leave the room with the pink sheets and stood there waiting.

7. That Judge Pesquiera observed Judge Aboud pick up the pink sheets and put them with her papers while signaling by gesture to Judge Pesquiera that she was in the process of doing a joke or prank. Judge Aboud held the pink sheets in plain view at the back of her own papers.

8. That Judge Sampanes believed from observing Judge Aboud picking up the pink question and answer sheets that she was stealing the materials.

9. That Judge Sampanes was angry and upset at what he believed to be the theft of his class materials and approached Judge Aboud to confront her.

10. That Judge Aboud did not react to Judge Sampanes's anger.

11. That Judge Pesquiera followed Judge Sampanes into a room with co-NJO chair Jill Davis and Mr. Paul Julian and asked them what is going on since it was a joke.

12. That no investigation was done at the time of the incident by any NJO members or staff.

CONCLUSIONS OF LAW

1. The Judicial Commission has jurisdiction to decide this matter.
2. The hearing in this matter was held pursuant to the Rules of the Judicial Commission found in Rules of the Arizona Supreme Court, Rule 81.
3. The burden of proof of the Commission on Judicial Conduct is "clear and convincing" evidence.
4. The Judicial Commission did not prove that Judge Paula Aboud intended to steal the assessment question and answers sheets to benefit herself or obtain an advantage on the assessment being conducted the next day.
5. That Judge Paula Aboud was attempting to play a prank on Judge James Sampanes, her mentor judge, but said actions constitute the appearance of impropriety under Rule 1.2 of the Arizona Code of Judicial Conduct.

PROPORTIONALITY

This Court must decide what is an appropriate sanction upon a finding of the appearance of impropriety even if it finds that Judge Aboud was attempting a joke or prank. Inquiry concerning Judge Phillip Woolbright, Commission on Judicial Conduct, Case No. 11-111, decided May 8, 2012, this Court, writing for the panel, considered how a single incident should not be handled as harshly as one involving a long period of time. In the findings of fact, this Court wrote "...his misconduct was not limited to an isolated incident or time frame , but rather spanned a significant perior of time.." (Findings of Fact, Mitigation, No. 18(b), page 8).

PREFACE TO RECOMMENDATIONS

This preface to the recommendations below contains observations and references to the testimony to assist this Court in crafting its final decision. The references to the record are of counsel's recollection in that the record is solely in audio format.

1. Judge Sampanes's decision that Judge Aboud was stealing was determined the instant he observed her take the pink colored sheets from his material. He further testified he also felt that Judge Aboud thought he went to the bathroom to give her more opportunity to steal the test. When confronted with having

absolutely no evidence of this he countered with "Yes, but that's what I thought".

2. No one steals a test, in the open, before other judges, in front of what is believed active security cameras and witnesses, unless one is not stealing and is playing a joke. A thief would not have stood there waiting, the thief would have left immediately. Judge Aboud knew Judge Pesquiera was there, thought Judge Strzelczyk was right there and was in the midst of numerous other judges leaving for the evening and was under the impression that the room was under surveillance video.

3. No one corroborates the testimony of Judge Sampanes. The only three witnesses who testified were Judges Aboud, Pesquiera and Strzelczyk. Judge Pesquiera testified she did not follow Judge Sampanes's order to stay there when he left and followed him into the side room wherein she asked "What is going on, it was a joke".

4. The reason Judge Pesquiera knew that the pink sheets were the questions because she judge heard Judge Olcavage just read the exact questions from the pink sheets to those remaining at the review sessions.

5. Even Judge Sampanes testified that theft requires that someone has taken something belonging to someone else with the intent to permanently deprive them.

6. This entire incident and resulting complaint could have been avoided if and even rudimentary investigation would have been undertaken. Through questioning, the attorney for the Judicial Commission extracted testimony to the effect that the individuals involved were not fit or qualified to investigate. This implication is nothing short of ludicrous. Judge Sampanes had a first impression and made judgment without collecting the facts. No interviews or statements were ever collected from Judge Pesquiera or Judge Strzelczyk. In fact there were other students in the classroom that were not confronted and left out during this process. In addition Judge Sampanes neglected to collect any statements from Paul Julian or Jeff Schrade regarding the next day when Judge Aboud was confronted about this matter.

7. There are clearly two perceptions of this incident, those of Judge Sampanes's and Judge Aboud's. This Court must decide which is more likely. Judge Sampanes related that he was not angry when he approached Judge Aboud. Judges Aboud, Pesquiera and Strzelczyk state that he was angry and abrupt.

Judge Sampanes testified that Judge Aboud said something to the effect of "I probably wouldn't have even looked at it". No one else in the immediate vicinity heard this, no one.

8. It is important that both Judge Pesquiera and Judge Aboud believed that Judge Strzelczyk was next to them. In his testimony, Judge Strzelczyk said he was further away, across the room. It is important because it was even less likely that Judge Aboud would, in full view of yet another witness, steal the test key.

9. A brief overview of the entire NJO process is important. The idea of NJO is to help the judges achieve a level of competency. The test has been basically the same all of the time, 18 years, that NJO has been in existence. The entire atmosphere was casual. Testimony at the hearing on September 19, 2017 was that some mentor judges actually read the test questions and answers. The testimony indicated that students were often "counseled" if they failed the test to the point that the mentor judges helped them pass. Additionally, all assessments were open book and open notes.

10. In looking to bias and prejudice, Judge Pesquiera testified that she only knew Judge Aboud professionally and had not, in

fact, seen her in about eight years prior to running for Justice of the Peace in 2016.

11. Judge Pesquiera testified to Judge Aboud and her personality of joking, or pranks from previously working with her. This was observed in NJO as well. Students were encourage to learn and enjoy the process, freely and openly.

RECOMMENDATIONS

It is respectfully requested that this Court enter it's Order as follows:

1. That the Judicial Commission has not met its burden of clear and convincing evidence that Judge Paula Aboud took the test questions and answers intentionally to permanently deprive them from anyone.

2. That should this Court find that, in fact, Judge Paula Aboud was involved in pulling a prank or joke, and that doing so is undignified or has the appearance of impropriety for an Arizona judge, no sanction other than a reprimand be imposed.

RESPECTFULLY SUBMITTED this 25th day of September, 2017.

LAW OFFICES OF THOMAS HIGGINS

BY: /s/Thomas E. Higgins
THOMAS E. HIGGINS
Attorney for Ms. Aboud

Originals of this pleading filed on the 25th day of September, 2017, with:

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copies of the foregoing sent on the 25TH day of September, 2017, via email only to:

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ARIZONA COMMISSION ON
JUDICIAL CONDUCT

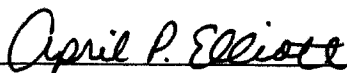
**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	MOTION TO ACCEPT
Precinct 6	)	PROPOSED FINDINGS OF
State of Arizona	)	FACT, CONCLUSIONS OF LAW
	)	AND RECOMMENDATIONS
Respondent)	

Pursuant to the Amended Case Management Order issued on July 21, 2017, Disciplinary Counsel hereby submits the attached two sets of Proposed Findings of Fact, Conclusions of Law, and Recommendations – one set for if the Hearing Officer finds Respondent’s conduct to be a prank and one set for if the Hearing Officer finds Respondent’s conduct was not a prank. Disciplinary Counsel hereby moves the Hearing Officer to adopt and issue one of the attached proposals without amendment.

Dated this 25th day of September, 2017.

COMMISSION ON JUDICIAL CONDUCT



April P. Elliott
Disciplinary Counsel

A copy of this pleading was served by email on September 25, 2017, upon Respondent, via counsel, to:

Thomas E. Higgins
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A copy of this pleading in .pdf format and copies of both sets of the Proposed Findings of Fact, Conclusions of Law, and Recommendations in Word format were served by email on September 25, 2017, to the Hearing Officer, Hon. Lawrence F. Winthrop.

Arizona Commission on Judicial Conduct
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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning)	
)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	PROPOSED FINDINGS OF
Precinct 6	)	FACT, CONCLUSIONS OF LAW
State of Arizona	)	AND RECOMMENDATIONS
	)	(Finding conduct was a prank)
Respondent)	

The Commission on Judicial Conduct (“Commission”) commenced formal proceedings against Justice of the Peace Paula Aboud (“Respondent”) on March 30, 2017, 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 April 27, 2017.

A hearing was held on September 18, 2017, before Hearing Officer Lawrence Winthrop, who was appointed pursuant to Commission Rule 27(c). The Commission was represented by April P. Elliott, Disciplinary Counsel, and Respondent was represented by Thomas E. Higgins. On September 20, 2017, the Clerk of the Commission advised the hearing officer that a digital recording of the September 18 hearing was available, and distributed a copy to all parties. Pursuant to Commission

Rule 28(b), 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

1. Respondent has served as a justice of the peace in Pima County since January 2017, and continues to hold that position.
2. Respondent was serving in her capacity as a judge at all times relevant to these proceedings.
3. Respondent is subject to the Arizona Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (“Code”) as set forth in Arizona Supreme Court Rule 81.
4. As a newly elected justice of the peace, Respondent was required to attend the Limited Jurisdiction New Judge Orientation (“LNJO”) put on by the Administrative Office of the Courts (AOC). LNJO runs for three weeks – two weeks in January, and one week in April. The first week of LNJO took place January 9-13, 2017.
5. AT LNJO, experienced judges are assigned as mentor judges to new judges in the limited jurisdiction courts. The mentor judge sits at a u-shaped table with his/her new judges.
6. Phoenix Municipal Court Judge James Sampanes served as co-chair, presenter, and mentor for the 2017 LNJO.

7. Judge Sampanes was initially assigned as Respondent's mentor judge for the 2017 LNJO. Respondent and Judge Sampanes had no prior personal relationship with each other, but entered into a mentor/mentee relationship as a result of their presence at LNJO.
8. New judges are required to take and pass three assessments – one on civil law, one on criminal law, and one comprehensive assessment. These assessments gauge a new judge's knowledge of the material covered, and help determine if a new judge may need additional training and/or mentoring. The assessments are administered to the new judges in an open book/open note format, and the new judges are allowed to use their materials to look up answers, just as they would be able to do on the bench.
9. The first assessment of LNJO was to be administered at the conclusion of the first week, on Friday, January 13, 2017.
10. The mentor judges had access to the assessment questions and answer key to ensure all questions on the test had been covered by the material presented.
11. The assessment questions/answer key for the assessment to be given on Friday, January 13, 2017, were printed on bright pink colored paper.
12. On the evening of Thursday, January 12, 2017, after the conclusion of the regular curriculum of LNJO for that day, a study session was held to help the new judges prepare for the assessment to be given the

following day. The Judicial Education Center provided pizza for this study session.

13. Judge Sampanes had his copy of the assessment questions/answer key in his possession on the evening of January 12, 2017.
14. At the conclusion of the study session, Judge Sampanes placed his copy of the assessment questions/answer key face down on the table where he was seated, and he exited the classroom to get a piece of pizza. The door to the classroom remained open, allowing Judge Sampanes an unobstructed view of his table area.
15. While obtaining the piece of pizza, Judge Sampanes looked through the doorway into the classroom and observed Respondent take the assessment questions/answer key from his area of the table, and place them with her own papers.
16. Judge Sampanes re-entered the classroom and walked to Respondent to ask her about what he had observed.
17. The testimony from eye witnesses varied on the exact language used by Judge Sampanes and whether Judge Sampanes' demeanor could be characterized as angry when he talked to Respondent. Judge Sampanes' testimony on this issue appeared credible based upon:
 - a. the hearing officer's observations of Judge Sampanes' demeanor during his testimony;

- b. the fact that Judge Sampanes took notes contemporaneous with the event in question; and
 - c. Paul Julien's testimony that Judge Sampanes typically has a reserved demeanor.
18. Judge Sampanes asked Respondent what she was doing with the assessment questions/answer key at least twice. Judge Sampanes was concerned and upset when he asked these questions.
19. All of the eye witnesses described Respondent as looking somewhat shocked, surprised or concerned when she talked with Judge Sampanes.
20. The testimony from the eye witnesses varied on what, if anything, Respondent stated in response to Judge Sampanes' questions about what she was doing with the test.
- a. Judge Sampanes testified that Respondent was initially silent, but then later stated, "I probably wasn't even going to read it."
 - b. Both Judge Pesquiera and Pro Tem Judge Strzelczyk testified that Respondent did not make any statements to Judge Sampanes during their interaction.
 - c. Pro Tem Judge Strzelczyk testified that Respondent later informed him that she had the answer key to the assessment.
 - d. Respondent testified that she made statements to the effect of "What is this anyway?" and "Oh, this is the test?"

21. It is undisputed that Respondent did not tell Judge Sampanes that she had taken the test for the purposes of attempting to play a prank.
22. Judge Pesquiera testified that during the study session, she deduced that the documents printed on the bright pink paper were the assessment questions based on her observations that all mentors had copies, and the judge conducting the review session referred to the pink paper documents when reading questions that may appear on the assessment. Judge Pesquiera acknowledged that her mentor had not actually told her that the documents printed on the bright pink paper were in fact the assessment questions/answer key.
23. When the study session concluded, both Judge Pesquiera and Respondent testified that Judge Pesquiera informed Respondent that the documents printed on the bright pink paper were the assessment questions, and further, Judge Pesquiera pointed out to Respondent that Judge Sampanes' copy of the assessment questions were left on the table where he had been seated.
24. Judge Pesquiera testified that she observed Respondent reach over and pick up Judge Sampanes' copy of the assessment questions/answer key that had been left on the table. She stated Respondent did not verbalize her alleged intent to take the document as a prank. Judge Pesquiera testified that she deduced Respondent was pulling a prank:

- a. based on her prior knowledge of Respondent as a prankster or jokester from their time together in the legislature; and
 - b. based on seeing Respondent's facial expression which she mimicked as an exaggerated grin.
25. Respondent testified that when she learned that the document printed on pink paper was the assessment questions/answer key, she saw an opportunity to prank Judge Sampanes. She testified that she stated, "You must be kidding," and then made a "broad gesture" to pick up the papers.
26. Pro Tem Judge Strzelczyk testified that he was at the back of the room and did not observe Respondent take the assessment questions/answer key, and only observed the interaction between Judge Sampanes and Respondent after hearing Judge Sampanes state, "No. No. No. What are you doing?" He then turned around and observed the remaining interaction.
27. Respondent testified that she was so shocked by Judge Sampanes' angry, rude, and disrespectful conduct that she was unable to speak, and that is why she did not tell Judge Sampanes it was a prank.
28. Judge Sampanes retrieved the assessment questions/answer key from where Respondent had placed it among her own papers.

29. There was conflicting testimony on the directive given by Judge Sampanes to Respondent, Judge Pesquiera, and possibly Pro Tem Judge Strzelczyk:
- a. Judge Sampanes testified that he requested Respondent and Judge Pesquiera to stay put or not leave.
 - b. Respondent and Judge Pesquiera testified that Judge Sampanes stated, "You, you and you stay put," and pointed his finger at Respondent, Judge Pesquiera, and Pro Tem Judge Strzelczyk.
 - c. Pro Tem Judge Strzelczyk testified that Judge Sampanes never pointed his finger at him, and did not recall any such statement to stay put.
30. Judge Sampanes then left the room and met with Judge Jill Davis, LNJO Co-chair, and Paul Julien, Judicial Education Officer, in a nearby room to assess the situation and determine the next course of action.
31. As Judge Sampanes, Judge Davis, and Paul Julien were discussing the matter, Judge Pesquiera joined them in the other room. The testimony conflicted on whether she came on her own accord or was summoned by Judge Sampanes. Judge Pesquiera confirmed that she had advised Respondent the documents on the bright pink paper were the assessment questions/answer key.
32. Judge Pesquiera testified that she informed Judge Sampanes, Judge Davis, and Paul Julien during that conversation that she believed

Respondent's actions were a prank. In an undated statement that was submitted in support of Respondent's initial response to the Commission, Judge Pesquiera stated she made that statement on that evening. (Hearing Exhibit 3)

33. Judge Sampanes, Judge Davis, and Paul Julien contacted Jeffrey Schrade, AOC Division Director for Education Services, on the evening of January 12, 2017. A collective decision was made that Respondent would continue in LNJO, would be assigned to a different mentor, and that Mr. Schrade and Mr. Julien would speak to Respondent the following day about this incident.
34. On the morning of January 13, 2017, Paul Julien and Jeffrey Schrade spoke to Respondent about the incident. The purpose of the conversation was two-fold – (1) to obtain Respondent's side of the story and (2) to verify the integrity of the test.
35. Respondent confirmed to Mr. Julien and Mr. Schrade that she did in fact have the assessment questions/answer key in her possession for a brief period of time. Respondent also told Mr. Julien and Mr. Schrade that she had taken the assessment questions/answer key in an attempt to prank Judge Sampanes.
36. Mr. Schrade testified that the cameras in the classroom utilized by LNJO were not surveillance cameras, but rather cameras that may be used to record education programs conducted in the classroom. Those

cameras were not operational on the evening of January 12, 2017, and generally, LNJO presentations are not recorded.

37. Respondent completed LNJO with Paul Julien serving as her mentor, and she received passing scores on all three assessments.
38. Respondent is a former educator, coach, property manager, and legislator.
39. New judges were not provided a copy of the assessment questions and answer key.
40. It is undisputed that Respondent knew that she was taking a copy of the assessment questions that did not belong to her. It is also undisputed that these documents were in her possession for a brief period of time.
41. Respondent admitted that she never verbalized her intention to pull a prank on Judge Sampanes. She further admitted that after Judge Sampanes asked her about having the assessment questions/answer key, she never told Judge Sampanes she was playing a joke/prank on him. The first time she verbalized that her conduct was a joke was to Mr. Julien and Mr. Schrade on Friday, January 13, 2017. She also acknowledged that on Friday, January 13, 2017, she told Judge Sampanes she was sorry, but still did not tell him it was a joke.
42. While the hearing officer is skeptical of Respondent's explanation that she was so in shock that she could not speak, there was not clear and

convincing evidence presented that Respondent took the assessment questions/answer key with the intent to cheat.

43. While Respondent testified that she was apologetic for her conduct which caused a “scene” and caused her “stress,” her demeanor while testifying did not convey true remorse. Respondent was often evasive and argumentative in her responses to questioning, and seemed more interested in quibbling over semantics.

44. Respondent either fails to grasp, or is unwilling to acknowledge, the impropriety associated with her conduct, and that public confidence in the integrity of the judiciary has been compromised by what she did. This was clearly conveyed by her response to a question from Disciplinary Counsel who asked Respondent if a violation(s) of the Code was found, what Respondent believed would be an appropriate sanction. Respondent stated that she should be “forced” to teach ethics at LNJO. Respondent also admitted that she has never read, or “didn’t absorb” reading, the Code of the Judicial Conduct, even after formal ethics charges were filed against her.

CONCLUSIONS OF LAW

Respondent’s conduct in taking Judge Sampanes’ assessment questions and answer key 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 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”)

AGGRAVATING AND MITIGATING FACTORS

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

Aggravating Factors

1. **The nature, extent, and frequency of the misconduct.** Respondent’s conduct involved an isolated incident, however, the nature of the conduct (playing a prank regarding a testing instrument at a judicial training session) was highly inappropriate. Significant weight is accorded to this factor.

2. **Whether the conduct occurred in the judge’s official capacity or private life.** Respondent’s misconduct occurred in her 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.”).

3. **The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent's conduct has eroded public confidence in the integrity of the judiciary. Her conduct has been widely publicized in the media, bringing disrepute to the judicial branch.

4. **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 she was apologetic for her conduct, however, she failed to concede that her conduct even arose to the level of a Code violation. Her manner and demeanor while testifying conveyed irreverence for the proceedings, including her flippant response that an appropriate sanction would be for her to be "forced" to teach ethics at LNJO.

Mitigating Factors

1. **The judge's experience and length of service on the bench.** Respondent was a new judge at the time of the Code violations.

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, however, given the brevity of Respondent's service on the bench prior to this incident, no weight is accorded to this factor.

3. **Whether the judge cooperated fully and honestly with the commission in the proceeding.** Respondent has been cooperative with the

Commission, however, the hearing officer does not accord great weight to this factor as the Code requires a judge to cooperate and be candid with the Commission.

Factors Not Applicable

The remaining factors listed in Commission Rule 19 are not applicable.

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, other judicial disciplinary bodies have recently sanctioned judges for their conduct in playing pranks or jokes.

In *In Re Leibson*¹, the Kentucky Judicial Conduct Commission publicly reprimanded Judge Jennifer H. Leibson when she, as a joke, held an attorney in

¹
[http://courts.ky.gov/commissionscommittees/JCC/Documents/Public Information/PublicReprimandLeibson.pdf](http://courts.ky.gov/commissionscommittees/JCC/Documents/Public%20Information/PublicReprimandLeibson.pdf)

contempt for adding cases to her docket in contravention of a “no add-on” order. Judge Leibson had court security escort the attorney from the courtroom to a holding area, and then told the people in the courtroom that she was playing a joke on the attorney. Judge Leibson self-reported the conduct and stipulated to the reprimand, agreeing that her conduct violated the relevant portions of the following canons of the Kentucky Code of Judicial Conduct:

Canon 1, which requires judges to maintain high standards of conduct and uphold the integrity and independence of the Judiciary; and

Canon 2, which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Next, the California Commission on Judicial Performance in *Inquiry Concerning Williams*² publicly censured Judge Michael S. Williams for taking two business card holders from the City Club of San Francisco while attending a dinner. Judge Williams told the California Commission that he took the card holders so that he could display some “joke business cards.” Judge Williams entered into a stipulation for discipline by consent, agreeing that the matter would be resolved with the imposition of a censure, and that Judge Williams would tender his resignation from office and agree not to seek judicial office in the future. The California commission noted that Judge Williams’ conduct “. . . seriously undermines public confidence in the integrity of the judiciary. The judge’s agreement to resign . . . and

²

https://cjp.ca.gov/wp-content/uploads/sites/40/2016/08/Williams_Censure_07-17-17.pdf

not to seek or hold judicial office thereafter affords protection to the public and the reputation of the judiciary”

Finally, in *In Re Zabel*³, the Ontario, Canada Judicial Council publicly reprimanded and suspended for 30 days without pay Justice Bernd Zabel for wearing a “Make America Great Again” baseball hat in his courtroom on the day following the November 2016 United States presidential election. Justice Zabel stated he wore the hat as a joke to mark a moment in history. The incident was widely reported in the media, and the Ontario Judicial Council received 81 complaints regarding Justice Zabel’s conduct. The ruling in *Zabel* spends considerable time discussing the expression of partisan political views by a sitting judge. The ruling noted:

Justice Zabel insists that he did not intend to indicate his support for Donald Trump. He testified that he was trying to make a joke about a result few had expected and that he was not expressing support for Trump, but rather celebrating his prediction that Trump would win the election. While Justice Zabel’s intentions are relevant, his conduct must be measured by an objective test. . . . In our view, and indeed as Justice Zabel now acknowledges, a reasonable member of the public would think that Justice Zabel was making a political statement and endorsing Donald Trump’s campaign. . . . We have no hesitation in finding that Justice Zabel’s actions amounted to a serious breach of the standards of judicial conduct, that it had an adverse impact upon public confidence in the judiciary and the administration of justice. . . .

The aggravating factors in this case far outweigh the mitigating factors. Respondent’s conduct illustrates that she is lacking in the integrity and judgment required in a judicial officer. While she insists that her conduct was a prank, a reasonable person seeing Respondent take the assessment questions the night before

³ <http://www.ontariocourts.ca/ocj/ojc/public-hearings-decisions/d2017/zabel/>

the test was to be given would conclude that Respondent was taking them with the intent to cheat. Respondent has not expressed profound regret for her conduct, and refused to even acknowledge that it arose to the level of a Code violation, perhaps due in part to her self-acknowledged failure to actually read the Code. Her conduct is unacceptable and inconsistent with the standard expected of a judge. As noted in *Zabel*, perceptions matter. The sanction must be sufficient to protect the public and restore confidence in the judiciary's integrity, and the sanction should not be the functional equivalent of an "unpaid vacation." *Peck, supra*, at 290.

RECOMMENDATIONS

Based on the foregoing, the hearing officer 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. 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).
3. Grant such other relief as the Court deems appropriate.

Dated this ____ day of _____, 2017.

COMMISSION ON JUDICIAL CONDUCT

Hon. Lawrence F. Winthrop
Hearing Officer

Arizona Commission on Judicial Conduct
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- a. based on her prior knowledge of Respondent as a prankster or jokester from their time together in the legislature; and
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26. Pro Tem Judge Strzelczyk testified that he was at the back of the room and did not observe Respondent take the assessment questions/answer key, and only observed the interaction between Judge Sampanes and Respondent after hearing Judge Sampanes state, "No. No. No. What are you doing?" He then turned around and observed the remaining interaction.
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 - c. Pro Tem Judge Strzelczyk testified that Judge Sampanes never pointed his finger at him, and did not recall any such statement to stay put.
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31. As Judge Sampanes, Judge Davis, and Paul Julien were discussing the matter, Judge Pesquiera joined them in the other room. The testimony conflicted on whether she came on her own accord or was summoned by Judge Sampanes. Judge Pesquiera confirmed that she had advised Respondent the documents on the bright pink paper were the assessment questions/answer key.

32. Judge Pesquiera testified that she informed Judge Sampanes, Judge Davis, and Paul Julien during that conversation that she believed Respondent's actions were a prank. In an undated statement that was submitted in support of Respondent's initial response to the Commission, Judge Pesquiera stated she made that statement on that evening. (Hearing Exhibit 3)
33. Judge Sampanes testified that Judge Pesquiera did not inform him that this matter was a joke on the evening of January 12, 2017. Judge Sampanes wrote his initial report to the Commission based on notes that he took contemporaneously that evening. His initial report does not reflect this statement by Judge Pesquiera. (Hearing Exhibit 2)
34. Paul Julien testified that he did not recall Judge Pesquiera making a statement that it was an alleged prank on the evening of January 12, 2017. Mr. Julien testified that the first time he heard the prank explanation was the morning of January 13, 2017.
35. The hearing officer finds Judge Sampanes' testimony on this issue to be more credible, once again, given that he took notes contemporaneous with this incident, and his initial report does not mention this statement.
36. Judge Sampanes, Judge Davis, and Paul Julien contacted Jeffrey Schrade, AOC Division Director for Education Services, on the evening of January 12, 2017. A collective decision was made that Respondent

would continue in LNJO, would be assigned to a different mentor, and that Mr. Schrade and Mr. Julien would speak to Respondent the following day about this incident.

37. On the morning of January 13, 2017, Paul Julien and Jeffrey Schrade spoke to Respondent about the incident. The purpose of the conversation was two-fold – (1) to obtain Respondent's side of the story, and (2) to verify the integrity of the test.
38. Respondent confirmed to Mr. Julien and Mr. Schrade that she did in fact have the assessment questions/answer key in her possession for a brief period of time. Respondent also told Mr. Julien and Mr. Schrade that she had taken the assessment questions/answer key in an attempt to prank Judge Sampanes.
39. Mr. Schrade testified that the cameras in the classroom utilized by LNJO were not surveillance cameras, but rather cameras that may be used to record education programs conducted in the classroom. Those cameras were not operational on the evening of January 12, 2017, and generally, LNJO presentations are not recorded.
40. Respondent completed LNJO with Paul Julien serving as her mentor, and she received passing scores on all three assessments.
41. After the formal charges against Respondent were publicized in the media, Pro Tem Judge Ted Forgach contacted the Commission.

42. Pro Tem Judge Ted Forgach testified that he had a conversation with Respondent on either January 4, 2017 or January 5, 2017, in the lunchroom of the Pima County Justice Court. This conversation occurred prior to the first week of LNJO.
43. During this conversation, Pro Tem Judge Forgach testified that Respondent questioned Pro Tem Judge Forgach about whether or not a judge had to pass the assessments at LNJO.
44. Pro Tem Judge Forgach was under the impression that if a judge did not pass the assessments, he/she was not allowed to work, as he was not allowed to serve as a judge pro tempore until he had completed LNJO and passed all assessments. He testified that at the time, he did not perceive there may be a different requirement for an elected justice of the peace, therefore, he informed Respondent that if a judge did not pass, he/she did not work.
45. Pro Tem Judge Forgach testified that he did not consider the conversation to be particularly significant at the time it occurred, but did find the question about the need to pass an "odd" or "unusual" question. However, after he heard the media reports regarding the incident at LNJO, the conversation became significant to him, particularly in light of the "incredible" explanation Respondent proffered for her conduct.

46. In her testimony, Respondent did not deny this conversation with Pro Tem Judge Forgach took place.
47. Respondent is a former educator, coach, property manager, and legislator.
48. Respondent's counsel suggested that there was a rush to judgment that Respondent "stole" the test, and that a full and fair investigation was not conducted by the Judicial Education staff. The hearing officer finds that the role of Judge Sampanes, Paul Julien, and Jeffrey Schrade was not to serve as ethics investigators. Their role was primarily limited to educating judges and ensuring the integrity of the assessments administered at LNJO. Respondent was provided a full and fair opportunity to present her side of the story to the Commission both in the investigative phase and in this formal hearing.
49. Although the new judges were allowed to take the assessments in an open book/open note format, these assessments served as diagnostic tools to assess a judge's knowledge level and/or ability to look up the answer to a legal question from various resources. These assessments were not "jokes" as argued by Respondent's counsel.
50. New judges were not provided a copy of the assessment questions and answer key.
51. Judge Pesquiera deduced the document printed on pink colored papers was the assessment, and she informed Respondent of this fact. Judge

Pesquiera pointed out Judge Sampanes' copy of the assessment questions/answer key to Respondent.

52. It is undisputed that Respondent knew that she was taking a copy of the assessment questions that did not belong to her. It is also undisputed that these documents were in her possession for a brief period of time.
53. Respondent admitted that she never verbalized her intention to pull a prank on Judge Sampanes. She further admitted that after Judge Sampanes asked her about having the assessment questions/answer key, she never told Judge Sampanes he was playing a joke/prank. Respondent also testified that when she took the document, she did not know if or when Judge Sampanes might return to the room. The first time she verbalized that her conduct was a joke was to Mr. Julien and Mr. Schrade on Friday, January 13, 2017. She also acknowledged that on Friday, January 13, 2017, she told Judge Sampanes she was sorry, but still did not tell him it was a joke.
54. The hearing officer does not find Respondent's explanation that she was so in shock that she could not speak to be credible. Respondent was able to clearly tell Pro Tem Judge Strzelczyk that she had the answer key to the assessment, and that is why Judge Sampanes was upset.
55. Judge Pesquiera testified that she "knew" it was a prank based on her prior knowledge of Respondent's character and Respondent's facial expression. However, Judge Pesquiera also testified that she did not

know why Judge Sampanes was upset after seeing him talk to Respondent and take back the assessment questions/answer key. She stated she "did not know what the issue was." Her testimony on this issue is also not credible.

56. Respondent testified that the prank was for the benefit of Judge Sampanes. Judge Sampanes testified that he left other items on the table area besides the assessment questions/answer key, including his statute book and other course materials. Respondent took the one item that had value to her.
57. While Respondent testified that she was apologetic for her conduct which caused a "scene" and caused her "stress," her demeanor while testifying did not convey true remorse. Respondent was often evasive and argumentative in her responses to questioning, and seemed more interested in quibbling over semantics.
58. Respondent either fails to grasp, or is unwilling to acknowledge, the impropriety associated with her conduct, and that public confidence in the integrity of the judiciary has been compromised by her conduct. This was clearly conveyed by her response to a question from Disciplinary Counsel who asked Respondent if a violation(s) of the Code was found, what Respondent believed would be an appropriate sanction. Respondent stated that she should be "forced" to teach ethics at LNJO. Respondent also admitted that she has never read, or "didn't absorb"

reading, the Code of the Judicial Conduct, even after formal ethics charges were filed against her.

59. Clear and convincing evidence has been presented:
- a. Respondent was concerned about the need to pass the test prior to LNJO.
 - b. Respondent knew she was taking Judge Sampanes' copy of the assessment questions/answer key, and that she was not supposed to have possession of this document.
 - c. Of all the items left by Judge Sampanes on the table, the document taken by Respondent was the only one of value and benefit to her.
 - d. Respondent never made her alleged intent to prank Judge Sampanes known.
 - e. Respondent was offered the opportunity to explain her actions to Judge Sampanes the night of January 12, 2017, and she remained silent. She did not disabuse Judge Sampanes of the belief she had stolen the test.
 - f. Respondent only offered the explanation of the prank the following day.
 - g. Respondent has not shown any true remorse for her actions, nor any true insight into the perception of her conduct.

- h. The totality of the evidence presented does not support Respondent's assertion that she took the assessment questions as a prank.

CONCLUSIONS OF LAW

Respondent's conduct in taking Judge Sampanes' assessment questions and answer key 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.")

AGGRAVATING AND MITIGATING FACTORS

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

Aggravating Factors

1. **The nature, extent, and frequency of the misconduct.** While Respondent's conduct was an isolated incident, it involved dishonesty. Respondent's disingenuous explanation of a prank exacerbates that dishonesty. Significant weight is accorded to this factor.

2. **Whether the conduct occurred in the judge's official capacity or private life.** Respondent's misconduct occurred in her 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.").

3. **The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent's conduct has eroded public confidence in the integrity of the judiciary. Her conduct has been widely publicized in the media, bringing disrepute to the judicial branch.

4. **Whether the judge cooperated fully and honestly with the commission in the proceeding.** The hearing officer concludes that Respondent was less than candid and honest in her explanation of her conduct.

5. **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 she was apologetic for her conduct, however, she failed to concede that her conduct even arose to the level of a Code violation. Her manner and demeanor while testifying conveyed irreverence for the proceedings, including her flippant response that an appropriate sanction would be for her to be "forced" to teach ethics at LNJO.

Mitigating Factors

1. **The judge's experience and length of service on the bench.** Respondent was a new judge at the time of the Code violations.

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, however, given the brevity of Respondent's service on the bench prior to this incident, no weight is accorded to this factor.

Factors Not Applicable

The remaining factors listed in Commission Rule 19 are not applicable.

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. In *Peck*, the court

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SEP 13 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	ORDER
Precinct 6)	
State of Arizona)	
)	
Respondent)	

The parties, through counsel April Elliott and Thomas Higgins, appeared telephonically for the scheduled Pre-Hearing Conference. Mr. Peter Limperis has filed a motion for leave to participate for the purpose of responding to Respondent Judge Aboud's objection to the timely request for camera coverage by KVOA TV for the hearing set for September 18, 2017, and has submitted a written position statement relative to Judge Aboud's objection.

Good cause appearing,

IT IS ORDERED granting the motion to make a limited appearance, and accepting KVOA TV's memorandum in opposition to Judge Aboud's objection to camera coverage. KVOA TV is not a party to these proceedings; accordingly, the request to actively participate in the oral argument concerning camera coverage is denied.

Following argument by the parties,

The Hearing Officer finds that consideration of media coverage of these proceedings is controlled by Arizona Supreme Court Rule 122. Pursuant to subsection (d) of that Rule, timely requests for coverage should be granted, unless there is a likelihood of harm arising from one or more of the factors identified in subsection (d)(1) of that Rule, and that such harm outweighs the benefit of coverage to the public. Judge Aboud's written objection does not identify any factor in subsection (d)(1) that is implicated in coverage of this matter, and counsel's argument in support of that objection does not demonstrate that the hypothetical harm of coverage outweighs the benefit to the public. Accordingly,

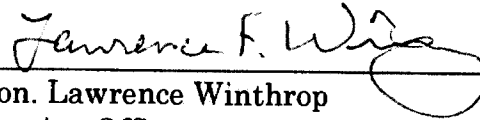
IT IS ORDERED denying Judge Aboud's objection to camera coverage for the September 18, 2017 hearing.

IT IS FURTHER ORDERED that the camera placement by KVOA TV will be fixed, and will be such not to disrupt the proceedings.

IT IS FURTHER ORDERED that, pursuant to Arizona Supreme Court Rule 122(d)(2)(B), and as it relates to witnesses Pro Tem Judge Strzelczyk, and Judge Charlene Pesquiera, the camera operator is directed to obscure their identity on any video to be streamed or later broadcast, and/or to use only audio coverage of their testimony.

Following this ruling, Mr. Limperis left the telephonic conference call, and the Hearing Officer and the parties discussed the status of the case and the parties' Joint Pre-Hearing Statement, confirmed the agreements contained therein, and also confirmed the anticipated schedule for the September 18 hearing, as reflected in the Pre-Hearing Conference, filed September 11, 2017 and the Amended Case Management Order, dated July 21, 2017.

DATED this 13 day of September, 2017.



Hon. Lawrence Winthrop
Hearing Officer

Original of this order filed on the 13 day of September, 2017, with:

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copy of the foregoing sent on the 13th day of September, 2017, via email only to:

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Peter Timoleon Limperis, Esq.
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Attorney for KVOA
plimperis@mpflaw.com; me@mpflaw.com

By: /s/ Kim Welch
Kim Welch, Commission Clerk

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SEP 12 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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

9 STATE OF ARIZONA,

Case No.: 17-019

10 Plaintiff,

**MOTION FOR LEAVE TO
PARTICIPATE AND OPPOSITION TO
OBJECTION TO MEDIA CAMERA
COVERAGE**

11 - vs -

12
13 JUDGE PAULA ABOUD
14 Pima County Justice Court
15 Precinct 6
16 State of Arizona,

17 Defendants.

18 KVOA Communications, LLC (“KVOA”) moves for leave to participate in this
19 action for the limited purpose of responding to Defendant Aboud’s opposition to
20 camera coverage. Specifically, KVOA opposes her Position Statement on Request by
21 KVOA TV to Record Hearing for the September 18, 2017 hearing.

22
23 None of the factors set forth in Supreme Court Rule 122(c) are present here. To
24 the contrary, all seven factors point in favor of allowing camera access.
25
26
27

1 As a journalistic entity, KVOA seeks, among other things, to promote media
2 access to judicial proceedings of significant public importance.

3 The Objection should be denied.
4

5 MEMORANDUM

6 Rule 27(f)(2) of the Arizona Commission on Judicial Conduct Commission
7 Rules requires that any party opposing camera coverage comply with the test
8 enumerated in Supreme Court Rule 122 (c). That provides that a trial court may limit
9 or prohibit electronic camera coverage “only after making specific, on-the-record
10 findings that there is a likelihood of harm arising from one or more” of seven factors
11 “that outweighs the benefit to the public camera coverage.” The factors are:
12

13 Impact of coverage on:

- 14 (1) right of a party to a fair hearing or trial;
- 15 (2) right of privacy of a party or witness;
- 16 (3) safety and well-being of a party, witness or juror;
- 17 (4) the likelihood that coverage would distract participants or would detract
18 from the dignity of the matter;
- 19 (5) the adequacy of the physical facilities of the court for coverage;
- 20 (6) timeliness of the camera request; and
- 21 (7) any other factor affecting the fair administration of justice.
22
23
24
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1 Here, no factors support an exclusion of cameras. Defendant Aboud makes no
2 reference to any factors. Because of Defendant Aboud's failure to even mention a
3 single factor as being at issue, it is self-evidently impossible for KVOA to
4 meaningfully respond to any specific factor. Therefore, all the factors should be
5 considered as supporting a finding that cameras should be allowed in the courtroom.
6

7 Should Defendant Aboud suggest during oral argument that one or more factors
8 are at issue, KVOA requests that it be provided leave to respond to such argument in
9 writing, as there is substantial and favorable case law addressing many of the factors
10 in Rule 122.
11

12 Courts have long recognized that "[w]hat transpires in the court room is public
13 property." *Craig v. Harney*, 331 U.S. 367, 374 (1947). Permitting camera coverage
14 of certain judicial proceedings simply permits wider access to already-public
15 proceedings. Here, Defendant About is a member of the judiciary and the public has a
16 significant interest in monitoring its judiciary, particularly when matters of potential
17 discipline are at issue.
18
19
20

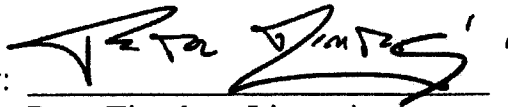
21 CONCLUSION

22 The Motion for Leave to Participate should be granted.

23
24 The Objection should be overruled.
25
26
27

1 Dated: September 12, 2017

2 MILLER, PITT, FELDMAN & McANALLY, P.C.

3
4 By: 
5 Peter Timoleon Limperis
6 Attorneys for KVOA

7 Original of the foregoing filed on
8 September 12, 2017 with:

9 Commission on Judicial Conduct
10 1501 W. Washington Street, Suite 229
11 Phoenix, AZ 85007

12 Copy mailed/faxed on September 12, 2017 to:
(Fax: 520-624-7723)

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18 Attorney for Judge Paula Aboud

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SEP 12 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**


9 STATE OF ARIZONA,
10
11 Plaintiff,
12
13 - vs -
14 JUDGE PAULA ABOUD
15 Pima County Justice Court
16 Precinct 6
17 State of Arizona,
18
19 Defendants.

Case No.: 17-019
**NOTICE OF LIMITED
APPEARANCE**

18 Peter Timoleon Limperis of the law firm of Miller, Pitt, Feldman & McAnally,
19 P.C. hereby enters his limited appearance on behalf of KVOA for the sole purpose of
20 addressing KVOA's request for camera coverage of the pleadings.
21

22 Dated: September 12, 2017

23 MILLER, PITT, FELDMAN & McANALLY, P.C.

24
25 By: 
26 Peter Timoleon Limperis
27 Attorneys for KVOA

1 Original of the foregoing filed on
2 September 12, 2017 with:

3 Commission on Judicial Conduct
4 1501 W. Washington Street, Suite 229
5 Phoenix, AZ 85007

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8 Thomas E. Higgins
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12 Attorney for Judge Paula Aboud

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18 Carolyn Saenz
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SEP 11 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	JOINT PREHEARING
Precinct 6	)	STATEMENT
State of Arizona)	
)	
Respondent)	

Disciplinary Counsel and counsel for Respondent, after conferring, hereby submit this prehearing statement prepared pursuant to the Amended Case Management Order dated July 21, 2017.

I. Agreements Reached by the Parties

These agreements are based on Respondent's admissions in her Response to the Statement of Charges to certain facts as alleged in the Statement of Charges.

A. Facts Not in Dispute

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. Respondent has served as a justice of the peace in Pima County, Arizona since January 2017, and continues to hold that position.
3. As a judicial candidate and judge, Respondent was and is subject to the Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (Code) as set forth in Supreme Court Rule 81.

4. As a newly elected justice of the peace, Respondent was required to attend the "Limited Jurisdiction New Judge Orientation" (LNJO) put on by the Administrative Office of the Courts (AOC). The first week of LNJO took place January 9-13, 2017.

5. At LNJO, experienced judges are assigned as mentor judges to new judges in the limited jurisdiction courts. The mentor judge sits at a u-shaped table with his/her new judges.

6. At the end of the first week, a test/assessment is given to the LNJO participants to ensure they have a sufficient grasp of the legal materials presented.

7. On the evening of January 12, 2017, Respondent and other judges stayed late for a study session for the assessment that was to be given on Friday, January 13, 2017.

8. Respondent and Judge Sampanes had no prior personal relationship with each other but entered into a mentor/mentee relationship as a result of their presence at LNJO.

9. When a break was taken in the study session, Judge Sampanes placed his copy of the test questions/answer key face down on his table.

10. Another new judge attending LNJO, Judge Charlene Pesquiera, advised Respondent that the fuchsia colored papers contained the test questions/answer key.

11. Respondent took the documents left by Judge Sampanes and put them with her own papers.

12. When Judge Sampanes re-entered the classroom, he removed the test question/answer key from Respondent's papers.

13. Judge Sampanes was not aware that Respondent was engaging in a prank or joke.

B. The Parties Have Not Stipulated to Any Code of Conduct Violations.

II. Facts/Code Violations in Dispute

A. Facts in Dispute

1. Commission

- a. When Judge Sampanes questioned Respondent as to why she had taken the test question/answer key, she remained silent.
- b. After Judge Sampanes retrieved the test question/answer key, Respondent stated to him, "I probably wasn't even going to read it."
- c. In verbal communications with the employees from the AOC's Judicial Education Services Division on January 13, 2017, and in written correspondence with the Commission on February 26, 2017, Respondent claimed her conduct was simply an attempt to "play a joke" on Judge Sampanes, who she just recently met.

2. Respondent

- a. Judge Aboud did not initially reply to Judge Sampanes' questions because they were accusatory and made in an angry manner. In short, Judge Sampanes had already made up his mind what was going on prior to any legitimate investigation.
- b. Judge Aboud made no effort to hide the picking up of the assessment questions and answers from others in the room. The reason she did not attempt to hide the effort is that she thought she would play a prank on Judge Sampanes and simply actually wanted other NJO members to see her.
- c. Judge Sampanes, as well as other mentor judges had copies of the assessment questions and answers for the very purpose of going over them with the attendees. Some mentor judges even read them verbatim to the attendees.

B. The Parties Positions Regarding Code Violations in Dispute

1. Commission

- a. Respondent's conduct violated Rule 1.1 of the Code which states, "A judge shall comply with the law, including the Code of Judicial Conduct."
- b. Respondent's conduct violated Rule 1.2 of the Code which states:
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.
- c. Respondent's proffered explanation in Paragraph 15 of her conduct, if in fact true, violated Rule 2.8(B) of the Code which states:
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

Taking test questions and the answer key at a judicial training, in jest, is not dignified conduct for a judicial officer.

- 2. Respondent
 - a. Judge Aboud is clearly guilty of an ill-timed prank or gesture.
 - b. No conduct of Judge Aboud's arises to the level of a violation of discipline or judicial conduct.

III. Pending Discovery Disputes

None.

IV. Final Witness Lists & Summary of Anticipated Witness Testimony

A. Commission

1. Respondent

Respondent is expected to testify as to all relevant facts as alleged in the Statement of Charges, including but not limited to: her acquisition and concealment of the test/assessment questions and answer key, her conversation with Judge

Sampanes related to the acquisition of the test and answer key, her subsequent statements to staff of the Education Services Division of the Arizona Administrative Office of the Courts, and her explanation of this matter to the Commission.

2. Hon. Charlene Pesquiera

Judge Pesquiera is expected to testify as to her observations of the event in question on the evening of January 12, 2017. Judge Pesquiera advised Respondent the fuchsia colored papers were the test/assessment and answer key for the exam on the following day, and she observed Respondent take Judge Sampanes' test/assessment and answer key. Judge Pesquiera is expected to testify as to her belief of Respondent's motive in acquiring the test/assessment and answer key.

3. Hon. James Sampanes

Judge Sampanes is expected to testify about his role at LNJO for January 2017. He was assigned as Respondent's mentor judge. Judge Sampanes will testify as to his observation of the events that occurred on the evening of January 12, 2017, when he observed Respondent take his fuchsia colored test/assessment and answer key and attempt to conceal them among her own documents. He will also testify about his conversation with Respondent when he confronted her regarding his observations. Judge Sampanes will also testify as to Respondent's demeanor, and that Respondent never told him that her actions were done as a prank.

4. Paul D. Julien

Mr. Julien is expected to testify as to what was reported to him by Judge Sampanes on the evening of January 12, 2017, and his own conversations with those involved on or about January 13, 2017. Mr. Julien is expected to testify that Respondent informed him that her actions were done as a prank.

5. Jeffrey Schrade

Mr. Schrade is expected to testify about his conversation with Respondent on or about January 13, 2017, at which time Respondent informed him that her actions on the evening of January 12, 2017, were done as a prank.

6. Hon. Steve Strzelczyk

Judge Strzelczyk is expected to testify about his observations at LNJO on the evening of January 12, 2017, and Judge Sampanes' confrontation with Respondent over the test/assessment and answer key, and the statements made around that confrontation.

7. Hon. Ted Forgach

Pro Tem Judge Forgach is expected to testify about a conversation he had with Respondent on or about January 4, 2017, or January 5, 2017, prior to Respondent attending Limited New Judge Orientation (LNJO), in which Respondent questioned him about the need to pass the assessment at LNJO.

B. Respondent

1. Any and all listed above or becoming known during discovery.

V. Final Exhibit List

A. Commission

1. Limited Jurisdiction New Judge Orientation January 2017 – Assessment 1.
2. Emails from Paul Julien and Judge Sampanes to George Riemer, Executive Director of the Commission on Judicial Conduct, dated January 12, 2017 and January 13, 2017, respectively.
3. Judge Aboud's initial response to the informal complaint in this matter dated February 26, 2017, including the attachment entitled "Testimony by Charlene Pesquiera."
4. Judge Aboud's supplemental response to the informal complaint in this matter dated March 5, 2017.
5. Transcript of Judge Aboud's prehearing interview on June 15, 2017.
6. Transcript of Judge Pesquiera's prehearing interview on June 15, 2017.
7. Transcript of Judge Sampanes' prehearing interview on August 22, 2017.

8. Transcript of Pro Tem Judge Forgach's prehearing interview on July 24, 2017.

9. Transcript of Pro Tem Judge/Hearing Officer Strzelczyk's prehearing interview on September 8, 2017 (when available).

10. Transcript of Paul D. Julien's prehearing interview on September 5, 2017 (when available).

11. Transcript of Jeffrey Schrade's prehearing interview on September 8, 2017 (when available).

B. Respondent

1. All listed above. Others when available.

VI. Objections to Witnesses or Exhibits

A. Commission

1. None

B. Respondent

1. None

VII. Remaining Issues

A. Commission

1. Ruling on request by KVOA-TV to record hearing for later broadcast.

B. Respondent

1. Ruling on media request as stated above.

Dated this 11th day of September, 2017.

COMMISSION ON JUDICIAL CONDUCT

By: /s/ April P. Elliott

April P. Elliott
Disciplinary Counsel

LAW OFFICES OF THOMAS E. HIGGINS,
P.L.L.C.

By: /s/ Thomas E. Higgins

Thomas E. Higgins
Attorney for Respondent

Original of the foregoing filed this 11th day of September, 2017, with:

Clerk of the Commission
Commission on Judicial Conduct
1501 W. Washington, Suite 229
Phoenix, AZ 85007

FILED

SEP 11 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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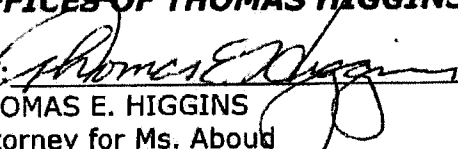
13 Inquiry Concerning)
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15)
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17) **REQUEST BY KVOA TV TO**
18) **RECORD HEARING**
19)
20) **Judge Paula Aboud**
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22) Pima County Justice Court
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26) State of Arizona
27)
28)

18 COMES NOW, Paula Aboud, by and through her attorney undersigned and
19 provides this position statement on the request by KVOA TV to record the formal
20 hearing in this matter (now set for Monday, September 18, 2017) for later broadcast.

21 Judge Aboud, nor her attorney wish that any media coverage of any kind be
22 allowed, more specifically any video or audio recording of the proceedings.

23 **RESPECTFULLY SUBMITTED** this 11th day of September, 2017.

24 **LAW OFFICES OF THOMAS HIGGINS**

25 BY: 
26 THOMAS E. HIGGINS
27 Attorney for Ms. Aboud
28

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Originals of this pleading filed on the 11th day of September, 2017, with:

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copies of the foregoing sent on the 11th day of September, 2017, via email only to:

April P. Elliott, Esq.
Disciplinary Counsel
Commission on Judicial Conduct
aelliott@courts.az.gov

FILED

AUG 04 2017

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	POSITION STATEMENT ON
Precinct 6	)	REQUEST BY KVOA TV TO
State of Arizona	)	RECORD HEARING
)	
Respondent)	

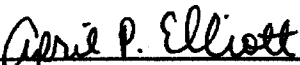
Disciplinary Counsel hereby provides this position statement on the request by KVOA TV to record the formal hearing in this matter (now set for Monday, September 18, 2017) for later broadcast.

Disciplinary Counsel does not generally object to the formal hearing being recorded for later broadcast. Disciplinary Counsel presumes that if the request is granted by the Hearing Officer, the camera placement will be such as to not disrupt the proceedings. Pursuant to Arizona Supreme Court Rule 122(c)(5), Disciplinary Counsel has notified all of her intended witnesses of the pending request by KVOA TV. To date, only one witness, Pro Tem Judge Strzelczyk, has voiced an objection to coverage of his testimony. However, that rule does allow a witness to object at any time prior to the commencement of his or her testimony.

Therefore, Disciplinary Counsel requests that KVOA be limited in its coverage of Pro Tem Judge Strzelczyk's testimony by obscuring his identity on any video, and/or only using audio coverage of his testimony, pursuant to Arizona Supreme Court Rule 122(d)(2)(B). Disciplinary Counsel reserves the right to supplement this request at a later date should another one of the Commission's witnesses express an objection to coverage of his/her testimony.

Dated this 4th day of August, 2017.

COMMISSION ON JUDICIAL CONDUCT




April P. Elliott
Disciplinary Counsel

A copy of this pleading was served by email on August 4, 2017, upon Respondent, via counsel, to:

Thomas E. Higgins
Law Offices of Thomas E. Higgins, P.L.L.C.
higginsinvail@aol.com; higginsoffice@gmail.com

A copy of this pleading was served by mail on August 4, 2017, upon KVOA, to:

Matthew Schwartz
KVOA TV
209 E. Elm Street
Tucson, AZ 85705

By: 

April P. Elliott

FILED

JUL 21 2017

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	AMENDED CASE
Precinct 6	)	MANAGEMENT ORDER
State of Arizona)	
)	
Respondent)	

The Court conferred with counsel on July 21, 2017, to discuss scheduling conflicts.

Good cause appearing, the previous Case Management Order is amended as follows:

1. **Priority.** The parties shall treat this judicial disciplinary proceeding as a priority matter and are hereby put on notice that the deadlines and dates set in this order shall be continued, extended or otherwise delayed only upon a showing of good cause. No filing shall extend the deadlines set forth in this order without the prior approval of the Hearing Officer.

2. **Applicable Rules.** The Rules of the Commission on Judicial Conduct ("Rules") shall govern these proceedings. All references to time in the rules or in this order shall be computed in accordance with Rule 6(a), Arizona Rules of Civil Procedure.

3. **Correspondence, Filing and Exchange of Documents.** Correspondence and all original motions, pleadings or other legal documents required

by this order or permitted by commission rules shall be filed electronically with the commission's clerk and served simultaneously on the other party by electronic mail.

4. Recording Proceedings. The public hearing in these proceedings shall be recorded digitally using court recording software. If either party desires an official court reporter for the public hearing, the fees and expenses of the court reporter shall be paid by the requesting party.

5. Discovery. All discovery shall be completed in accordance with Rule 26, and the Parties stipulate as follows:

a. Witness Lists. The parties have already exchanged their initial disclosure as provided in Rule 26(a).

b. Completion of Discovery. Pursuant to Rule 26(d), the duty to provide timely discovery is ongoing and both parties must supplement their initial discovery exchanges in a timely manner, and in any event, shall complete all discovery no later than **September 5, 2017, by 5:00pm.**

c. Objections. Objections to witnesses and exhibits shall be filed no later than **September 6, 2017.** The parties are reminded that any information that is not disclosed or provided in response to a discovery request as provided in this order on a timely basis may be precluded by the Hearing Officer, as provided in Rule 26(f).

6. Motions. All motions regarding discovery and any other prehearing motions, including motions *in limine*, shall be filed by email with the commission clerk no later than **September 6, 2017.** Responses to motions shall be filed no later

than five (5) days after receipt of the motions. No replies to responses are permitted unless requested within two (2) days of filing the response and approved by the Hearing Officer. If authorized, replies shall be filed within two (2) days of the order permitting same.

7. Joint Prehearing Statement. Counsel for the parties shall confer before the prehearing conference to discuss and attempt to resolve in good faith, to the extent possible, all pending matters. Counsel for the parties shall prepare and file with the commission clerk by 5:00 p.m. on September 11, 2017, a joint prehearing memorandum setting forth the substance of all agreements reached; each party's position regarding each issue in dispute; each party's position on any pending discovery disputes; a final list of witnesses each party will call to testify at the hearing, together with a brief statement of each witnesses' expected testimony; a final list of exhibits that each party will offer at the hearing; any objection either party has to the witnesses and exhibits to be called or offered by the other party; the course and status of any settlement discussions; and any other issues the parties deem appropriate.

8. Prehearing Conference. The parties are directed to reserve September 13, 2017 at 10:00 a.m. for a one-hour telephonic prehearing conference. If the joint prehearing statement does not reveal any unresolved issues, the telephonic conference may be cancelled.

9. Exhibits. Exhibits that the parties intend to use at the hearing shall be delivered to the commission's office at least five (5) business days before the

hearing. All exhibits must be pre-numbered, clearly labeled in the bottom right-hand corner as "Petitioner's" or "Respondent's" exhibits, and scanned as individual PDFs that can be emailed to the commission clerk.

10. **Subpoenas.** Any prior subpoenas issued in this matter relative to the original hearing date remain in full force and effect.

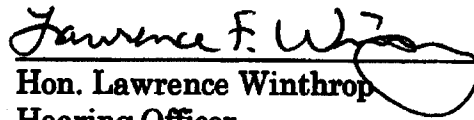
11. **Hearing.** Notice also is given that a hearing on the Statement of Charges in this matter shall be held on **Monday, September 18, 2017, at 9:00 a.m.** at the Arizona Courts Building, 1501 W. Washington, Phoenix, Arizona, in Room 109. This is a firm hearing date, and absent extraordinary cause, no further continuance will be granted. The parties should anticipate a roughly equal division of the allotted time for presentation of each party's case by direct or cross-examination, and any opening or closing remarks of counsel.

12. **Recommendations.** The parties are directed to submit proposed findings of fact and conclusions of law within five (5) business days of the conclusion of the hearing. Such proposals shall be filed with the commission's clerk. The Hearing Officer's recommendations shall be filed pursuant to Rule 28(a).

///

13. If the parties wish to modify or amend the deadlines established in this order, they may make a request to do so by filing an appropriate motion with the Hearing Officer within three (3) days of this date.

DATED this 21 day of July, 2017.



Hon. Lawrence Winthrop
Hearing Officer

Original of this pleading filed on the 21st day of July, 2017, with:

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copy of the foregoing sent on the 21st day of July, 2017, via email only to:

April P. Elliott, Esq.
Disciplinary Counsel
Commission on Judicial Conduct
aelliott@courts.az.gov

Thomas E. Higgins
Law Offices of Thomas E. Higgins, P.L.L.C.
Attorney for Respondent
higginsinvail@aol.com; higginsoffice@gmail.com

By: /s/ Kim Welch
Kim Welch, Commission Clerk

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: aelliott@courts.az.gov

FILED

JUL 20 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	ORDER SETTING HEARING
Precinct 6)	
State of Arizona)	
)	
Respondent)	

The Arizona Commission on Judicial Conduct has received a "Motion to Continue Hearing" from Thomas E. Higgins, Counsel for Judge Paula Aboud ("Respondent"), and an "Objection to Motion to Continue and Request for Expedited Ruling" from April P. Elliott, Disciplinary Counsel for the Commission on Judicial Conduct.

IT IS ORDERED setting a telephonic hearing for Friday, July 21, 2017 at 8:30 a.m. Parties are instructed to call _____ for this hearing.

DATED this 20 day of July, 2017

_____/s/_____
Hon. Lawrence F. Winthrop
Hearing Officer

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

FILED

JUL 20 2017

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	OBJECTION TO MOTION
Precinct 6	)	TO CONTINUE AND REQUEST
State of Arizona	)	FOR EXPEDITED RULING
)	
Respondent)	

Disciplinary Counsel hereby objects to Respondent's Motion to Continue Hearing and requests that the Hearing Officer issue an expedited ruling on this matter for the reasons more fully set forth below.

The hearing date of August 14, 2017 (and August 15, 2017, if necessary) were originally selected based on availability of Respondent's prior counsel, John Tully, at the status conference held on May 23, 2017. Mr. Higgins filed the notice of substitution of counsel on June 11, 2017, and on June 13, 2017, he gave email approval of the proposed Case Management Order which contained the hearing date. At that time, Mr. Higgins did not advise Disciplinary Counsel of any potential conflict with the hearing date. Pursuant to Commission Policy 11, a press release was issued announcing the hearing date on the Statement of Charges. Additionally, Disciplinary

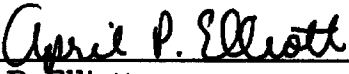
Counsel notified her six witnesses for the hearing of the date and time so they could block time out on their calendars. Two of Disciplinary Counsel's witnesses are full-time judges who need to make arrangements to have their calendars covered on the date of the hearing.

Disciplinary Counsel first became aware of the conflict on July 20, 2017 at approximately 8:30 a.m., when she received an email from Respondent's counsel. Earlier in the week, on July 18, 2017, Disciplinary Counsel sent out subpoenas to the Commission's six witnesses for the August 14, 2017 hearing date. In light of the proximity to the hearing date and the fact that hearing preparation was well underway, Disciplinary Counsel advised Respondent's counsel she would object to the continuance.

Disciplinary Counsel will be out of the office the week of July 24 – 28, 2017, for combined vacation and attendance at the annual conference of the Association of Judicial Disciplinary Counsel. Therefore, Disciplinary Counsel is requesting an expedited ruling on the motion to continue. Disciplinary Counsel is available for a telephonic conference, if so desired by the Hearing Officer, for arguments on the motion, on the afternoon of July 20, 2017, or anytime on July 21, 2017.

Dated this 20th day of July, 2017.

COMMISSION ON JUDICIAL CONDUCT



April P. Elliott
Disciplinary Counsel

A copy of this pleading was served by email on July 20, 2017, upon Respondent, via counsel, to:

Thomas E. Higgins
Law Offices of Thomas E. Higgins, P.L.L.C.
higginsinvail@aol.com; higginsoffice@gmail.com

By: April P. Elliott
April P. Elliott

FILED

JUL 20 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

1 **THOMAS E. HIGGINS**
2 **LAW OFFICES OF THOMAS E. HIGGINS P.L.L.C.**
3 **325 West Franklin Street**
4 **Tucson, Arizona 85701**
5 **(520) 624-8663**
6 **(520) 624-7723 Fax**
7 **higginsivall@aol.com**
8 **higginsoffice@gmail.com**
9 **State Bar No: 04324**

10 **Attorney for: Judge Paula Aboud**

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

13 **Inquiry Concerning**

CASE NO. 17-019

14 **Judge Paula Aboud**

MOTION TO CONTINUE HEARING

15 **Pima County Justice Court**

16 **Precinct 6**

17 **State of Arizona**

18 **COMES NOW, Paula Aboud, by and through her attorney undersigned and**
19 **hereby respectfully submits a request continuance of the hearing that has been set**
20 **for August 14, 2017 at 9:30 a.m. Counsel for Ms. Aboud undersigned has a trial set for**
21 **August 15, 2017,**

22 **Counsel undersigned fully expected the matter to be resolved**
23 **by a plea agreement prior to this date but it has not done so. Immediately upon**
24 **learning that this case would proceed to trial, undersigned counsel contacted Ms. April**
25 **Elliot to seek an agreement to reset this hearing. Ms. Elliot declined to so agree. It**
26 **is requested that this matter, of the continuance, be set for a telephonic hearing as**
27
28

1 soon as convenient for Judge Winthrop.

2 We request that the hearing be continued and reset to a date and time
3 convenient for the Honorable Judge Winthrop.
4

5 **RESPECTFULLY SUBMITTED** this 20th day of July, 2017.

6 **LAW OFFICES OF THOMAS HIGGINS**

7
8 BY: 
9 THOMAS E. HIGGINS
Attorney for Ms. Aboud

10 Originals of this pleading filed on the 20th day of July, 2017, with;

11
12 Commission on Judicial Conduct
13 1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

14 Copies of the foregoing sent on the 20th day of July, 2017, via email only to:

15 April P. Elliott, Esq.
16 Disciplinary Counsel
17 Commission on Judicial Conduct
aelliott@courts.az.gov

FILED

JUN 19 2017

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	CASE MANAGEMENT ORDER
Precinct 6)	
State of Arizona)	
)	
Respondent)	

The formal charges in this case were filed on March 30, 2017. The Respondent filed an answer on April 27, 2017. In order to manage the matters under consideration, this schedule is established pursuant to Commission Rule 27(b).

IT IS NOW THEREFORE ORDERED,

1. **Priority.** The parties shall treat this judicial disciplinary proceeding as a priority matter and are hereby put on notice that the deadlines and dates set in this order shall be continued, extended or otherwise delayed only upon a showing of good cause. No filing shall extend the deadlines set forth in this order without the prior approval of the Hearing Officer.

2. **Applicable Rules.** The Rules of the Commission on Judicial Conduct ("Rules") shall govern these proceedings. All references to time in the rules or in this

order shall be computed in accordance with Rule 6(a), Arizona Rules of Civil Procedure.

3. Correspondence, Filing and Exchange of Documents. Correspondence and all original motions, pleadings or other legal documents required by this order or permitted by commission rules shall be filed electronically with the commission's clerk and served simultaneously on the other party by electronic mail.

4. Recording Proceedings. The public hearing in these proceedings shall be recorded digitally using court recording software. If either party desires an official court reporter for the public hearing, the fees and expenses of the court reporter shall be paid by the requesting party.

5. Discovery. All discovery shall be completed in accordance with Rule 26 and the parties stipulate as follows:

a. **Witness Lists.** The parties have already exchanged their initial disclosure as provided in Rule 26(a).

b. **Completion of Discovery.** Pursuant to Rule 26(d), the duty to provide timely discovery is ongoing and both parties must supplement their initial discovery exchanges in a timely manner, and in any event shall complete all discovery no later than **July 21, 2017, by 5:00pm.**

c. **Objections.** Objections to witnesses and exhibits shall be filed no later than **August 1, 2017.** The parties are reminded that any information that is not disclosed or provided in response to a discovery request as provided in this order on a timely basis may be precluded by the Hearing Officer, as provided in Rule

26(f).

6. **Motions.** All motions regarding discovery and any other prehearing motions, including motions *in limine*, shall be filed by email with the commission clerk no later than **August 1, 2017**. Responses to motions shall be filed no later than five (5) days after receipt of the motions. No replies to responses are permitted unless requested within two (2) days of filing the response and approved by the Hearing Officer. If authorized, replies shall be filed within two (2) days of the order permitting same.

7. **Joint Prehearing Statement.** Counsel for the parties shall confer before the prehearing conference to discuss and attempt to resolve in good faith, to the extent possible, all pending matters. Counsel for the parties shall prepare and file with the commission clerk by 5:00 p.m. on **August 4, 2017**, a joint prehearing memorandum setting forth the substance of all agreements reached; each party's position regarding each issue in dispute; each party's position on any pending discovery disputes; a final list of witnesses each party will call to testify at the hearing, together with a brief statement of each witnesses' expected testimony; a final list of exhibits that each party will offer at the hearing; any objection either party has to the witnesses and exhibits to be called or offered by the other party; the course and status of any settlement discussions; and any other issues the parties deem appropriate.

8. **Prehearing Conference.** The parties are directed to reserve August 9, 2017 at 10:00 a.m. for a one-hour telephonic prehearing conference. If the joint

prehearing statement does not reveal any unresolved issues, the telephonic conference will be cancelled.

9. **Exhibits.** Exhibits that the parties intend to use at the hearing shall be delivered to the commission's office at least five (5) business days before the hearing. All exhibits must be pre-numbered, clearly labeled in the bottom right-hand corner as "Petitioner's" or "Respondent's" exhibits, and scanned as individual PDFs that can be emailed to the commission clerk.

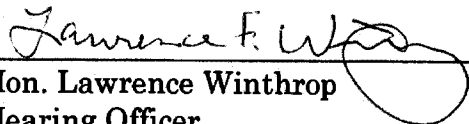
10. **Hearing.** Notice also is given that a hearing on the Statement of Charges in this matter shall be held on Monday, August 14, 2017, at 9:30 a.m. at the Arizona Courts Building, 1501 W. Washington, Phoenix, Arizona, in Room 109. This is a firm hearing date, and absent extraordinary cause, no continuance will be granted. The parties should anticipate a roughly equal division of the allotted time for presentation of each party's case by direct or cross-examination, and any opening or closing remarks of counsel.

11. **Recommendations.** The parties are directed to submit proposed findings of fact and conclusions of law within five (5) business days of the conclusion of the hearing. Such proposals shall be filed with the commission's clerk. The Hearing Officer's recommendations shall be filed pursuant to Rule 28(a).

///

12. If the parties wish to modify or amend the deadlines established in this order, they may make a request to do so by filing an appropriate motion with the Hearing Officer within three (3) days of this date.

DATED this 19 day of June, 2017.



Hon. Lawrence Winthrop
Hearing Officer

Original of this pleading filed on the 19th day of June, 2017, with:

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copy of the foregoing sent on the 19th day of June, 2017, via email only to:

April P. Elliott, Esq.
Disciplinary Counsel
Commission on Judicial Conduct
aelliott@courts.az.gov

Thomas E. Higgins
Law Offices of Thomas E. Higgins, P.L.L.C.
Attorney for Respondent
higginsinvail@aol.com; higginsoffice@gmail.com

By: /s/ Kim Welch
Kim Welch, Commission Clerk

FILED

JUN 12 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

THOMAS E. HIGGINS
LAW OFFICES OF THOMAS E. HIGGINS P.L.L.C.
325 West Franklin Street
Tucson, Arizona 85701
(520) 624-8663
(520) 624-7723 Fax
higginsinvail@aol.com
higginsoffice@gmail.com
State Bar No: 04324

Attorney for: Judge Paula Aboud

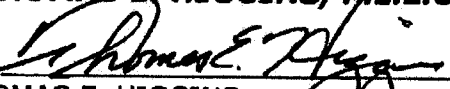
STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry Concerning	)	CASE NO. 17-019
)	
)	
Judge Paula Aboud	)	NOTICE OF SUBSTITUTION OF
	)	COUNSEL
Pima County Justice Court)	
)	
Precinct 6)	
)	
State of Arizona)	
)	
)	

NOTICE IS HEREBY GIVEN that undersigned counsel Thomas E. Higgins, will be substituting in as attorney of record for the Honorable Paula Aboud ,in place and instead of attorney John L. Tully for any and all further proceedings in the above captioned matter.

RESPECTFULLY SUBMITTED this 11TH day of June, 2017.

LAW OFFICES OF THOMAS E. HIGGINS, P.L.L.C.

BY: 
THOMAS E. HIGGINS
Attorney for Honorable Paula Aboud


Honorable Paula Aboud

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Originals of this pleading filed on the 11TH day of June, 2017, with;

Commission on Judicial Conduct
1501 W. Washington St., Ste. 229
Phoenix, AZ 85007

Copies of the foregoing sent on the 11TH day of June, 2017, via email only to:

April P. Elliott, Esq.
Disciplinary Counsel
Commission on Judicial Conduct
aelliott@courts.az.gov

John L. Tully
Prior Attorney for Respondent
Law Offices of John L. Tully, P.C.
jtully@tbf.tuccoxmail.com

FILED

APR 27 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

1 LAW OFFICES OF JOHN L. TULLY, P.C.
2 John L. Tully (State Bar No. 005121/PCC 58436)
3 4652 N. First Avenue, Suite 100
4 Tucson, Arizona 85718
5 (520) 322-5051
6 jtully@tbf.tuccoxmail.com

7 Attorneys for Respondent

8 STATE OF ARIZONA
9 COMMISSION ON JUDICIAL CONDUCT

10 Inquiry concerning

Case No. 17-019

11 Judge Paula Aboud
12 Pima County Justice Court
13 Precinct 6
14 State of Arizona

Response to Statement Of Charges

Assigned to: Hon. Lawrence
Winthrop

15 Respondent

16 Respondent, by and through her counsel, hereby responds to the Statement of Charges as
17 follows:

- 18 1. Admits the allegations of paragraphs 1, 2, 3, 4, 5, 6, 9, 15, and 16.
- 19 2. In response to the allegations of paragraph 7, Respondent admits the first sentence of
20 paragraph 7 and denies, for lack of information, the remaining allegations.
- 21 3. In response to the allegations of paragraph 8, Respondent admits the first sentence of
22 paragraph 8 and denies, for lack of information, the remaining allegations.
- 23 4. In response to the allegations of paragraph 10, Respondent admits that Judge Sampanes
24 placed documents on the table and denies, for lack of information, the remaining allegations.
- 25 5. In response to the allegations of paragraph 11, Respondent admits she took documents
26 left by Judge Sampanes as a prank and denies, for lack of information, the remaining allegations.

1 Copy of the foregoing emailed
2 this 27th day of April, 2017, to:

3 Kim Welch
4 Commission Clerk
5 Commission on Judicial Conduct
6 1501 W. Washington St.
7 Suite 229
8 Phoenix, AZ 85007
9 kwelch@courts.az.gov

10 April P. Elliott, Esq.
11 Disciplinary Counsel
12 Arizona Commission on Judicial Conduct.
13 1501 W. Washington St.
14 Suite 229
15 Phoenix, AZ 85007
16 aelliott@courts.az.gov

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FILED

APR 11 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning

Case No. 17-019

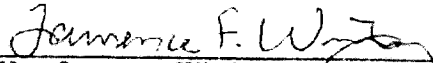
Judge Paula Aboud
Pima County Justice Court
Precinct 6
State of Arizona

Order

Respondent

Respondent have filed Motion For Extension Of Time To File Response, good cause being shown, and there being no objection, it is hereby ordered that Respondent's time to file the Response is extended from Friday, April 14, 2017, to and including Friday, April 28, 2017.

Dated this 7 day of April, 2017.



Hon. Lawrence Winthrop

FILED

APR 07 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

1 LAW OFFICES OF JOHN L. TULLY, P.C.
John L. Tully (State Bar No. 005121/PCC 58436)
2 4652 N. First Avenue, Suite 100
Tucson, Arizona 85718
3 (520) 322-5051
jtully@tbf.tuccoxmail.com

4 Attorneys for Respondent
5
6
7

8 STATE OF ARIZONA
9 COMMISSION ON JUDICIAL CONDUCT

10 Inquiry concerning

Case No. 17-019

11 Judge Paula Aboud
12 Pima County Justice Court
Precinct 6
13 State of Arizona

Motion For Extension Of Time
To File Response

Assigned to: Hon. Lawrence
Winthrop

14 Respondent
15

16 Pursuant to Rule 25 (c) of the Rules of the Commission on Judicial Conduct, Respondent
17 hereby requests an extension of time to file her Response to the formal charges from Friday, April 14,
18 2017, to and including, Friday, April 28, 2017. The reasons for this request are as follows.

19 Respondent has just recently retained undersigned counsel to represent her with regard to this
20 matter. Respondent is required to attend New Judge Orientation during the week of April 10-14, and
21 will be unable to meet with undersigned counsel to participate in the preparation of the Response until
22 the week of April 17. Undersigned counsel has long standing plans to attend a family gathering out
23 of town from April 20 through April 25. An extension is sought to allow Respondent and her counsel
24 sufficient time to meet and prepare the Response.
25
26

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

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APR 05 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

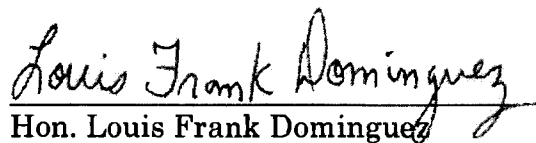
**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	RECORD OF APPOINTMENT
Precinct 6	)	OF HEARING OFFICER
State of Arizona)	
)	
Respondent)	

Acting pursuant to Rule 27(c) of the Rules of the Commission on Judicial Conduct, the commission has appointed the Honorable Lawrence F. Winthrop, Arizona Court of Appeals, Division One, to serve as the hearing officer in the above-entitled proceeding, as a hearing panel is unable to function within the intent of the rules based on the participation of the commission in the decision to file formal charges against Respondent pursuant to Rules 22(f) and 24(a).

Dated this 5th day of April, 2017.

COMMISSION ON JUDICIAL CONDUCT



Hon. Louis Frank Dominguez
Commission Chair

Copies delivered via e-mail on April 5, 2017, to:

Hon. Paula Aboud
Pima County Justice Court

April P. Elliott, Esq.
Disciplinary Counsel
Commission on Judicial Conduct
aelliott@courts.az.gov

Hon. Lawrence F. Winthrop
Hearing Officer
Judge, Arizona Court of Appeals, Division One
lwinthrop@appeals.az.gov

By: /s/ Kim Welch
Kim Welch, Clerk of the Commission

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
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MAR 30 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	STATEMENT OF CHARGES
Precinct 6)	
State of Arizona)	
)	
Respondent)	

Pursuant to Commission Rule 24(a), Disciplinary Counsel hereby files this Statement of Charges against Justice of the Peace Paula Aboud, hereafter Respondent, setting forth the Commission's jurisdiction and specifying the nature of her alleged judicial misconduct.

JURISDICTION

1. The Commission on Judicial Conduct (hereafter 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 Pima County since January 2017, and continues to hold that position.
4. As a judge, Respondent is subject to the Arizona Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (Code) as set forth in Arizona Supreme Court Rule 81.

FACTUAL BACKGROUND

5. As a newly elected justice of the peace, Respondent was required to attend the "Limited Jurisdiction New Judge Orientation" (LNJO) put on by the Administrative Office of the Courts (AOC). The first week of LNJO took place January 9-13, 2017.

6. At LNJO, experienced judges are assigned as mentor judges to new judges in the limited jurisdiction courts. The mentor judge sits at a u-shaped table with his/her new judges.

7. At the end of the first week, a test/assessment is given to the LNJO participants to ensure they have a sufficient grasp of the legal materials presented. The mentor judges at LNJO have access to the test/assessment questions and the answer key. For the first week of LNJO in 2017, the questions and answer key were printed on fuchsia colored paper.

8. On the evening of January 12, 2017, Respondent and other judges stayed late for a study session for the assessment that was to be given on Friday, January 13, 2017. Respondent's mentor judge, Judge James Sampanes, had a copy of the test questions/answer key in his possession.

9. Respondent and Judge Sampanes had no prior personal relationship with each other but entered into a mentor/mentee relationship as a result of their presence at LNJO.

10. When a break was taken in the study session, Judge Sampanes placed his copy of the test questions/answer key face down on his table, and exited the room. The door to the classroom remained open, and Judge Sampanes had an unobstructed view of his table area.

11. Judge Sampanes observed Respondent reach over to his portion of the table and take the fuchsia colored papers that contained the test questions/answer key.

12. As Judge Sampanes re-entered the classroom, he observed Respondent conceal the test questions/answer key among her own papers. Judge Sampanes questioned Respondent as to why she had his copy of the test questions/answer key,

but Respondent remained silent. Judge Sampanes told her he knew she had them, and then removed the test question/answer key from Respondent's papers.

13. Another new judge attending LNJO, Judge Charlene Pesquiera, was advised by her mentor that the fuchsia colored papers contained the test questions/answer key, and she informed Respondent of this information prior to the time when Respondent took Judge Sampanes' copy of the test questions/answer key.

14. Upon information and belief, after Judge Sampanes regained possession of his copy of the test questions/answer key from Respondent, Respondent stated to him, "I probably wasn't even going to read it."

15. In verbal communications with employees from the AOC's Judicial Education Services Division on January 13, 2017, and in written correspondence with the Commission on February 26, 2017, Respondent claimed her conduct was simply an attempt to "play a joke" on Judge Sampanes, who she just recently met.

16. Respondent did not communicate the explanation she provided to the Commission, as set forth in paragraph 15, to Judge Sampanes at any time.

17. Judge Sampanes did not interpret or understand Respondent's conduct to be a joke.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

18. Respondent's conduct, as described above in Paragraphs 5-14, violated Rule 1.1 of the Code which states, "A judge shall comply with the law, including the Code of Judicial Conduct."

19. Respondent's conduct, as described above in Paragraphs 5-14, violated Rule 1.2 of the Code which states:

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.

20. Respondent's proffered explanation in Paragraph 15 of her conduct, if in fact true, violated Rule 2.8(B) of the Code which states:

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

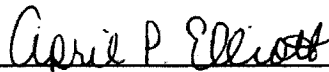
Taking test questions and the answer key at a judicial training, in jest, is not dignified conduct for a judicial officer.

REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that a duly-appointed Commission Hearing Officer find Respondent in violation of the Code, as alleged above; recommends 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 hearing officer or court grant such other relief as it deems appropriate.

Dated this 30th day of March, 2017.

COMMISSION ON JUDICIAL CONDUCT



April P. Elliott
Disciplinary Counsel

A copy of this pleading was served on March 30, 2017,
upon Respondent, via mail or email, to:

Hon. Paula Aboud
Pima County Justice Court

By: /s/ Kim Welch
Kim Welch, Commission Clerk

April P. Elliott (Bar # 016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aelliott@courts.az.gov*

FILED

MAR 30 2017

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 17-019
Judge Paula Aboud)	
Pima County Justice Court	)	NOTICE OF INSTITUTION OF
Precinct 6	)	FORMAL PROCEEDINGS
State of Arizona)	
)	
Respondent)	

To Judge Paula Aboud:

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rule 24 of the Rules of the Commission on Judicial Conduct ("Rules") to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether these charges constitute grounds for judicial discipline as provided in Article 6.1, § 4, of the Arizona Constitution and the Rules.

You are further notified that:

1. April P. Elliott, Attorney at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.

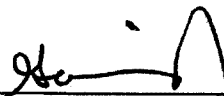
2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal or electronic service of this notice upon you, or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

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

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

Dated this 30th day of March, 2017.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

A copy of this pleading was served on March 30, 2017,
upon Respondent, via email, to:

Hon. Paula Aboud
Pima County Justice Court

A copy of this pleading was hand-delivered on March 30, 2017, to:

April P. Elliott
Disciplinary Counsel
Commission on Judicial Conduct

By: /s/ Kim Welch
Kim Welch, Commission Clerk