



Superior Court of the State of Washington
For the County of Yakima

Yakima County Courthouse
128 North Second St.
Yakima, Washington 98901

SUPERIOR COURT JUDGES

Judge Kevin S. Naught
Judge Elisabeth M. Tutsch
Judge Jeffery B. Swan
Judge Blaine G. Gibson
Judge Jared A. Boswell
Judge Ruth E. Reukauf
Judge Sonia Rodriguez True
Judge Richard H. Bartheld

SUPERIOR COURT COMMISSIONERS

Shane M. Silverthorn
Susan C. Arb
Robert E. Porter

Phone: (509) 574-2710
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November 1, 2024

To: Robert Porter, Court Commissioner

From: Richard H. Bartheld, Presiding Judge
Kevin S. Naught, Assistant Presiding Judge
Jessica Humphreys, Superior Court Director

This letter will serve as notice of employment termination based on the details below:

As you know, pursuant to RCW 2.24.010(1), you serve at the pleasure of the Judges who appointed you to the position of Superior Court Commissioner. As you also know, there have been several different areas of concern that have arisen since the beginning of 2024 around your demeanor, relationship/interpersonal skills, teamwork, leadership from the bench, and interaction with other professionals in the community. In spite of the fact that your employment as Superior Court Commissioner could have been terminated at any time for any reason, the Judges who appointed you afforded you an opportunity to correct your behavior. Specifically, on or about June 27, 2024a Performance Improvement Plan (PIP) was created to address the areas of unsatisfactory performance. A copy of the PIP is attached for your reference. At that time you were advised that a failure to meet the objectives of the PIP would result in termination of employment.

The PIP expressly outlined the areas that needed improvement, because your past actions and behavior did not meet the expectations of a Superior Court Judicial Officer, as is outlined in the Code of Judicial Conduct. As you are aware, Court Commissioners are expected to follow the Judicial Code of Conduct and Ethics in the same manner as an elected Judge.

This PIP was in place for a period of four (4) months and provided you with a detailed plan, outlining the tools and resources available to you to enable you to improve, objective(s), explaining what the plan addressed, and expectations from you. It was our hope that the resources provided would assist you in improving and further developing as a Superior Court Commissioner. Unfortunately, you have failed to follow some of the guidelines of the PIP and direction given regarding interaction(s) with staff, processes and procedures. On November 1, 2024, you were afforded an opportunity to explain the reasons for your failure to improve your behavior and meet the expectation set forth in your PIP.

Examples of instances where you did not follow the direction and expectations of the PIP are:

October 8, 2024: You have continued to rely on Clerk staff to perform duties that are beyond their scope of work. There are several instances on FTR where you are asking advice from the clerk on whether you have the correct orders and for them to review the orders for accuracy. Again, the Clerk sent an email asking you to stop this practice as her clerks are not attorneys and cannot provide legal counsel. Billie indicated that it was making them very uncomfortable and putting them in a very awkward position.

September 26, 2024: You have continued to email and contact Cristy Bengé directly despite the direction to work with Candi Shute to coordinate Cristy's involvement. As an example, you emailed, called and came by her office when she didn't answer your phone call right away. You went to her office to tell her she needed to email the ICWA training event information to a select list of people. Had you reviewed your emails sent by Cristy, you would have seen these individuals had already been emailed about the event. You were directed to give any information to Candi so that she could assist you, or Candi could delegate to Cristy, if Cristy had time in between training in her new position, and other duties.

September 18, 2024: You met with Charlene from Casey Family without including Candi in the meeting, when it involved discussions about the MOU with Juvenile Court, funding for Juvenile and the future of ICWA Court. This was an item addressed specifically in the PIP and you have continued to engage in this behavior despite being directed to desist and include Candi in any conversations involving the financial and programming aspects of the court.

September 18, 2024: Jessica received an email from the County Clerk that she has three in-court clerks that do not feel comfortable clerking for you, because you continue to ask for legal and procedural assistance on the record. You were given educational materials from the Court Facilitator before you transitioned to the unrepresented litigant docket downtown on Fridays, as well as several tutorial sessions with Commissioner Silverthorn leading up to the September 3rd start date, and long after you started the docket. I know that Commissioner Silverthorn has stayed in contact with you, ready to assist you with any questions you might have, as have myself and other Judicial Officers. It is not in the in-court clerk's scope of work to review and provide feedback, especially during a court session. You are a Judicial Officer, and your role is to make the decisions, no one else. When I spoke to you about the issue, you did not acknowledge the issue but launched into a conversation about a difficult Minor Guardianship case you had, where you assisted the family with filling out some of the paperwork.

August 28, 2024: In August, there was an instance where you stopped speaking directly to Amanda, the supervisor out at Juvenile, and started talking only to Tysa, who is new and unable to answer your questions. She was literally turning around to reiterate what you had just asked her to Amanda, and Amanda was responding to the question asked. This prompted an email to you from Billie to make sure you are addressing Amanda with questions, or Billie directly. A Judicial Officer should be able to maintain communication with supervisors and management when the conversation pertains to work. The behavior exhibited by you in this instance was unprofessional, and unnecessary.

September 6, 2024: Your demeanor on the bench has continued to be inappropriate at times. On the Family Court docket, you insisted that two individuals with an active restraining order go to the back of the courtroom and work out the details of a parenting plan, which is not appropriate. The female party questioned this practice, but you insisted that this was a method you wanted them to engage in. This is very problematic because domestic violence involves a situation where one person is trying to impose their will on another person and asking them to work out a parenting plan under those conditions does not lend itself to a mutually agreed order. For your reference,

September 6, 2024: You chose to raise your voice at individuals who were in front of you. Alvord v Lyman 21-3-00538-39 FTRSC4 9:45:04-10:11:31.

August 2, 2024: At other times, you have tried to inject humor or witty quips into the course of a docket, some of which has been grossly inappropriate. As an example, when you addressed the recently released from prison father of an adoptive child as someone who was just released from the "gray bar motel", was extremely inappropriate. 24-5-00097-39 FTR JC2 JUV 3:02:40-3:13:49

You have not grasped the concept of appropriate judicial demeanor and decorum on the bench and the way in which to address parties with impartiality from the bench. It is also clear that you have not been able to adhere to the direction given to involve the Juvenile Court Administrator in any conversations you have with outside entities when discussions involve programming, finances, planning or any other topic that relates to court systems, nor have you been able to follow the direction given to stop emailing staff directly and giving them directives.

A Judicial Officer is required to exercise patience, dignity, courtesy and to ensure that the proceedings before the court truly serve the ends of justice. Belittling litigants, injecting inappropriate humor and witty quips and discussing matters not relevant to the proceedings do not reflect the requirements of the position as Judicial Officer.

As indicated above, you serve at the pleasure of the Superior Court Judges who appointed you to this position and you could have been terminated at any time for any reason. However, you were afforded an opportunity to correct your behavior which you have failed to do. As Judges, we have an obligation to ensure that justice is administered fairly and professionally in the Yakima County Superior Court. As the appointing authority, given the foregoing we are left with no option but to terminate your appointment as Superior Court Commissioner.

Today is your last day of employment with Yakima County. Please turn in your badge and keys to Jessica Humphreys. You can arrange a time to pick up your personal belongings from the Judicial Chambers at the Juvenile Court Facility with Jessica by emailing her at Jessica.humphreys@co.yakima.wa.us. Employees terminated may be subject to forfeiture of PTO cash out upon separation. Your final paycheck will be submitted the same way as all your previous paychecks (direct deposit). You will also receive a letter that outlines the status of your benefits upon your dismissal. The letter will include information about your eligibility for Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation of coverage. For all questions or concerns regarding benefits or payment information, please contact Human Resources.

Sincerely,



Judge Richard H. Bartheld
Superior Court Presiding Judge.

The-Original Performance Improvement Plan-

PLAN	OBJECTIVE	EXPECTATION
Provide Mentors for answering questions	To provide you with an individual or individuals who can give you support and guidance when you have questions about laws, procedure, etc.	You will research any question you have on your own first before engaging your mentor. You will provide a solution to the issue and discuss it with your mentor, to determine if this is an appropriate course of action.
Schedule a specific day and time that you can meet with Candi	To ensure that you have one-on-one time together, and can bring all questions, concerns, and information about events in which you would like to attend and/or speak, as well as address any changes you may be considering for dockets, workflow, or any other topic that may impact your colleagues, the court or court staff.	Ensure this schedule is communicated and agreed to by both of you. Unless there is an emergency, you must hold all additional material, information and questions until the scheduled meeting time. Emailing material ahead of the meeting is acceptable, but you must honor Candi's time and workload by keeping your questions and thoughts until she has time to focus only on you. If you both agree that it would be beneficial to set aside two times a month, then implement that.
Case Specific and Process Related Questions- stop emailing/contacting staff directly	This is meant to protect/dispel the appearance of ex parte contact, as well as preventing an awkward situation for staff, and will minimize disruption to staff's daily work. Speaking with Candi at a specified date/time will allow you the one-on-one time to ask Candi questions, tell her about events that might interest her and/or staff and provide a time to share feedback with each other, and discuss ideas for improvement in all Juvenile Court matters.	Any questions related to ongoing dependency matters, FJCIP, and any other questions related to casework, must go to Candi, and no one else. If Candi is unavailable, contact Jessica. Any questions related to Superior Court dockets, staff interaction, etc. you will go to Jessica first and no one else. Again, this is to protect/dispel the appearance of ex parte contact and to allow the sharing of ideas, questions, feedback, etc. If Jessica is unavailable, contact the Presiding Judge. *Please see the detailed instructions below to assist you with the steps you need to take each time you are asked to speak at an event.
Adhere to the Code of Judicial Conduct Canons and Rules, and attend training on Judicial Demeanor, procedural fairness and the development of leadership skills.	To ensure there is no ex parte communication or the appearance thereof, and to ensure your conduct with staff and other court professionals is appropriate.	Continue to read through the Code of Judicial Conduct to familiarize yourself with the expectations and follow every rule. Formal training in these important areas: Judicial Demeanor, interpersonal and leadership skills, and procedural fairness. <i>Training dates will be forthcoming, and the</i>

		<i>PIP will be updated to reflect available training dates and times when obtained.</i> You are expected to attend all training courses scheduled and provide feedback to the Presiding Judge about the areas in which you have room for improvement that were addressed in the training provided to you. Lastly, provide an outline to the Presiding Judge describing the steps you are taking to correct those key areas where there is a deficit, specifically Judicial Demeanor, leadership and interpersonal skills. If you need assistance, schedule a time to meet with the Presiding Judge to discuss. Your thoughts, ideas and insight during this process are valuable and important to the development of the position, and for your personal growth.
Attend Training on June 26 in Tumwater, WA	Candi has registered the two of you for a 2-part training in Tumwater, WA on June 26, 2024. Part one is Hope Centered Leadership and part two is Hope and Healing in Child Welfare Court. You are currently registered to attend virtually with Candi.	See response below
Attend the 2-day Hope Navigator Training in September, 2024	Candi has registered the two of you for a 2-day Hope Navigator training. Candi is also requiring attendance by her Juvenile Court leadership team.	This training is a step in helping repair some relationships with partners and increase leadership ability to motivate staff and help prevent burnout for them. Candi thinks these training opportunities that incorporate hope and compassion into leadership style will assist you and provide you with the tools necessary to improve as a leader on the bench.
Candi is required to provide you with an outline of expectations for the Table of Ten, and the FJCIP Coordinator's involvement with ICWA Court	ICWA-The goal is for Cristy to take over the ICWA Advisory Team in her FJCIP role. This has been the plan. She is almost done with the ICWA strategic plan and when she (and her AOC team) feels it is ready, she will be presenting it to the ICWA Advisory Team and help guide the team moving forward.	You are expected to conduct yourself as a Judicial Officer and provide positive reinforcement to the ICWA team, and other staff members and professionals you encounter during business hours. You represent the court, and as such, that representation must be appropriate, and uphold and promote the independence, integrity, and impartiality of the Judiciary, as well as avoiding impropriety and the appearance of impropriety. Judicial Canon 1.

*When there is an opportunity to speak to a group about a specific topic, it is important that you involve at the very least, the Juvenile Court Administrator before accepting a role as a participant in events, especially if you are contacted about subjects/dockets/case types that you do not directly facilitate.

It is imperative that you communicate with Candi for these reasons:

- a. Candi can determine if there is another training, docket, or meeting for which you are needed,
- b. The calendar must also be checked to ensure there is appropriate judicial coverage at Juvenile and for Superior Court before agreeing to speak at an event that takes place during court sessions.
- c. Lastly, as the Juvenile Court Administrator, Candi has the best global perspective on all Juvenile matters and can quickly determine if the speaking engagement/event is a good use of judicial time, and who is best suited to be the speaker, based on knowledge and experience around the topic. There are issues that may arise on a docket that someone who is not on the docket daily may not be able to speak to, so it is logical to send the person who is most knowledgeable about the subject.
- d. If you are contacted and asked to speak about Superior Court dockets/subjects, please contact Jessica as she will have the best global perspective on Superior Court matters.