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APR 24 2013
JANET JOHNSON
CLERK SUPREME COURT
BY: *uk*

SUPREME COURT OF ARIZONA

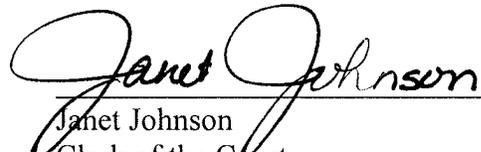
Inquiry concerning Judge)
)
CARMINE CORNELIO)
Superior Court)
Pima County)
State of Arizona)
Respondent)
_____)

Supreme Court No. JC-13-0001
Commission No. 12-177
ORDER

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

IT IS ORDERED that Judge **Carmine Cornelio** is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation and the Amended Stipulated Resolution, which are attached hereto.

DATED this 24th day of March 2013.



Janet Johnson
Clerk of the Court

TO:
John L. Tully, Counsel for Respondent
Jennifer Perkins, Disciplinary Counsel, Commission on Judicial Conduct
George A. Riemer, Executive Director, Commission on Judicial Conduct
Barbara Wanlass, Clerk of the Commission
Hon. Sarah R. Simmons
Karissa Amba, West Publishing
Lexis-Nexis

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

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge)	
	)	Case No. 12-177
CARMINE CORNELIO)	
Superior Court	)	TRANSMITTAL OF THE RECORD
Pima County	)	TO THE SUPREME COURT
State of Arizona)	
Respondent)	
)	

1. Notice of Filing with the Supreme Court
2. First Amended Statement of Charges
3. Notice of Institution of Formal Proceedings
4. Record of Appointment of Hearing Panel
5. Minute Entry dated March 15, 2013
6. Amended Stipulated Resolution
7. Acceptance of Stipulated Resolution and Order
8. Recommendation

DATED this 18th day of March 2013.

COMMISSION ON JUDICIAL CONDUCT



Barbara Wanlass
Clerk of the Commission

Jennifer M. Perkins
Disciplinary Counsel (Bar #023087)
Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

FILED

MAR 15 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
Judge Carmine Cornelio	)	Case No. 12-177
Superior Court)	
Pima County	)	AMENDED
State of Arizona	)	STIPULATED RESOLUTION
Respondent.)	

COME NOW Judge Carmine Cornelio, Respondent, through his attorney John Tully, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

JURISDICTION

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a superior court judge in Pima County since May 2002 and was serving in this capacity at all times relevant to the allegations contained herein.
3. As a superior court judge, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81

4. Respondent acknowledges that this stipulated resolution and sanction is grounded in and authorized by Article 6.1, paragraph 4, of the Arizona Constitution, which forbids conduct that is “prejudicial to the administration of justice that brings the judicial office into disrepute.”

BACKGROUND

5. The parties believe it appropriate to provide a broad description of the relevant circumstances in order to fully explain the stipulated resolution of this matter.

6. This case arises out of two separate complaints which have been consolidated by stipulation into a single Amended Statement of Charges. These complaints arose out of separate settlement conferences at which Respondent presided as the settlement judge.

7. Respondent has served with distinction as the presiding judge for Pima County’s Alternative Dispute Resolution program for many years. In that capacity, he has aided in the settlement of many cases. He presides over as many as 70-80 settlement conferences per year. As an illustration, the Pima County Bar Association gave Respondent an award in June 2010 for his “extraordinary service to the bench and bar” for his efforts at settlement conferences.

8. Because of Respondent’s abilities as a settlement judge, judges and attorneys in Pima County frequently request his assistance in settling the most difficult and contentious litigations. For the same reasons, judges and attorneys from other counties will sometimes request that Respondent preside over such settlement conferences in cases venued in counties other than Pima County.

9. Settlement conferences are different in many respects from most court proceedings. Most proceeding (including trials, motions, and evidentiary hearings) are subject to formal and clear rules of procedure that govern the timing, scope, and nature of communications between the court, counsel, and litigants. Additionally, the judge’s goal in such proceedings typically is to become familiar with the legal, factual, and/or procedural information necessary to decide an issue and to then enter an impartial decision or ruling. Settlement conferences, on the

other hand, are more akin to private mediations: they are conducted off the record and usually involve “free form” conversations between the court, counsel and/or litigants. These conversations are typically conducted *ex parte* and in a setting with few, if any, formal procedural rules governing those communications. Unlike most court proceedings, a settlement judge’s role is not to ultimately decide one or more issues at a settlement conference but, instead, to facilitate the parties in resolving their dispute.

10. In light of the function of a settlement conference/mediation, and the role a settlement judge/mediator, individuals serving in such a capacity have adopted a wide variety of styles to achieve the goal of bringing the parties together. No one style is recognized as superior. For example, some settlement judges/mediators use a soft-spoken style; others are more forceful. Respondent’s approach as a settlement judge is occasionally forceful. Such an approach may be particularly well-suited to the settlement of cases involving the most difficult issues and/or contentious litigants and attorneys. However, a forceful approach can also be problematic when carried out in a manner that runs afoul of ethical requirements. This includes the requirement that “a judge shall be patient, dignified, and courteous to litigants . . . lawyers . . . and others with whom the judge deals in an official capacity.” (Code, Rule 2.8 (B)) Respondent acknowledges that he has at times run afoul of this requirement due to his forceful style.

11. With regard to the first of the two underlying cases referenced above in paragraph 5, Respondent was the settlement judge at three settlement conferences in a complex matter involving allegations of toxic exposure to mold. The plaintiff was a young adult who was nineteen years old at the time of the final settlement conference. Her parents were also present at the settlement conference along with numerous attorneys representing both sides. Disciplinary Counsel and Respondent have not yet fully developed the factual record in this matter, but Respondent concedes that he made one or more improper or inappropriate statements to one of the attorneys representing the plaintiff, and engaged in a strongly worded discussion concerning

the proposed confidentiality of the settlement with that attorney, causing the plaintiff to cry on one occasion.

12. The second underlying case was a lawsuit in Cochise County Superior Court involving the sale of family property in which Respondent was asked by the trial judge to preside at a settlement conference. The parties met with Respondent at a settlement conference and engaged in hearings before him on five occasions: May 5, 2011; June 15, 2011; January 19, 2012; March 9, 2012; and March 14, 2012. During the settlement conference, Respondent displayed an improper demeanor, made inappropriate statements, and behaved in what could reasonably be viewed as a coercive manner.

13. The Respondent acknowledges that his conduct at these settlement conferences was not always patient, dignified, and courteous as required by the Code. Respondent also acknowledges that while he did not intend to coerce any parties into a settlement, his conduct could have been perceived as coercive. The Respondent acknowledges the wrongful nature of his conduct and that he has come to this conclusion too slowly. Respondent sincerely desires to modify his behavior so as to avoid any possible recurrence of such conduct.

MUTUAL CONSIDERATION

14. Respondent admits the factual background set forth above in paragraphs 4 through 13. He further concedes that these facts could support a finding of judicial misconduct should this matter proceed to a formal hearing. Specifically, Respondent admits that he failed to maintain patience, dignity, and courtesy with litigants who appeared before him in settlement conferences, as described above, and that his demeanor could have reasonably led some litigants to feel pressured into entering a settlement, in violation of Rules 1.2 and 2.8 of the Code of Judicial Conduct.

15. Respondent also acknowledges that he has previously received an informal reprimand and a formal censure for somewhat similar misconduct, and that the Commission has

received other complaints alleging improper demeanor or coercive conduct by Respondent during settlement conferences. Respondent agrees that his prior disciplinary history and the Commission's general commitment to progressive discipline could result in a suspension should this matter proceed to a formal hearing

16. The parties agree, however, that the following mitigating factors, coupled with Respondent's commitment to alter certain aspects of his settlement conference conduct, indicate that a formal public censure as described herein is the appropriate sanction in this matter

a. Respondent's past service to the bench and bar with distinction and effectiveness as described in paragraphs 7 and 8 above.

b. The inherent nature and context of a settlement conference is distinguished from the atmosphere in a courtroom when a judge sits on the bench, as described above in paragraph 9. Thus, although Respondent's conduct occurred while he was serving in his official capacity, it occurred during a context that is generally more akin to off-bench circumstances.

c. Respondent acknowledges the wrongful nature of his conduct and hereby manifests his desire to reform his conduct

AGREED UPON SANCTIONS

17. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction. As explained in paragraph 9 above, the parties agree that a formal public censure and the additional provisions set forth below are the appropriate sanctions.

18. For six months, beginning the first of the month following the Supreme Court's issuance of the censure in this matter, Respondent will have one or more mentors who will mentor him in at least 25% of the settlement conferences Respondent conducts during that time frame. The Presiding Member of the Hearing Panel appointed in this matter will appoint the mentor or mentors, taking into account input from both Disciplinary Counsel and Respondent. The Respondent will be responsible for any costs associated with the mentors.

19. Respondent's mentors will report to the Commission in writing after each such settlement conference regarding their mentoring and Respondent's handling of settlement conferences.

20. During the 18 months following the conclusion of this matter, Respondent will attend at least one educational training course related to appropriate judicial demeanor, to be proposed by Disciplinary Counsel and approved by the Chairman of the Commission. Respondent agrees to provide reasonable evidence of the timely completion of this condition to Disciplinary Counsel.

21. If Respondent fails to meet the conditions set forth above in paragraphs 18, 19 and/or 20 above, he agrees that a summary suspension of 45 days without pay shall be imposed. In this regard, the following procedures shall apply. If Disciplinary Counsel concludes that grounds exist to proceed under this provision, Disciplinary Counsel shall so notify Respondent. Such grounds may exist for one of two reasons: (a) Disciplinary Counsel receives a report from a mentor indicating that Respondent has failed to correct his problematic conduct or (b) Respondent fails to provide Disciplinary Counsel with satisfactory evidence of the completion of the course(s) addressed in paragraph 13 above. Respondent shall be given a reasonable opportunity to respond. In the event that Disciplinary Counsel continues to believe thereafter that grounds to proceed under this provision still exist, Disciplinary Counsel shall provide all relevant information to the Commission which shall then determine whether such a suspension should be recommended to the Supreme Court for imposition.

22. Any subsequent complaints filed against Respondent shall proceed according to the procedures set forth in the Commission Rules.

OTHER TERMS AND CONDITIONS

23. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the amended Statement of Charges and may be used as evidence in later proceedings in

accordance with the Commission's Rules. If the hearing panel does not accept this agreement as a full resolution, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of this agreement.

24. Respondent waives his right to file a Response to the Statement of Charges, pursuant to Commission Rule 25(a).

25. Pursuant to Commission Rule 28(a), both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

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

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

28. Respondent clearly understands the terms and conditions of this agreement, has reviewed it with his attorneys, and fully agrees with its terms.

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

SUBMITTED this 15th day of March, 2013.

s/ Carmine Cornelio

Hon. Carmine Cornelio

Respondent

March 15, 2013

Date Signed

s/ Jennifer Perkins

Jennifer Perkins

Disciplinary Counsel

March 15, 2013

Date Signed

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

FILED

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ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge)	
	)	Case No. 12-177
CARMINE CORNELIO)	
Superior Court	)	NOTICE OF INSTITUTION OF
Pima County	)	FORMAL PROCEEDINGS
State of Arizona)	
)	
Respondent)	

TO JUDGE CARMINE CORNELIO:

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

You are further notified that:

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

2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal service of this notice upon you or within 20 days

of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

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

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

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

Dated this 17th day of December 2012.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

Copy of this pleading delivered
by e-mail and regular mail on
December 17, 2012, to:

John L. Tully
Counsel for Carmine Cornelio
Law Firm of John L. Tully, PC
Tucson, AZ 85718
jltully@qwestoffice.net

Jennifer Perkins
Disciplinary Counsel
Commission on Judicial Conduct

By: Barbara W. W. W.

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

FILED

MAR 06 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

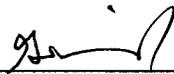
**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge)	
	)	Case No. 12-177
CARMINE CORNELIO)	
Superior Court)	
Pima County	)	RECORD OF APPOINTMENT
State of Arizona	)	OF HEARING PANEL
Respondent)	
)	

Acting pursuant to Rules 3(f) and 27(a) of the Rules of the Commission, Judge Louis Frank Dominguez, Chair of the Commission, appointed Judge Peter J. Eckerstrom to serve as the presiding member of the hearing panel in the above-entitled proceeding and designated the following as members of the panel: Roger Barton, Louis Dominguez, Anna Mary Glaab, Art Hinshaw, Rick Medina, Gus Aragon, and Lawrence Winthrop.

DATED this 6th day of March 2013.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

Copies delivered by mail, e-mail, or in person
on March 6, 2013, to:

John L. Tully
Counsel for the Respondent

Jennifer M. Perkins
Disciplinary Counsel
Commission on Judicial Conduct



Clerk of the Commission

1 Jennifer M. Perkins
2 Disciplinary Counsel (Bar #023087)
3 Commission on Judicial Conduct
4 1501 W. Washington St., Suite 229
5 Phoenix, AZ 85007
6 Telephone: (602) 452-3200
7 Email: jenperkinsaz@gmail.com

FILED

JAN 30 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning

) Case No.: 12-177

10 **Judge Carmine Cornelio**
11 Superior Court
12 Pima County
13 State of Arizona,

) **STATEMENT OF CHARGES**
(First Amended)

Respondent,

15 An investigative panel of the Commission on Judicial Conduct (Commission) has
16 determined that there is reasonable cause to commence formal proceedings against Judge
17 Carmine Cornelio (Respondent) for misconduct in office. This statement of charges sets forth the
18 Commission's jurisdiction and specifies the nature of the alleged misconduct.
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JURISDICTION

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the
22 Arizona Constitution.

2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the
25 Commission on Judicial Conduct (Commission Rules).

3. Respondent has served as a superior court judge in Pima County since May 2002,
and was serving in his capacity as a judge at all times relevant to these allegations

1 hand gesture in an accusatory manner, and thus failed to observe high standards of conduct, in
2 violation of what was then Canon 1A, and failed to remain patient, dignified, and courteous, in
3 violation of what was then Canon 3B(4). Second, he used an obscene expletive in open court and
4 thus failed to maintain order and decorum in the courtroom, in violation of former Canon 3B(3),
5 and again violated former Canon 3B(4).
6

7 *Public Censure*

8 11. On December 9, 2010, the Arizona Supreme Court publicly censured Respondent for
9 conduct in violation of the Code. The Court's order was a result of a stipulation in which
10 Respondent admitted that he conducted a settlement conference in which one of the attorneys
11 present was a personal friend. During the conference, Respondent became upset when his friend
12 and the friend's clients did not adhere to a settlement position that Respondent recommended.
13 While upset, Respondent stated, "Fuck you" to his friend and showed his middle finger.
14 Respondent further told his friend that it was "shitty" to have arranged for a settlement
15 conference indicating a particular settlement position and then to subsequently alter the
16 settlement position.
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19 **FACTUAL BACKGROUND**

20 *Case Number One*

21 12. On January 31, 2012, Respondent presided over the final settlement conference in a
22 complex matter involving allegations of toxic exposure to mold. The plaintiff¹ was a minor child
23 and her parents were present along with numerous attorneys representing both sides. One of the
24 attorneys representing the plaintiff submitted the complaint that led to these formal charges. In
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27 ¹ Because the plaintiff was a minor at the time of the underlying case and due to the somewhat sensitive nature of
28 some facts related to that lawsuit, Disciplinary Counsel has chosen not to name the Plaintiff, her family, or the
related attorneys in this public pleading. Unless and until it becomes necessary to publicly identify these individuals,
Disciplinary Counsel respectfully requests that Respondent likewise refrain from including the names in any public
pleadings.

1 that complaint, the attorney detailed numerous specific instances of misconduct during the
2 settlement conference. The alleged misconduct included: numerous improper or inappropriate
3 statements to the parties, causing the plaintiff to cry on at least one occasion; unacceptable use of
4 profanity throughout the settlement conference; improper physical conduct, including at one
5 point mishandling and endangering an expensive magnifying glass plaintiff used in order to
6 review pleadings and other documents; and evidencing gender bias.
7

8 ***Case Number Two***

9
10 13. Between May 5, 2011, and March 14, 2012, Respondent served as the settlement
11 judge in another case involving the sale of family property. The parties met with Respondent on
12 engaged in hearings before him on five occasions: May 5, 2011; June 15, 2011; January 19,
13 2012; March 9, 2012; and March 14, 2012. Throughout these meetings and hearings, Respondent
14 displayed an improper demeanor, made inappropriate statements, and behaved in a coercive
15 manner. Examples of Respondent's misconduct include: unacceptable use of profanity; personal
16 insults and name-calling directed toward one party both in private and on the record; yelling or
17 screaming at parties he believed to be "recalcitrant"; attempting to undermine an attorney-client
18 relationship by telling one party that her attorney was incompetent and telling the attorney that
19 he should not be representing that party; engaging in ex parte communications with counsel for
20 an expert witness; and threatening the parties should they fail to reach agreement.
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23 **VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT**

24 14. Respondent's conduct, as described above in Paragraphs 12-13, violates
25 numerous provisions of the Code. Specifically:
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1 Dated this 30th day of January, 2013.
2

3 **COMMISSION ON JUDICIAL CONDUCT**

4
5 

6 Jennifer M. Perkins
7 Disciplinary Counsel
8

9
10
11 Copies of this pleading hand-delivered
12 on January 30, 2013, to:

13 John L. Tully
14 4562 N. 1st Avenue, Suite 100
15 Tucson, AZ 85718
16 (520) 322-5051
jltully@qwestoffice.net

17 *Counsel for Respondent*

18 By: 

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

FILED

MAR 15 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	Case No. 12-177
)	
CARMINE CORNELIO)	
Superior Court	)	MINUTE ENTRY
Pima County)	
State of Arizona)	
)	
Respondent)	

On March 14, 2013, the hearing panel in the above-entitled action considered the charges against Superior Court Judge Carmine Cornelio and the proposed Stipulated Resolution ("Stipulation") jointly filed by Jennifer Perkins, Disciplinary Counsel, and John Tully, attorney for the Respondent. Hearing panel members Peter Eckerstrom, presiding, Roger Barton, Louis Dominguez, Anna Mary Glaab, Art Hinshaw, Rick Medina, Gus Aragon, and Lawrence Winthrop voted by e-mail to approve the agreement with one modification. The second sentence of the thirteenth paragraph of the Stipulated Resolution filed on March 4, 2013 would be replaced with the following language:

"Respondent also acknowledges that while he did not *intend* to coerce any parties into a settlement, *his conduct could have been perceived as coercive.*" (changes from previous language in italics).

The hearing panel decided that if Disciplinary Counsel and Respondent agree to these changes, then the undersigned presiding member is authorized to accept the agreement on behalf

of the hearing panel without further review or vote of the panel itself.

DATED this 15th day of March 2013..

FOR THE HEARING PANEL

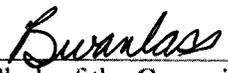


Peter J. Eckerstrom
Presiding Member

Copies of this pleading were delivered and e-mailed this 15th day of March 2013 to:

John L. Tully
Counsel for Respondent
Law Firm of John L. Tully, PC
4562 North First Avenue, Suite 100
Tucson, AZ 85718
jltully@qwestoffice.net

Jennifer Perkins
Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

By: 
Clerk of the Commission

Jennifer M. Perkins
Disciplinary Counsel (Bar #023087)
Commission on Judicial Conduct
1501 W. Washington St., Suite 229
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Telephone: (602) 452-3200

FILED

MAR 15 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)
)
Judge Carmine Cornelio) Case No. 12-177
Superior Court)
Pima County) **AMENDED**
State of Arizona) **STIPULATED RESOLUTION**
Respondent.)

COME NOW Judge Carmine Cornelio, Respondent, through his attorney John Tully, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

JURISDICTION

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a superior court judge in Pima County since May 2002 and was serving in this capacity at all times relevant to the allegations contained herein.
3. As a superior court judge, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81

4. Respondent acknowledges that this stipulated resolution and sanction is grounded in and authorized by Article 6.1, paragraph 4, of the Arizona Constitution, which forbids conduct that is “prejudicial to the administration of justice that brings the judicial office into disrepute.”

BACKGROUND

5. The parties believe it appropriate to provide a broad description of the relevant circumstances in order to fully explain the stipulated resolution of this matter.

6. This case arises out of two separate complaints which have been consolidated by stipulation into a single Amended Statement of Charges. These complaints arose out of separate settlement conferences at which Respondent presided as the settlement judge.

7. Respondent has served with distinction as the presiding judge for Pima County’s Alternative Dispute Resolution program for many years. In that capacity, he has aided in the settlement of many cases. He presides over as many as 70-80 settlement conferences per year. As an illustration, the Pima County Bar Association gave Respondent an award in June 2010 for his “extraordinary service to the bench and bar” for his efforts at settlement conferences.

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other hand, are more akin to private mediations: they are conducted off the record and usually involve “free form” conversations between the court, counsel and/or litigants. These conversations are typically conducted *ex parte* and in a setting with few, if any, formal procedural rules governing those communications. Unlike most court proceedings, a settlement judge’s role is not to ultimately decide one or more issues at a settlement conference but, instead, to facilitate the parties in resolving their dispute.

10. In light of the function of a settlement conference/mediation, and the role a settlement judge/mediator, individuals serving in such a capacity have adopted a wide variety of styles to achieve the goal of bringing the parties together. No one style is recognized as superior. For example, some settlement judges/mediators use a soft-spoken style; others are more forceful. Respondent’s approach as a settlement judge is occasionally forceful. Such an approach may be particularly well-suited to the settlement of cases involving the most difficult issues and/or contentious litigants and attorneys. However, a forceful approach can also be problematic when carried out in a manner that runs afoul of ethical requirements. This includes the requirement that “a judge shall be patient, dignified, and courteous to litigants . . . lawyers . . . and others with whom the judge deals in an official capacity.” (Code, Rule 2.8 (B)) Respondent acknowledges that he has at times run afoul of this requirement due to his forceful style.

11. With regard to the first of the two underlying cases referenced above in paragraph 5, Respondent was the settlement judge at three settlement conferences in a complex matter involving allegations of toxic exposure to mold. The plaintiff was a young adult who was nineteen years old at the time of the final settlement conference. Her parents were also present at the settlement conference along with numerous attorneys representing both sides. Disciplinary Counsel and Respondent have not yet fully developed the factual record in this matter, but Respondent concedes that he made one or more improper or inappropriate statements to one of the attorneys representing the plaintiff, and engaged in a strongly worded discussion concerning

the proposed confidentiality of the settlement with that attorney, causing the plaintiff to cry on one occasion.

12. The second underlying case was a lawsuit in Cochise County Superior Court involving the sale of family property in which Respondent was asked by the trial judge to preside at a settlement conference. The parties met with Respondent at a settlement conference and engaged in hearings before him on five occasions: May 5, 2011; June 15, 2011; January 19, 2012; March 9, 2012; and March 14, 2012. During the settlement conference, Respondent displayed an improper demeanor, made inappropriate statements, and behaved in what could reasonably be viewed as a coercive manner.

13. The Respondent acknowledges that his conduct at these settlement conferences was not always patient, dignified, and courteous as required by the Code. Respondent also acknowledges that while he did not intend to coerce any parties into a settlement, his conduct could have been perceived as coercive. The Respondent acknowledges the wrongful nature of his conduct and that he has come to this conclusion too slowly. Respondent sincerely desires to modify his behavior so as to avoid any possible recurrence of such conduct.

MUTUAL CONSIDERATION

14. Respondent admits the factual background set forth above in paragraphs 4 through 13. He further concedes that these facts could support a finding of judicial misconduct should this matter proceed to a formal hearing. Specifically, Respondent admits that he failed to maintain patience, dignity, and courtesy with litigants who appeared before him in settlement conferences, as described above, and that his demeanor could have reasonably led some litigants to feel pressured into entering a settlement, in violation of Rules 1.2 and 2.8 of the Code of Judicial Conduct.

15. Respondent also acknowledges that he has previously received an informal reprimand and a formal censure for somewhat similar misconduct, and that the Commission has

received other complaints alleging improper demeanor or coercive conduct by Respondent during settlement conferences. Respondent agrees that his prior disciplinary history and the Commission's general commitment to progressive discipline could result in a suspension should this matter proceed to a formal hearing

16. The parties agree, however, that the following mitigating factors, coupled with Respondent's commitment to alter certain aspects of his settlement conference conduct, indicate that a formal public censure as described herein is the appropriate sanction in this matter

a. Respondent's past service to the bench and bar with distinction and effectiveness as described in paragraphs 7 and 8 above.

b. The inherent nature and context of a settlement conference is distinguished from the atmosphere in a courtroom when a judge sits on the bench, as described above in paragraph 9. Thus, although Respondent's conduct occurred while he was serving in his official capacity, it occurred during a context that is generally more akin to off-bench circumstances.

c. Respondent acknowledges the wrongful nature of his conduct and hereby manifests his desire to reform his conduct

AGREED UPON SANCTIONS

17. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction. As explained in paragraph 9 above, the parties agree that a formal public censure and the additional provisions set forth below are the appropriate sanctions.

18. For six months, beginning the first of the month following the Supreme Court's issuance of the censure in this matter, Respondent will have one or more mentors who will mentor him in at least 25% of the settlement conferences Respondent conducts during that time frame. The Presiding Member of the Hearing Panel appointed in this matter will appoint the mentor or mentors, taking into account input from both Disciplinary Counsel and Respondent. The Respondent will be responsible for any costs associated with the mentors.

19. Respondent's mentors will report to the Commission in writing after each such settlement conference regarding their mentoring and Respondent's handling of settlement conferences.

20. During the 18 months following the conclusion of this matter, Respondent will attend at least one educational training course related to appropriate judicial demeanor, to be proposed by Disciplinary Counsel and approved by the Chairman of the Commission. Respondent agrees to provide reasonable evidence of the timely completion of this condition to Disciplinary Counsel.

21. If Respondent fails to meet the conditions set forth above in paragraphs 18, 19 and/or 20 above, he agrees that a summary suspension of 45 days without pay shall be imposed. In this regard, the following procedures shall apply. If Disciplinary Counsel concludes that grounds exist to proceed under this provision, Disciplinary Counsel shall so notify Respondent. Such grounds may exist for one of two reasons: (a) Disciplinary Counsel receives a report from a mentor indicating that Respondent has failed to correct his problematic conduct or (b) Respondent fails to provide Disciplinary Counsel with satisfactory evidence of the completion of the course(s) addressed in paragraph 13 above. Respondent shall be given a reasonable opportunity to respond. In the event that Disciplinary Counsel continues to believe thereafter that grounds to proceed under this provision still exist, Disciplinary Counsel shall provide all relevant information to the Commission which shall then determine whether such a suspension should be recommended to the Supreme Court for imposition.

22. Any subsequent complaints filed against Respondent shall proceed according to the procedures set forth in the Commission Rules.

OTHER TERMS AND CONDITIONS

23. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the amended Statement of Charges and may be used as evidence in later proceedings in

accordance with the Commission's Rules. If the hearing panel does not accept this agreement as a full resolution, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of this agreement.

24. Respondent waives his right to file a Response to the Statement of Charges, pursuant to Commission Rule 25(a).

25. Pursuant to Commission Rule 28(a), both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

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

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

28. Respondent clearly understands the terms and conditions of this agreement, has reviewed it with his attorneys, and fully agrees with its terms.

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

SUBMITTED this 15th day of March, 2013.

s/ Carmine Cornelio

Hon. Carmine Cornelio
Respondent

March 15, 2013

Date Signed

s/ Jennifer Perkins

Jennifer Perkins
Disciplinary Counsel

March 15, 2013

Date Signed

FILED

MAR 15 2013

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

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

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	Case No. 12-177
)	
CARMINE CORNELIO)	
Superior Court	)	ACCEPTANCE OF STIPULATED
Pima County	)	RESOLUTION
State of Arizona)	
Respondent)	
)	

The duly appointed hearing panel of the Commission on Judicial Conduct in the above-entitled case hereby accepts the Amended Stipulated Resolution signed by the Respondent for the following reasons: the issues set forth in the Statement of Charges have been adequately resolved; the parties agree that the Respondent's conduct in the underlying case warrants a formal sanction; and the prompt and expeditious resolution of this case is in the best interests of the public and the judiciary. Therefore, pursuant to Rule 30,

IT IS HEREBY ORDERED that the Recommendation along with the official record of these proceedings shall be transmitted to the Supreme Court as required by Rule 29.

DATED this 15th day of March, 2013.

COMMISSION ON JUDICIAL CONDUCT



Peter J. Eckerstrom
Presiding Member of the Hearing Panel

Copies of this pleading were delivered via mail
and regular email this 15th day of March, 2013 to:

John L. Tully
Counsel for Carmine Cornelio
Law Firm of John L. Tully, PC
4562 North First Avenue, Suite 100
Tucson, AZ 85718
jltully@qwestoffice.net

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

By: *Barbara Wamboss*
Clerk of the Commission

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

FILED

MAR 18 2013

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	Case No. 12-177
)	
CARMINE CORNELIO)	
Superior Court	)	RECOMMENDATION
Pima County)	
State of Arizona)	
)	
Respondent)	

On January 30, 2013, the Commission on Judicial Conduct ("Commission") filed First Amended Statement of Charges against Superior Court Judge Carmine Cornelio ("Respondent") following a finding of reasonable cause by a three-member investigative panel assigned to oversee the investigation in this case. Simultaneously, the Commission chairperson appointed an eight-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

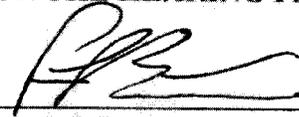
On March 4, 2013, Respondent and Disciplinary Counsel subsequently submitted a Stipulated Resolution ("Resolution") to the hearing panel in which Respondent agreed to a public censure for misconduct in office. On March 14, 2013, the hearing panel considered the stipulation via e-mail and voted to accept the Resolution with minor amendments specified in the minute entry dated March 15, 2013.

On March 15, 2013, Counsel for Respondent and Disciplinary Counsel submitted an Amended Stipulated Resolution, which the undersigned presiding member reviewed and accepted

on behalf of the hearing panel in an order dated March 15, 2013. As part of the Resolution, the Respondent waived his right to appeal and all other procedural rights set forth in Rule 29 of the Rules of the Commission on Judicial Conduct. All of the conditions in the Resolution having been met, the hearing panel now recommends to the Arizona Supreme Court that the Respondent be censured for misconduct in office.

RESPECTFULLY SUBMITTED this 18th day of March 2013.

FOR THE HEARING PANEL



Peter J. Eckerstrom
Presiding Member

Copies of this pleading were delivered and e-mailed this 18th day of March 2013 to:

John L. Tully
Counsel for Respondent
Law Firm of John L. Tully, PC
4562 North First Avenue, Suite 100
Tucson, AZ 85718
jltully@qwestoffice.net

Jennifer Perkins
Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

By: 
Clerk of the Commission

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

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning former Judge	)	Case No. 12-177
)	
CARMINE CORNELIO)	
Superior Court	)	STATEMENT REGARDING
Pima County	)	CERTIFICATE OF SERVICE
State of Arizona)	
Respondent)	
)	

In lieu of a comprehensive certificate of service, the Commission on Judicial Conduct has included a specific certification as to the service of each document contained within its Record, which is herewith filed with the Arizona Supreme Court in the above-captioned matter. Undersigned Disciplinary Counsel thus affirms that all portions of the record submitted as part of this matter to the Supreme Court have been properly served within the Commission's rules on Respondent Judge Carmine Cornelio.

RESPECTFULLY SUBMITTED this 18th day of March 2013.

COMMISSION ON JUDICIAL CONDUCT

s/Jennifer M. Perkins
Jennifer M. Perkins
Disciplinary Counsel

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

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge)	
	)	Case No. 12-177
CARMINE CORNELIO)	
Superior Court	)	NOTICE OF FILING WITH
Pima County	)	THE SUPREME COURT
State of Arizona)	
)	
Respondent)	

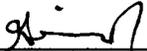
PLEASE TAKE NOTICE that the Commission's Recommendation in the above-entitled case, together with all other pertinent pleadings contained in the record, were filed on this date with the Clerk of the Arizona Supreme Court, 1501 W. Washington Street, Suite 402, Phoenix, Arizona 85007. Copies of the pleadings,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

The Commission accepted a stipulated resolution for discipline by consent in this case in the best interest of the public and pursuant to guidance provided in previous cases in which the Commission was encouraged to pursue alternative resolutions. *In Re Braun*, 180 Ariz. 240, 242, 883 P.2d 996, 998 (1994); *In Re Garcia*, 180 Ariz. 294, 296, 884 P.2d 180, 182 (1994).

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

Dated this 18th day of March 2013.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

Copy of this pleading delivered
by e-mail and regular mail on
March 18, 2013, to:

John L. Tully
Counsel for Carmine Cornelio
Law Firm of John L. Tully, PC
Tucson, AZ 85718
jltully@qwestoffice.net

Jennifer Perkins
Disciplinary Counsel
Commission on Judicial Conduct

By: Barbara Winkler

SUPREME COURT OF ARIZONA

Inquiry concerning Judge	)	Supreme Court No. JC-12-000____
)	
CARMINE CORNELIO	)	Commission No. 12-177
Superior Court)	
Pima County	)	PROPOSED FORM OF ORDER
State of Arizona)	
Respondent)	
_____)	

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

IT IS ORDERED that Judge **Carmine Cornelio** is hereby censured for violations of the Code of Judicial Conduct as set forth in the Commission’s Recommendation and the Amended Stipulated Resolution, which are attached hereto.

DATED this __ day of March 2013.

Janet Johnson
Clerk of the Court

TO:
John L. Tully, Counsel for Respondent
(Certified Mail, Return Receipt and Regular Mail)
Jennifer Perkins, Disciplinary Counsel, Commission on Judicial Conduct
George A. Riemer, Executive Director, Commission on Judicial Conduct
Barbara Wanlass, Clerk of the Commission
Jode Ottman, West Publishing Company, Editorial Department, D3-40 #4467
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