

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

IN THE MATTER CONCERNING
JUDGE JOHN M. WATSON

DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT

This disciplinary matter concerns Judge John M. Watson, a judge of the Orange County Superior Court. Judge Watson and his counsel, Edith R. Matthai, have stipulated to issuance of this public admonishment, as set forth in a Stipulation for Imposition of Public Admonishment. Pursuant to stipulation, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18, subdivision (d) of the California Constitution, based on the following Statement of Facts and Reasons:

STATEMENT OF FACTS AND REASONS

I. PRIOR DISCIPLINE

In October 2006, Judge Watson was privately admonished for an e-mail sent to other judges that was perceived as biased or prejudiced. In February 2006, he was publicly admonished for using his courtroom clerk to help with secretarial tasks involved in the day-to-day management of two rental properties he owned, and using court resources and court facilities for his personal real estate business. In 2004, Judge Watson received an advisory letter expressing the commission's "strong disapproval" of conduct that included sarcastic, demeaning, and disparaging remarks and displaying impatience toward attorneys, in two cases. In 1995, he received an

advisory letter for admitting a defendant to bail after a hearing, then revoking the defendant's bail status later that day, without notice or a hearing, based on an ex parte contact between the judge's clerk and the police.

II. PENDING MATTERS

1. *Papadopoulos v. Hickok* (No. 05CC04014)

Papadopoulos, involved a dispute between Michael Papadopoulos and his neighbor Patty Hickok. There had been a nuisance lawsuit, a settlement and reciprocal temporary restraining orders predating Judge Watson's involvement. Then, Mr. Papadopoulos requested a full adversary hearing, seeking a permanent injunction against Ms. Hickok and the matter was assigned to Judge Watson. Mr. Papadopoulos was represented by attorney Anthony Cosio. Ms. Hickok was represented by attorney Vincent L. Goodwin.

While presiding over the August 25 and 28, 2006 hearing in *Papadopoulos*, Judge Watson failed to be patient, dignified and courteous with the parties and lawyers and became embroiled in the matter in violation of the Code of Judicial Ethics, canons 2 and 3B(4), as exemplified by the following:

A.

While looking through the file, Judge Watson found a booklet on safe driving, and sarcastically commented, "You might need it. Who knows. Driving safely could become pivotal with this case." (R.T. 8:11-16.)

B.

Shortly thereafter, Judge Watson stated:

The Court: You know, counsel, both of you, what I am leading up to, what I am intimating, what I am implying, is maybe this case is no big deal. [¶] The people obviously are willing to devote a lot of their psychic energy and some of their money to doing this, but the end result, and I don't intend to get to the bottom of it if I don't have to, I would love to spend the rest of the day listening to these people calling each other names, but if it is to stay away from each other, to not be rude or something to each

other, they have no reason to communicate, no surveillance, there is no reason for any of that. So far I haven't heard one thing that is out of line. [¶] Why don't we just draft an order that fits them both and I don't have to figure out who is doing what?

(R.T. 11:13 – 12:1.)

After Mr. Cosio stated that his client would not agree to any restraining order and wanted to proceed to prove that Ms. Hickok's claims of a surveillance camera and using his vehicle as a weapon were fabrications, Judge Watson engaged in the following exchange:

The Court: It is clear to me you intend to spend a lot of money on this for some --

Mr. Cosio: It is not the money. It is the principle.

The Court: Could I finish my remarks. [¶] Intends to spend a lot of money on this to feel gratified, "I got her" or whatever. Like it proves something, and it doesn't prove anything. [¶] I don't feel like spending the afternoon listening to it. I probably will. When you two guys look me in the eye at the rates you are charging and say "we object to your ordering both parties to act with good manners and leave here," that that won't work for you. That is not good enough. We want to fight some more.

Mr. Goodwin: Actually, I don't object.

The Court: You said that already. I am focusing on him [Cosio], and I can see by looking at his jaw he is not going to change his mind. Everybody will get a chance to name call and behave in a somehow base manner because somebody feels righteous.

Mr. Cosio: May I respond to that?

The Court: You could have waited until I got done.

Mr. Cosio: I wasn't sure when you were going to get done.

The Court: I am irritated at this. I do not think this is good sense or good use of these resources that I govern. We have people that have real problems. People that get killed.

(R.T. 13:25 – 14:26.)

Judge Watson then asked Mr. Cosio to respond to this statement, and Mr. Cosio explained that the parties had attempted but failed to settle the case without the court's assistance, that they had been ordered back for an adversary hearing, and that Mr. Papadopoulos was concerned about the safety of his children. Judge Watson continued to press for a mutual stay away order (R.T. 15:13 – 16:6), and Mr. Cosio responded, "All I am saying ... " before Judge Watson cut him off with the following:

The Court: You can call every witness you want. I think this is a great way to spend time and money. This is an example where the lawyer does not help the client, in my opinion, by trying to resolve this on a rational basis. [¶] I don't like to be an accessory to it. I think it is a waste of time. These are the kind of lawsuits that make people mad when they get on jury service. Dumb cases in court.

Mr. Cosio: If the court wants to pass the matter to hear these other matters, it is fine with me.

The Court: The other matters are just as bad as this one. It is the same thing. The only thing I tell myself, the only reason I can sleep is that the only thing I accomplish is they probably don't kill each other in the street. [¶] Mr. Papadopoulos, are you having a good time?

Mr. Papadopoulos: No.

The Court: You look like it. You have a big smile on your face. [¶] Now we will get to call each other names. I wish I had a sandbox.

(R.T. 16:8 – 17:2.)

C.

Mr. Goodwin objected that Mr. Cosio was attempting to get a police officer to validate another witness's testimony. In response, Judge Watson sarcastically stated to Mr. Goodwin:

The Court: My estimation of you has gone way up. He is trying to get the policeman to corroborate what the witnesses have said. That is an interesting tactic. Maybe some other lawyers will learn it some way.

(R.T. 18:25 – 19:3.)

D.

In response to an objection from Mr. Cosio, Judge Watson spoke for a page and a half of transcript about the evidence and referred to a neighbor of Mr. Papadopoulos who was “a self-professed but unproven dog killer,” ending with the statement:

The Court: This is good stuff. This will help me. But I am inclined to overrule the evidentiary objection. We are going to have a mud throwing contest. Throw the mud. If it is all this weighty and this important, I say we do it. I just wonder if anybody had any authority.

(R.T. 30:1-5.)

E.

When Mr. Cosio stated he would read from the deposition of a police officer, Judge Watson stated:

The Court: ... believe me, the last thing in the world I would look at unless somebody points a gun at my head is a deposition in this case. I don't even want to hear this case, let alone read depositions. [¶] This is just kid's day at the beach. People like to come to court and throw mud at each other.

(R.T. 32:13-19.)

F.

Mr. Goodwin suggested that the next witness might be a priest, to which Judge Watson commented apparently to Mr. Goodwin, “Oh, he is. He is maybe praying for your salvation.” (R.T. 34:8-24.)

G.

After Mrs. Papadopoulos testified about an instance in which she drove past Ms. Hickok’s house and observed her running up and down waving her arms, yelling, screaming, and running toward her car “barking and biting with her teeth,” which caused her to fear for her physical safety (R.T. 40:3-6; 42:11), Judge Watson sarcastically characterized her testimony:

The Court: Like this other stuff, like this near death experience driving by the house with the Seal Beach Police there, I have taken that into consideration to understand her frame of mind.

(R.T. 43:22-25.)

H.

Mrs. Papadopoulos testified about an instance in which she observed Ms. Hickok sitting in her idling car near the Papadopoulos’s new house (they moved away from Ms. Hickok). Mrs. Papadopoulos observed Ms. Hickok from the window. On cross-examination, Mr. Goodwin asked her questions that might raise uncertainty about her observation, e.g., was it nighttime, how high is the house. Mr. Cosio objected on relevance grounds to the question about the height of the house. In response Judge Watson sarcastically stated:

The Court: I assume it is going somewhere. If you are not interested in how high the house is, I certainly am. It is as important as anything else I have heard.

(R.T. 55:15-18.)

I.

After Mrs. Papadopoulos testified that Ms. Hickok had an extra large grille in the front of her car which she could use as a battering ram, and which she feared she would use to run over her children, Judge Watson commented, “For running children down? ... I can see where they would provide that.” (R.T. 58:8-15.) Judge Watson then stated:

The Court: I mean, you were in a very dangerous situation when she tried to flag you down with the biting motion with the Seal Beach police officer and all that. You were in great fear. I was wondering why you would think of it for your children when she has some sort of child crushing thing in the front of her car and not think of it for yourself and your husband. Certainly you want him to live, don't you?

(R.T. 59:3-10.)

J.

After a witness testified about Mr. Papadopoulos's driving abilities and the fact that he had never observed him try to run someone off the road (one of Ms. Hickok's claims), Judge Watson told counsel that he thought the testimony was not probative of anything, and then stated:

The Court: If you guys think it is worth my time, I am going to listen. Just because I don't see how that is real important, I think you are going to tie it all together for me. You can call me as a witness. I have never seen him drive badly. [¶] Overruled. Is there a statue of him in Seal Beach as being a good driver or anything?

The Witness: No.

The Court: It is coming. [¶] Next question sir.

Mr. Cosio: Q. Have you ever seen a statue of Dr. Papadopoulos -
- strike that question.

Mr. Goodwin [Hickok's lawyer]: Object to the comedy.

The Court: That is my fault. Don't blame him. If there is a statue, it is probably going to be filing a lawsuit at the counter. I need to stay alive and not have my brain turn to thick liquid to come out my ears.

Mr. Goodwin: I want the record to show I don't consider this comical and I am not happy to be here.

The Court: I don't consider it comical either. I consider the fact that we are doing it comedy. I think it is a serious misuse of public funds. It costs \$10,000 a day to keep this courtroom going, and to devote it to this sort of egotism is a terrible thing. But we all try to stay sane in our own way, counsel.

(R.T. 64:4 – 65:3.)

K.

Judge Watson stated sarcastically to Mr. Cosio in response to an objection, "If I limited the evidence to that which was relevant, this hearing would have been over about three weeks ago." (R.T. 77:20-22.)

L.

While questioning a police officer witness, Judge Watson engaged in the following exchange:

The Court: Sergeant Lavelle, did you say you thought this situation could be ended if they would both just agree to stay away from one another?

The Witness: Yes, Your Honor.

The Court: Holy cow. I wish I would have thought of that. [¶] U-turns are all life-threatening, as we know, especially in a neighborhood like this. [¶] Couldn't the doctor have pulled into his own driveway and then backed out again and go the other way?

The Witness: That seemed feasible.

(R.T. 81:6-16.)

.....

The Court: That is really interesting that this could all disappear if they would just agree to leave each other alone. I said that to them 100 times so far. Here it is, four o'clock, but, okay. Thank you, sir. You, unlike me, may leave.

(R.T. 82:2-6.)

M.

While Mr. Papadopoulos was answering a question, Mr. Goodwin stated an objection. Mr. Papadopoulos simultaneously continued his answer, when Judge Watson sarcastically interjected:

The Court: Could I squeeze a ruling in here? Did you hear my question?

The Witness [Papadopoulos]: Yes.

The Court: Would you answer it?

The Witness [Papadopoulos]: Can you squeeze in a ruling?

The Court: Yes. There was an objection and you started talking. I like to feel useful to the community. One of the things I am supposed to do is rule on those. Don't you ever watch T.V.?

(R.T. 91:16-24.)

N.

During his testimony, Mr. Papadopoulos explained that he had driven the same way when leaving his house for twelve years because it was the safest route (which also took him past Ms. Hickok's house), and he was very concerned with safety. He also said that his wife, who regularly parked in the driveway, always drove that same route past Ms. Hickok's house, because the law required her to back out into the lane closest to the driveway, and prohibited her from crossing the midline of the road which

would have been required to go the other way. As set forth above, Judge Watson had questioned the police officer about Mr. Papadopoulos's ability to go the other way, and gratuitously described such a U-turn as "life threatening." This time, in response to Mr. Papadopoulos's testimony about not crossing the midline when backing out, Judge Watson said, "Your adherence to the Vehicle Code is commendable. I didn't even know that." (R.T. 93:3-4.) Judge Watson later made the following statement to Mr. Papadopoulos:

The Court: In the meantime, Doctor, I have great news. 22106 says no person shall start a vehicle, stop, standing or parked on a highway, nor shall any person back a vehicle on a highway until such movement can be made with reasonable safety. [¶] My further research reveals your street, that residential street is not a highway, but even if it was, you can do it if it is reasonably safe. [¶] So it is not like 12 years of caution is thrown out the window or anything, but you can kind of cut loose a little bit.

(R.T. 107:5-15.)

O.

In response to counsel's attempt to establish the dates of a sequence of events, Judge Watson made the following comment:

The Court: I know when Santa delivers. There are very few things I bring to this job, but one of them is the knowledge of the date of Christmas. I am not bragging. I just know it.

(R.T. 101:14-17.)

P.

In response to an objection regarding the number of visits by Ms. Hickok's gardener, Judge Watson stated:

The Court: I don't see its relevance, but I am hoping counsel is going to go somewhere with it. I am going to allow latitude which has colored this entire hearing to the point

where the Evidence Code and logical relevance are but distant memories of mine.

(R.T. 105:17-21.)

Q.

In response to an objection from Mr. Goodwin concerning the scope of Mr. Cosio's examination, Judge Watson stated:

The Court: No, I'm just entertaining in my mind the thought that nothing -- none of my opinions have any affect on these proceedings anyway. I might as well not even rule on the objections. All right. Go ahead. [¶] You know, counsel, I am going to say this one time, then I am going to stop: Do you know of a judge in the State of California that wouldn't suggest that these people stay away from one another after this hearing is over? Do you honestly know one? I don't. I know hundreds of judges, and I don't know a judge that wouldn't do that. [¶] And, you know, we have another five witnesses, and I don't know what the defense is going to be.

(R.T. 16:14-25, Vol. 2.)

.....

Mr. Cosio: Your Honor, I just want to point out, put on the record I am just trying to put on my case, and that I'm just trying to elicit testimony from my client, and I would ask the court to be patient, dignified, courteous to my client. That's all I'm asking.

The Court: Well, let's talk about that. [¶] Do you think I've done something this morning that's been discourteous or impatient or unprofessional to your client?

Mr. Cosio: Not this morning.

The Court: Okay. I take it from that, you thought it was this -- yesterday -- last afternoon.

Mr. Cosio: That's correct, Your Honor.

The Court: I thought so. First of all, let me make an admission to you counsel: In addition to being a judge, I'm also

contemporaneously a human being. And as a result of that, I have certain feelings. And what I'm hearing now is what I consider to be a relatively minor dispute over barking puppies and gardeners who come before 7:00, and if you haven't experienced that, it's very irritating. And I have experienced it, and I know about barking puppies, as I think most of the general populous has. [¶] The reason that I got cross-ways with your client on Friday is he, in his mind, I believe, assumed some high status for some reason, because he has a Ferrari or he is a dentist or something. I don't know. But that status is either just in his mind or it -- wherever it is, it exists outside this courtroom. In this courtroom, he is just a person, and I don't think he appreciated that fact. [¶] He thought that I was going to be wow'ed or something, and I'm just listening to the facts, which while you may not believe it, I think I can probably recite almost verbatim. ... [¶] And at one point, may I remind you, your client was yelling at the top of his lungs on Friday afternoon. Do you remember that? And it was like a preacher calling for hell and damnation. This was righteous indignation. He was mad, and he wanted people to know it. [It is not possible to discern from the transcript when or whether the alleged yelling by Mr. Papadopoulos occurred.] [¶] And I'm looking back at a Christmas puppy, and you can tell me about the five months if you want and the gardener that comes at 6:30 instead of 7:00. And the woman whose eyes bulged out and her teeth made an eating motion and her arms waved up and down. And maybe his wife said the grill, reinforced grill, was in order to run children down. [¶] I've heard all of the facts. I've heard this drive-around story until it's coming out my ears. And I don't treat it with the dignity that your client treats it. Your client treats it as [if] each one of these is a capital offense, and I don't view it that way. I view it the way I think most people in the world would view it. It is a personality dispute and of a relatively minor nature, but to the participants, very, very aggravating.

(R.T. 17:5 – 19:10, Vol. 2.)

Judge Watson's comments continued for several pages of transcript in which he critiqued the dispute, stating that nothing serious happened to the litigants ("in the sense of people injured or kidnapped or raped or burned houses, or I haven't even heard a flat tire even" [R.T. 19:11-13, Vol. 2]), and advised the litigants, "My personal

advice to them is to pretend like the other party moved to New Jersey. They are just gone, and get on with it.” (R.T. 20:9-11, Vol. 2.) At one point during Judge Watson’s comments Mr. Cosio stated:

Mr. Cosio: Your Honor, I’m just asking the court to reserve its comments until after the conclusion of this case, because the court’s comments give an appearance that you are not giving any deference to the testimony, and it also appears that you’re perhaps biased not against either one of the parties, but in general, over these kinds of cases.

The Court: Well, you know, counsel, I’m not going to reserve my comments. I run this courtroom, in case you don’t know it, and I am going to continue to run it. What I am going to reserve is judgment.

Mr. Cosio: Okay.

The Court: And that’s all you’re entitled to.

(R.T. 20:15-26, Vol. 2.)

Judge Watson continued his comments for another page of transcript, in which he discussed why he called Papadopoulos “Mr.” instead of “Doctor,” and stated to Mr. Cosio that:

The Court: ... You’ve made the record as well as you can make it. That I’m not being fair to you and if some appellate court reviews this transcript and says you didn’t get a fair hearing, and, you know, this was World War III and Judge Watson failed to recognize it, it was one of those incidents where it was a hundred percent wrong on one side, zero on the other, and keeping them apart was not a good solution, by mutual court orders, not a good solution, then I get reversed. So what? That doesn’t concern me. I’m calling balls and strikes up here, counsel, doing as well as I can.

(R.T. 21:22 – 22:6, Vol. 2.)

At the end of these comments, Mr. Cosio asked for a recess so he could confer with his client, but Judge Watson said, “No. Keep going. You said you wanted to keep going, and we’re going to keep going.” (R.T. 22:9-10, Vol. 2.)

2. *Sea Environment Apartments* Cases

Judge Watson presided over a bench trial in three consolidated cases on October 3, 5 and 10, 2006 (*Sea Environment Apartments v. Elliot*, No. 06WL02877; *Sea Environment Apartments v. Potter*, No. 06WL03291; *Sea Environment Apartments v. Parrish*, No. 06WL04530). These were unlawful detainer cases, in which the defendant tenants were not represented by counsel.

Judge Watson was the defendant in a lawsuit filed by tenants of his apartment units; warranty of habitability was an issue in both cases. Summary judgment was granted in favor of Judge Watson; the case was settled while on appeal on July 28, 2006; the dismissal was entered by the Court of Appeal on August 23, 2006. The appellate panel of the Orange County Superior Court concluded that the failure to disclose this information was an irregularity in the proceeding that prevented the defendants from having a fair trial.

Judge Watson’s conduct violated the Code of Judicial Ethics, canons 2 and 3E(2).

Judge Watson’s conduct in *Papadopoulos* and *Sea Environment Apartments* was, at a minimum, improper action. The conduct did not involve moral turpitude.

Judge Watson has previously tendered his resignation from judicial office for health reasons and has agreed not to seek or hold judicial office and not to seek or accept judicial assignment. In the commission’s view, this result adequately protects the public from any future misconduct.

