

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No. SI-SC-36274

RECEIVED

JAN 24 2017

NM JUDICIAL

STANDARDS COMMISSION

IN THE MATTER OF HON. DARREN KUGLER
Third Judicial District Court

INQUIRY CONCERNING HON. DARREN KUGLER
Inquiry No. 2016-055

FILED UNDER SEAL
PURSUANT TO 27-104(B) NMRA 2011

PETITION TO ACCEPT STIPULATION
TO
PERMANENT RESIGNATION FROM JUDICIAL OFFICE
IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS

JUDICIAL STANDARDS COMMISSION
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Counsel for Respondent

SUPREME COURT OF NEW MEXICO
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No. _____

IN THE MATTER OF HON. DARREN KUGLER
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PETITION TO ACCEPT STIPULATION
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The Judicial Standards Commission of the State of New Mexico (“Petitioner” or “Commission”), through the undersigned counsel, respectfully moves the Supreme Court for an order approving the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* (“*Stipulation*”), attached hereto as **Exhibit 1**, in which Respondent, Hon. Darren Kugler, consents that the resignation he tendered as a district judge to be effective on January 31, 2017, shall be permanent effective at 5:00 p.m. on the same day the Court enters its order

granting this *Petition*. In addition, the Commission requests the Court unseal the file in this matter, pursuant to Rule 27-104(B) NMRA 2011.

1. Petitioner invokes its jurisdiction pursuant to Petitioner's power to recommend the discipline of judges, and the Supreme Court's power to discipline judges under N.M. Const. Article VI, Section 32; the Court's power of superintending control under N.M. Const. Article VI, Section 3; and, Rule 38 of the Judicial Standards Commission's Rules.

2. On August 17, 2016, the Commission issued a *Notice of Preliminary Investigation* to Respondent in Inquiry Number 2016-055. (See Exhibit A to Exhibit 1.)

3. On October 11, 2016, Respondent filed his *Response to Judicial Standards Commission Rule 14(F) Investigation*. (See Exhibit B to Exhibit 1.)

4. On December 19, 2016, the Commission issued a *Notice of Formal Proceedings* to Respondent. (See Exhibit C to Exhibit 1.)

5. On January 9, 2017, Petitioner learned that Respondent had tendered his resignation from judicial office on January 3, 2017, to be effective January 31, 2017.

6. The Commission's inquiry and proceedings concerning Respondent in this matter have been ongoing since June 9, 2016.

7. Following a unanimous vote of the twelve (12) Commissioners voting, on January 23, 2017, the Commission entered into a *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") with Respondent (**Exhibit 1**), which provides in pertinent part the following:

A. Respondent agrees that his permanent resignation shall be effective at 5:00 p.m. on the day the Court enters its order granting this *Petition*. Upon his permanent resignation, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings.

B. Respondent admits to the following:

(1) On or about November 10, 2015, during a show cause hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to comply with contempt law and violated the due process of both parties when he:

(a) failed to provide notice of the specific conduct for which the individual litigants could be held in contempt;

(b) swore in the *pro se* litigants and took testimony from each of them without advising them of their constitutional rights and the protections afforded them as criminal contempt defendants; and,

(c) sentenced both litigants to time in jail, which they served.

(2) On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed

to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz, when he:

(a) found Mr. Muñoz in direct criminal contempt for not complying with the *Order Appointing Parenting Coordinator*, following Mr. Muñoz' testimony that he did not have the money to pay the parenting coordinator fees, conduct which Respondent did not personally witness;

(b) summarily punished Mr. Muñoz by having him immediately remanded without providing any warnings, advising him of his constitutional rights, or allowing him to defend or provide an explanation for the alleged behavior;

(c) failed to provide a provision for bond;

(d) failed to specify the length of the sentence, but instead issued a *Detention Order* ordering Mr. Muñoz incarcerated "until further Order of this Court";

(e) failed to state in the *Detention Order* the conduct constituting the alleged direct criminal contempt and any warnings given;

(f) failed to schedule a hearing on the contempt charge until specifically requested by Mr. Muñoz' attorney after Mr. Muñoz had been in jail without bond for eleven (11) days; and,

(g) sentenced Mr. Muñoz to 179 days in jail, where he served an additional sixty (60) days until he was released pending appeal of Respondent's contempt order to the New Mexico Court of Appeals.

(3) On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz, and his Fifth Amendment right when Respondent subjected Mr. Muñoz to double jeopardy by holding him in contempt a

second time—the first time being on November 10, 2015—for the same offense of not complying with the *Order Appointing Parenting Coordinator*.

(4) On or about June 10, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit:

(a) “Here’s the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we’ll do a week on, week off. Maybe she’ll only have weekends, but you’ll be spending the rest of the time, when the children are not in your custody, in jail.”;

(b) “I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a

hearing. I see anything else like this, I'm issuing a warrant. We are done.";

(c) "Ms. Limon, I'm not gonna waste time talking to you. You have made such a mess of this that it's not worth me spending time....";

(d) "Ms. Limon, the behavior you've engaged in defies imagination.";

(e) "Ms. Limon, I'm not addressing you much because there's not much to say.... You're almost beyond redemption.";

(f) "You're blaming [the parenting coordinator]. Did [she] force you to have sex with Ms. Limon and produce two children and marry her? You did that."; and,

(g) "I don't care if one of you is a prostitute or a male escort. I don't care if she was dancing in a cage or the two of you engage in satanic worship. It's about your children. And this nonsense is over.... I'm going to address problems with you

two very simply—with detention orders or arrest warrants. There will be no more warnings. There will be no more nonsense.”

(5) On or about December 4, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit:

(a) “Get off your high horse. Have a seat before I have you detained. This is pathetic.... This is the history you created.... Don’t dump it on me.”; and,

(b) “I’ll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody.”

(6) On or about December 11, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient,

and courteous to Plaintiff, Rene Muñoz, by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit:

(a) “Mr. Muñoz--\$100 fine. Form a question. No speeches. Questions start with who, what, where, when, why, how, please tell, describe, explain. No speeches. \$100 fine. Understood? Do it again, it goes up.”; and,

(b) (when swearing in Mr. Muñoz) “That’s your left hand!” Then, after slamming the file down on the bench, “Are you mocking me?” After Mr. Muñoz stated he was a little nervous, “You oughta be.... You come in this Court and make a mockery of it. You oughta be nervous.”

(7) On or about July 20, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to Plaintiff, Rene Muñoz, by shouting or raising his voice and by making belittling, condescending,

derisive, inappropriate and disparaging remarks, to wit:
“Mr. Muñoz. Have a seat. This is the second time I’m
instructing you not to wander around here like this is
your living room.... This is your last warning. Until
you’re told to move, you’ll stay where you are.
Understood?”

(8) On or about November 10, 2015, in the case of
Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon, D307-
DM-2002-1279, Respondent failed to be dignified, patient,
and courteous to both parties by shouting or raising his
voice and by making belittling, condescending, derisive,
inappropriate and disparaging remarks, to wit:

(a) “I’ll warn both of you, if behavior keeps
up, you’ll be serving a lot more time than that. I
could order you to be responsible adults, but I don’t
know how to enforce that. You’ve been playing
games with the Court for far too long a time. And
I’m not gonna put up with it anymore. Next time
we issue an order to show cause hearing, make sure

you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and,

(b) "I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

(9) On or about December 11, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit:

(a) "You didn't pick a very good spouse and she's probably not the ideal mother. You picked her, I didn't.";

(b) "You present this as though you're a white knight, that you're the one who has been the savior of the children. You're forcing those children to make a decision, not based on a situation they

created, but a situation you created. You picked Ms. Limon.... You produced two children and if you can't have it your way, you're just gonna cut 'em loose."; and,

(c) "Once again, you're back to your normal approach. If it doesn't go your way, you're just gonna throw a tantrum like a two-year-old. You know how immature this is?"

(10) Respondent failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when his impartiality could reasonably be questioned by the following statements Respondent made on the dates indicated, suggesting Respondent was prejudging what would happen to the parties in future hearings, to wit:

(a) June 10, 2014—"Here's the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we'll do a week

on, week off. Maybe she'll only have weekends, but you'll be spending the rest of the time, when the children are not in your custody, in jail.";

(b) June 10, 2014—"I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I'm issuing a warrant. We are done.";

(c) June 10, 2014—"I'm going to address problems with you two very simply—with detention orders or arrest warrants. There will be no more warnings.";

(d) December 4, 2014—"I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody.";

(e) November 10, 2015—"I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that.... Next time we issue an order

to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and,

(f) November 10, 2015—"I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

(11) Respondent failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when his impartiality could reasonably be questioned by the following statements Respondent made on December 21, 2015, suggesting he was using contempt procedures to punish Mr. Muñoz for his actions regarding his children, to wit:

(a) "After both parties had apparently served their time, Mr. Muñoz, quite inappropriately and in flagrant disregard for this Court's orders, put his child in a position of having to decide between his parents. And when the child's decision was not

to Mr. Muñoz' liking, he retaliated essentially by telling that child he wanted nothing more to do with him. For these two children and what they've gone through, that is one of the most cold-blooded, heartless acts I've ever seen. And it's in direct violation of this Court's order. It's contemptuous behavior....";

(b) "He wanted nothing more to do with his children. That's contemptuous.";

(c) "[A]ny claims from Mr. Muñoz that he was not specifically prohibited from cruelly forcing his child to make such an inappropriate decision is contemptuous.";

(d) "In his own words at our last hearing he [Mr. Muñoz] said that he has 'paid and paid and paid.' He doesn't seem to acknowledge that his children have paid for the acts of the parents. They've paid in blood and pain.";

(e) "I can require him to be a not bad parent. What he did to this child is inexcusable.";

(f) "[H]is children have paid the price. He wants to take a pound of flesh out of the children. The Court may make him pay the price for that.";
and,

(g) "For direct criminal contempt. For the infliction of emotional distress on your child, the Court sentences you to 179 days in the county jail."

C. Respondent admits that his conduct violated the following Rules of the Code of Judicial Conduct: 21-101, 21-102, 21-202, 21-203(B), 21-205(A), 21-208(B) and 21-211(A) NMRA 2012, and that such conduct constitutes willful misconduct in office.

D. As set forth in the *Stipulation*, Respondent acknowledges that his conduct concerning the enumerated facts to which Respondent admits provides sufficient basis for the New Mexico Supreme Court to impose discipline against

Respondent pursuant to Article VI, Section 32 of the New Mexico Constitution.

E. Upon Order from this Court, the attached *Stipulation* is enforceable by the Commission before the Supreme Court.

F. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court grant this *Petition*.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's *Petition*, approving the *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, and unsealing the documents filed in the Supreme Court in this case pursuant to Rule 27-104(B) NMRA 2011.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



RANDALL D. ROYBAL

Executive Director & General Counsel

DEBORAH BORIO

Investigative Trial Counsel/Examiner

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by U.S. Post and email on this 23rd day of January, 2017, to Respondent at the following:

Matthew G. Watson
Watson Smith LLC
P.O. Box 2183
Mesilla Park, NM 88047 – 2183
watsonlawlc@gmail.com



DEBORAH BORIO

INVESTIGATIVE TRIAL COUNSEL/EXAMINER

BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NEW MEXICO

INQUIRY CONCERNING HON. DARREN KUGLER
Third Judicial District Court

Inquiry No. 2016-055

FILED

JAN 23 2017

NM JUDICIAL
STANDARDS COMMISSION

STIPULATION TO PERMANENT RESIGNATION FROM JUDICIAL OFFICE
IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS

THIS MATTER is currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Preliminary Investigation* issued in Inquiry No. 2016-055 on August 17, 2016; Respondent's *Response to Judicial Standards Commission Rule 14(F) Investigation*, filed October 11, 2016; and the *Notice of Formal Proceedings* issued December 19, 2016 (*See Exhibits. A, B, and C, respectively*).

This *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* ("Stipulation") is entered into by and between the Judicial Standards Commission and Hon. Darren Kugler ("Respondent"). Respondent is represented by Matthew Watson, Watson Smith LLC. The parties hereby enter into the following *Stipulation*:

1. Respondent admits to the following:
 - a. On or about November 10, 2015, during a show cause hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to comply with contempt law and violated the due process of both parties when he: (1) failed to provide notice of the specific conduct for which the individual litigants could be held in contempt; (2) swore in the *pro se* litigants and took testimony from each of them without advising them of their constitutional rights and the protections afforded them as criminal contempt defendants; and, (3) sentenced both litigants to time in jail, which they served.

Exhibit
1

b. On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz, when he: (1) found Mr. Muñoz in direct criminal contempt for not complying with the *Order Appointing Parenting Coordinator*, following his testimony that he did not have the money to pay the parenting coordinator fees, conduct which Respondent did not personally witness; (2) summarily punished Mr. Muñoz by having him immediately remanded without providing any warnings, advising him of his constitutional rights, or allowing him to defend or provide an explanation for the alleged behavior; (3) failed to provide a provision for bond; (4) failed to specify the length of the sentence, but instead issued a *Detention Order* ordering Mr. Muñoz incarcerated “until further Order of this Court”; (5) failed to state in the *Detention Order* the conduct constituting the alleged direct criminal contempt and any warnings given; (6) failed to schedule a hearing on the contempt charge until specifically requested by Mr. Muñoz’ attorney after Mr. Muñoz had been in jail without bond for eleven (11) days; and, (7) sentenced Mr. Muñoz to 179 days in jail, where he served an additional sixty (60) days until he was released pending appeal of Respondent’s contempt order to the New Mexico Court of Appeals.

c. On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz, and his Fifth Amendment right when Respondent subjected Mr. Muñoz to double jeopardy by holding him in contempt a second time—the first time being on November 10,

2015—for the same offense of not complying with the *Order Appointing Parenting Coordinator*.

d. On or about June 10, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (1) “Here’s the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we’ll do a week on, week off. Maybe she’ll only have weekends, but you’ll be spending the rest of the time, when the children are not in your custody, in jail.”; (2) “I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I’m issuing a warrant. We are done.”; (3) “Ms. Limon, I’m not gonna waste time talking to you. You have made such a mess of this that it’s not worth me spending time....”; (4) “Ms. Limon, the behavior you’ve engaged in defies imagination.”; (5) “Ms. Limon, I’m not addressing you much because there’s not much to say.... You’re almost beyond redemption.”; (6) “You’re blaming [the parenting coordinator]. Did [she] force you to have sex with Ms. Limon and produce two children and marry her? You did that.”; and, (7) “I don’t care if one of you is a prostitute or a male escort. I don’t care if she was dancing in a cage or the two of you engage in satanic worship. It’s about your children. And this nonsense is over.... I’m going to address problems with you two very simply—with detention orders or arrest warrants. There will be no more warnings. There will be no more nonsense.”

e. On or about December 4, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (1) "Get off your high horse. Have a seat before I have you detained. This is pathetic.... This is the history you created.... Don't dump it on me."; and, (2) "I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."

f. On or about December 11, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to Plaintiff, Rene Muñoz, by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (1) "Mr. Muñoz--\$100 fine. Form a question. No speeches. Questions start with who, what, where, when, why, how, please tell, describe, explain. No speeches. \$100 fine. Understood? Do it again, it goes up."; and, (2) (when swearing in Mr. Muñoz) "That's your left hand!" Then, after slamming the file down on the bench, "Are you mocking me?" After Mr. Muñoz stated he was a little nervous, "You oughta be.... You come in this Court and make a mockery of it. You oughta be nervous."

g. On or about July 20, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to Plaintiff, Rene Muñoz, by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: "Mr. Muñoz. Have a seat. This is the second time I'm instructing you not to wander

around here like this is your living room.... This is your last warning. Until you're told to move, you'll stay where you are. Understood?"

h. On or about November 10, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (1) "I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that. I could order you to be responsible adults, but I don't know how to enforce that. You've been playing games with the Court for far too long a time. And I'm not gonna put up with it anymore. Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and, (2) "I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

i. On or about December 11, 2015, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, Respondent failed to be dignified, patient, and courteous to both parties by shouting or raising his voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (1) "You didn't pick a very good spouse and she's probably not the ideal mother. You picked her, I didn't."; (2) "You present this as though you're a white knight, that you're the one who has been the savior of the children. You're forcing those children to make a decision, not based on a situation they created, but a situation you created. You picked Ms. Limon.... You produced two children and if you can't have it your way, you're just gonna cut 'em loose."; and, (3) "Once again, you're back to your normal

approach. If it doesn't go your way, you're just gonna throw a tantrum like a two-year-old. You know how immature this is?"

j. Respondent failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when his impartiality could reasonably be questioned by the following statements Respondent made on the dates indicated, suggesting Respondent was prejudging what would happen to the parties in future hearings, to wit: (1) June 10, 2014—"Here's the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we'll do a week on, week off. Maybe she'll only have weekends, but you'll be spending the rest of the time, when the children are not in your custody, in jail."; (2) June 10, 2014—"I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I'm issuing a warrant. We are done."; (3) June 10, 2014—"I'm going to address problems with you two very simply—with detention orders or arrest warrants. There will be no more warnings."; (4) December 4, 2014—"I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."; (5) November 10, 2015—"I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that.... Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and, (6) November 10, 2015—"I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

k. Respondent failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when his impartiality could reasonably be questioned by the following statements Respondent made on December 21, 2015, suggesting he was using contempt procedures to punish Mr. Muñoz for his actions regarding his children, to wit: (1) "After both parties had apparently served their time, Mr. Muñoz, quite inappropriately and in flagrant disregard for this Court's orders, put his child in a position of having to decide between his parents. And when the child's decision was not to Mr. Muñoz' liking, he retaliated essentially by telling that child he wanted nothing more to do with him. For these two children and what they've gone through, that is one of the most cold-blooded, heartless acts I've ever seen. And it's in direct violation of this Court's order. It's contemptuous behavior...."; (2) "He wanted nothing more to do with his children. That's contemptuous."; (3) "[A]ny claims from Mr. Muñoz that he was not specifically prohibited from cruelly forcing his child to make such an inappropriate decision is contemptuous."; (4) "In his own words at our last hearing he [Mr. Muñoz] said that he has 'paid and paid and paid.' He doesn't seem to acknowledge that his children have paid for the acts of the parents. They've paid in blood and pain."; (5) "I can require him to be a not bad parent. What he did to this child is inexcusable."; (6) "[H]is children have paid the price. He wants to take a pound of flesh out of the children. The Court may make him pay the price for that."; and, (7) "For direct criminal contempt. For the infliction of emotional distress on your child, the Court sentences you to 179 days in the county jail."

2. Respondent admits that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-202, 21-203(B), 21-205(A), 21-208(B), and 21-211(A) NMRA 2012, and that such conduct constitutes willful misconduct in office.

3. Respondent agrees that the resignation he tendered as a district judge of the Third Judicial District Court to be effective on January 31, 2017, shall be permanent effective at 5:00 p.m. on the same day that the Supreme Court enters an order approving this *Stipulation*. Upon acceptance of this *Stipulation* by the New Mexico Supreme Court, Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court. Respondent shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings.

4. The Commission will file under seal with the New Mexico Supreme Court, pursuant to Rule 27-104(B) NMRA 2011, a *Petition to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings ("Petition")*, attaching a copy of this *Stipulation* and copies of the *Notice of Preliminary Investigation*, *Respondent's Response*, and the *Notice of Formal Proceedings* in Inquiry No. 2016-055, which is required by the Supreme Court.

5. Upon granting the *Petition*, pursuant to the Supreme Court Rules, the matter will be unsealed.

6. Upon execution of this *Stipulation* and acceptance by the Supreme Court, the Commission will abate and close this matter pending against the Respondent before the Commission (Inquiry No. 2016-055).

7. This *Stipulation* is specifically enforceable by the Commission before the Supreme Court.

8. Respondent acknowledges that upon execution of this *Stipulation*, Respondent gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

9. This document is not enforceable unless fully executed by all parties.

10. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation*.

11. Respondent shall not make any misrepresentations to the media concerning this Inquiry, the facts and circumstances of Respondent's stipulation, or the Commission's proceedings.

12. Non-Compliance and Breach. If Respondent violates any terms or provisions of this executed *Stipulation*, Respondent agrees that all facts alleged in the *Notice of Formal Proceedings* issued in Inquiry No. 2016-055, and which were not admitted to in this *Stipulation*, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt.

13. The terms and conditions contained in this *Stipulation* are mutually acceptable to and agreed upon by all parties.

14. All parties have read and understand this *Stipulation*, have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation* free of any threats, and free of any promises not contained herein.

INQUIRY CONCERNING HON. DARREN KUGLER
*Stipulation to Permanent Resignation From Judicial Office
In Lieu of Further Disciplinary Proceedings*


Inquiry No. 2016-055

Page 10

RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. I have had the opportunity to discuss this matter and my rights with a lawyer. I acknowledge that the enumerated facts and conduct, if proven, constitute willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct, and provide sufficient basis for the New Mexico Supreme Court to impose discipline against me pursuant to Article VI, Section 32 of the New Mexico Constitution.

I understand and agree that my attorney is speaking for me and on my behalf in this proceeding, and that anything my attorney says or does in this proceeding can and should be attributable to me. In the event my attorney says or does anything during the course of this proceeding that I do not agree with, I know, understand and agree that I have an affirmative duty to make my disagreement with my attorney's words or conduct known. If I do not make my disagreement known, then I know, understand, and agree that I am accepting my attorney's words and conduct in this proceeding as my own.




HON. DARREN KUGLER
Respondent

Dated: 1/18/17

DEFENSE COUNSEL REVIEW

I have reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* with my client. I have advised my client of his constitutional rights and possible defenses, and hereby approve my client's entry into this *Stipulation*.



MATTHEW G. WATSON, ESQ.
Counsel for Respondent

Dated: 1/18/17

EXAMINER'S REVIEW & APPROVAL

I have reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and find that it is appropriate and in the best interest of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation*.



DEBORAH BORIO, ESQ.
Examiner

Dated: 1/19/2017

JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

The Commission has reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and finds that it is in the best interest of justice and hereby accepts and approves this *Stipulation*.

Joyce Bustos

JOYCE BUSTOS
Chair

[Signature]

RANDALL D. ROYBAL, ESQ.
Executive Director & General Counsel

Dated: 1/23/17

Dated: 1/23/17



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248
ALBUQUERQUE, NEW MEXICO 87125-7248
(505) 222-9353
WWW.NMJSC.ORG

RANDALL D. ROYBAL
Executive Director & General Counsel

PHYLLIS A. DOMINGUEZ
Investigative Trial Counsel

DEBORAH BORIO
Investigative Trial Counsel

August 16, 2016

Hon. Darren Kugler
Third Judicial District Court
201 W Picacho Ave
Las Cruces NM 88005-1833

Re: *Inquiry No. 2016-055, Notice of Preliminary Investigation*

CONFIDENTIAL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FILED

AUG 17 2016

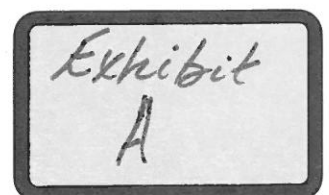
NM JUDICIAL
STANDARDS COMMISSION

Dear Judge Kugler:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matters discussed below.

It has been alleged that in the matter of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279 you:

1. Failed to comply with contempt law and violated the due process of the parties:
 - a. On or about November 10, 2015, at a show cause hearing for both parties, on your *Order to Show Cause* that failed to provide notice to the individual parties of the specific conduct for which they could be held in contempt. Additionally, you swore in the parties—who appeared *pro se*—and took testimony from both of them without advising either of them of their constitutional rights and the protections afforded them as criminal contempt defendants. Further, after finding both parties in contempt you sentenced both of them to time in jail, which they served.
 - b. On or about December 11, 2015, at a motion hearing—not a show cause hearing—when you found Mr. Muñoz in direct criminal contempt after he testified that he did not have the money to pay the parenting coordinator fees, which is conduct that you did not personally witness and to which you responded, "You're really going to try that with me again? You're going into custody. We're adjourned. I'll see you sometime in the next few weeks for sentencing." You acted beyond your lawful authority in summarily punishing Mr. Muñoz by having him immediately remanded without providing any warnings, advising him of his constitutional rights, or allowing him to defend or provide an explanation for the alleged behavior. Further, you provided no



specific sentence, no provisions for bond, and no action that Mr. Muñoz could accomplish to be released from jail by issuing a *Detention Order* ordering Mr. Muñoz incarcerated “until further Order of this Court.” In addition, you failed to state in the *Detention Order* the conduct constituting the alleged direct criminal contempt and any warnings given. Moreover, you failed to schedule a hearing on the contempt charge and only did so after Mr. Muñoz had retained an attorney who filed a *Motion for Immediate Release*. On or about December 21, 2015, after Mr. Munoz had spent eleven (11) days in jail, and his attorney requested an evidentiary hearing, you stated words to the effect of: “It was direct criminal contempt. The record is complete,” and subsequently sentenced Mr. Muñoz to 179 days in jail, where he served another sixty (60) days until he was released pending appeal to the New Mexico Court of Appeals.

2. Failed to comply with statutory law and violated Mr. Muñoz’ Fifth Amendment right by subjecting him to double jeopardy when you held him in contempt on November 10, 2015, and again on December 12, 2015, for the same offense of not complying with the *Order Appointing Parenting Coordinator* filed June 20, 2012.

3. Failed to be dignified, patient, and courteous to both parties by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging comments to them:

a. On or about June 10, 2014, when you stated words to the effect of:

- “Here’s the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we’ll do a week on, week off. Maybe she’ll only have weekends, but you’ll be spending the rest of the time, when the children are not in your custody, in jail.”
- “I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I’m issuing a warrant. We are done.”
- “Ms. Limon, I’m not gonna waste time talking to you. You have made such a mess of this that it’s not worth me spending time....”
- “Ms. Limon, the behavior you’ve engaged in defies imagination.”
- “Ms. Limon, I’m not addressing you much because there’s not much to say.... You’re almost beyond redemption.”
- “You’re blaming [the parenting coordinator]. Did [she] force you to have sex with Ms. Limon and produce two children and marry her? You did that.”
- “I don’t care if one of you is a prostitute or a male escort. I don’t care if she was dancing in a cage or the two of you engage in satanic worship. It’s about your children. And this nonsense is over.... I’m going to address problems with you two very simply – with detention orders or arrest warrants. There will be no more warnings. There will be no more nonsense.”

- b. On or about December 4, 2014, when you stated words to the effect of:
- "Get off your high horse. Have a seat before I have you detained. This is pathetic....This is the history you created.... Don't dump it on me."
 - "I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."
- c. On or about December 11, 2014, when you stated words to the effect of:
- "Mr. Muñoz--\$100 fine. Form a question. No speeches. Questions start with who, what, where, when, why, how, please tell, describe, explain. No speeches. \$100 fine. Understood? Do it again, it goes up."
 - And, when swearing in Mr. Muñoz: "That's your left hand!" Then, after slamming the file down on the bench, "Are you mocking me?"... After Mr. Munoz stated he was a little nervous, "You oughta be.... You come in this Court and make a mockery of it. You oughta be nervous."
- d. On or about July 20, 2015, when you stated words to the effect of:
- "Mr. Muñoz. Have a seat. This is the second time I'm instructing you not to wander around here like this is your living room.... This is your last warning. Until you're told to move, you'll stay where you are. Understood?"
- e. On or about November 10, 2015, when you stated words to the effect of:
- "I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that. I could order you to be responsible adults, but I don't know how to enforce that. You've been playing games with the Court for far too long a time. And I'm not gonna put up with it anymore. Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."
 - "I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."
- f. On or about December 11, 2015, when you stated words to the effect of:
- "You didn't pick a very good spouse and she's probably not the ideal mother. You picked her, I didn't."
 - "You present this as though you're a white knight, that you're the one who has been the savior of the children. You're forcing those children to make a decision, not based on a situation they created,

but a situation you created. You picked Ms. Limon.... You produced two children and if you can't have it your way, you're just gonna cut 'em loose."

- "Once again, you're back to your normal approach. If it doesn't go your way, you're just gonna throw a tantrum like a 2-year old. You know how immature this is?"

4. Failed to recuse when your impartiality could reasonably be questioned by your statements suggesting you were: (a) prejudging what would happen to the parties in future hearings; and, (b) using contempt procedures to punish Mr. Muñoz for his actions regarding his children:

a. Prejudging statements as outlined above on various dates:

- "Here's the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we'll do a week on, week off. Maybe she'll only have weekends, but you'll be spending the rest of the time, when the children are not in your custody, in jail."
- "I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."
- "I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I'm issuing a warrant. We are done."
- "I'm going to address problems with you two very simply – with detention orders or arrest warrants. There will be no more warnings."
- "I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that."
- "Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."

b. Using contempt to punish on or about December 21, 2015, when you stated words to the effect of:

- "After both parties had apparently served their time, Mr. Muñoz, quite inappropriately and in flagrant disregard for this Court's orders, put his child in a position of having to decide between his parents. And when the child's decision was not to Mr. Muñoz' liking, he retaliated essentially by telling that child he wanted nothing more to do with him. For these two children and what they've gone through, that is one of the most cold-blooded, heartless acts I've ever seen. And it's in direct violation of this Court's order. It's contemptuous behavior...."

- "He wanted nothing more to do with his children. That's contemptuous."
- "[A]ny claims from Mr. Muñoz that he was not specifically prohibited from cruelly forcing his child to make such an inappropriate decision is contemptuous."
- "In his own words at our last hearing he [Mr. Muñoz] said that he has 'paid and paid and paid.' He doesn't seem to acknowledge that his children have paid for the acts of the parents. They've paid in blood and pain."
- "I can require him to be a not bad parent. What he did to this child is inexcusable."
- "[H]is children have paid the price. He wants to take a pound of flesh out of the children. The Court may make him pay the price for that."
- "For direct criminal contempt. For the infliction of emotional distress on your child, the Court sentences you to 179 days in the county jail."

Please provide the Commission with an explanation of these incidents and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,



Joyce E. Bustos
Chair

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 17th day of August

2016, by certified mail, return receipt requested to:

Hon. Darren Kugler
Third Judicial District Court
201 W Picacho Ave
Las Cruces NM 88005-1833



SHARIESSE T. MCCANNON
CLERK OF THE COMMISSION

BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NEW MEXICO

IN THE MATTER OF HONORABLE DARREN KUGLER
THIRD JUDICIAL DISTRICT COURT

INQUIRY NUMBER 2016-055

FILED
OCT 11 2016
NM JUDICIAL
STANDARDS COMMISSION

RESPONSE TO JUDICIAL STANDARDS COMMISSION
RULE 14(F) INVESTIGATION

COMES NOW, The Honorable Darren Kugler, by and through counsel of record, Watson Smith, LLC (Matthew G. Watson), hereby submits this Response to Judicial Standards Commission Rule 14(F) Investigation as follows:

1. The allegations appear to accurately reflect what occurred during the hearings on November 10, 2015 and December 11, 2015.
2. Judge Kugler does not deny that he lost objectivity in dealing with the Parents of David Munoz, and in his efforts to protect David Munoz from further harm inflicted on David by his parents, exceeded his authority.
3. The circumstances presented to Judge Kugler in this matter were unique and involved harm inflicted on the minor child of the litigants, David Munoz. Mr. Munoz committed two separate violations of the existing orders of the Court by first failing to comply with the order to pay for the parent coordinator services as heard on Nov. 10, 2015; and, second by refusing to comply with the coordinator's instructions when Mr. Munoz appeared in open court and refused to parent his child. Mr. Munoz unilaterally decided to end all contact with David (and the parties' other child, Isaiah) based on his children's desire to have contact with their mother, and declared this in open court for all to hear.
4. Judge Kugler was misguided in his efforts to protect David Munoz from further abuse and his efforts on David's behalf led to poor decision making.
5. Judge Kugler concedes that his judgment was flawed and lacking objectivity in dealing with a very tragic situation and dysfunctional family.
6. The parents of David Munoz had repeatedly refused to comply with Court orders over more than 10 years and had subjected their children to persistent emotional abuse. Judge Kugler warned the parents of possible contempt sanctions on multiple occasions, but to no avail.

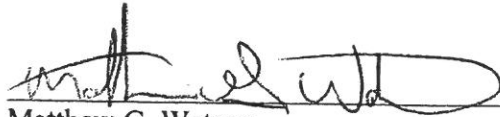
Exhibit
B

7. The Munoz's behavior in Court was appalling and beyond frustrating, and in response, Judge Kugler lowered his standards to the lowest common denominator.
8. Judge Kugler submits to the Commission that he is aware of the standards expected of the Judiciary, and is aware that his conduct in this matter fell below those standards.
9. With these things in mind, Judge Kugler informs the Commission that although the circumstances presented in this case were beyond his ability to comprehend the depravity of the litigants with regard to their children, he understands his need to remain objective. He understands that judges cannot and should not let sympathies, or other emotions influence his decisions, and must ensure all due process protections are provided to all litigants.

WHEREFORE, Judge Kugler requests this Commission review the evidence submitted in this file, and render the decision it deems just under the circumstances.

Respectfully Submitted by:

WATSON SMITH, L.L.C



Matthew G. Watson
1100 S. Main St., Ste. 21
Las Cruces, NM 88005
Tel: 575-528-0500
Fax: 575-526-9094

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

INQUIRY CONCERNING HON. DARREN KUGLER
Third Judicial District Court
Inquiry No. 2016-055

FILED
DEC 19 2016
NM JUDICIAL
STANDARDS COMMISSION

NOTICE OF FORMAL PROCEEDINGS

Hon. Darren Kugler
c/o Matthew G. Watson, Esq.
Watson Smith LLC
P.O. Box 2183
Mesilla Park, NM 88047-2183

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, in accordance with its jurisdiction under Article VI, Section 32 of the New Mexico Constitution and pursuant to Rule 15 NMRA 2010 of the Judicial Standards Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

On or about November 10, 2015, during a show cause hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to comply with contempt law and violated the due process of both parties when you: (a) failed to provide notice of the specific conduct for which the individual litigants could be held in contempt; (b) swore in the *pro se* litigants and took testimony from each of them without advising them of their constitutional rights and the protections afforded them as criminal contempt defendants; and, (c) sentenced both litigants to time in jail, which they served.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012 and constitutes willful misconduct in office.

Exhibit
C

COUNT II

On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz , when you: (a) found Mr. Muñoz in direct criminal contempt for not complying with the *Order Appointing Parenting Coordinator*, following his testimony that he did not have the money to pay the parenting coordinator fees, conduct which you did not personally witness; (b) summarily punished Mr. Muñoz by having him immediately remanded without providing any warnings, advising him of his constitutional rights, or allowing him to defend or provide an explanation for the alleged behavior; (c) failed to provide a provision for bond; (d) failed to specify the length of the sentence, but instead issued a *Detention Order* ordering Mr. Muñoz incarcerated “until further Order of this Court”; (e) failed to state in the *Detention Order* the conduct constituting the alleged direct criminal contempt and any warnings given; (f) failed to schedule a hearing on the contempt charge until specifically requested by Mr. Muñoz’ attorney after Mr. Muñoz had been in jail without bond for eleven (11) days; and, (g) sentenced Rene Muñoz to 179 days in jail, where he served an additional sixty (60) days until he was released pending appeal of your contempt order to the New Mexico Court of Appeals.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012 and constitutes willful misconduct in office.

COUNT III

On or about December 11, 2015, at a motion hearing in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to comply with contempt law and violated the due process of Plaintiff, Rene Muñoz, and his Fifth Amendment right when you subjected him to double jeopardy by holding him in contempt a second time—the

first time being on November 10, 2015—for the same offense of not complying with the *Order Appointing Parenting Coordinator*.

Such conduct violates Rules 21-101, 21-102, and 21-205(A) NMRA 2012 and constitutes willful misconduct in office.

COUNT IV

On or about June 10, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to both parties by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (a) “Here’s the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we’ll do a week on, week off. Maybe she’ll only have weekends, but you’ll be spending the rest of the time, when the children are not in your custody, in jail.”; (b) “I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see anything else like this, I’m issuing a warrant. We are done.”; (c) “Ms. Limon, I’m not gonna waste time talking to you. You have made such a mess of this that it’s not worth me spending time....”; (d) “Ms. Limon, the behavior you’ve engaged in defies imagination.”; (e) “Ms. Limon, I’m not addressing you much because there’s not much to say.... You’re almost beyond redemption.”; (f) “You’re blaming [the parenting coordinator]. Did [she] force you to have sex with Ms. Limon and produce two children and marry her? You did that.”; and, (g) “I don’t care if one of you is a prostitute or a male escort. I don’t care if she was dancing in a cage or the two of you engage in satanic worship. It’s about your children. And this nonsense is over.... I’m going to address problems with you two very simply—with detention orders or arrest warrants. There will be no more warnings. There will be no more nonsense.”

Such conduct violates Rules 21-101, 21-102, 21-203(B) and 21-208(B) NMRA 2012 and constitutes willful misconduct in office.

COUNT V

On or about December 4, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to both parties by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (a) "Get off your high horse. Have a seat before I have you detained. This is pathetic.... This is the history you created.... Don't dump it on me."; and, (b) "I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."

Such conduct violates Rules 21-101, 21-102, and 21-208(B) NMRA 2012 and constitutes willful misconduct in office.

COUNT VI

On or about December 11, 2014, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to Plaintiff, Rene Muñoz, by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (a) "Mr. Muñoz--\$100 fine. Form a question. No speeches. Questions start with who, what, where, when, why, how, please tell, describe, explain. No speeches. \$100 fine. Understood? Do it again, it goes up."; and, (b) (when swearing in Mr. Muñoz) "That's your left hand!" Then, after slamming the file down on the bench, "Are you mocking me?" After Mr. Muñoz stated he was a little nervous, "You oughta be.... You come in this Court and make a mockery of it. You oughta be nervous."

Such conduct violates Rules 21-101, 21-102, and 21-208(B) NMRA 2012 and constitutes willful misconduct in office.

COUNT VII

On or about July 20, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to Plaintiff, Rene Muñoz, by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: "Mr. Muñoz. Have a seat. This is the second time I'm instructing you not to wander around here like this is your living room.... This is your last warning. Until you're told to move, you'll stay where you are. Understood?"

Such conduct violates Rules 21-101, 21-102, and 21-208(B) NMRA 2012, and constitutes willful misconduct in office.

COUNT VIII

On or about November 10, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to both parties by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (a) "I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that. I could order you to be responsible adults, but I don't know how to enforce that. You've been playing games with the Court for far too long a time. And I'm not gonna put up with it anymore. Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and, (b) "I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

Such conduct violates Rules 21-101, 21-102, and 21-208(B) NMRA 2012, and constitutes willful misconduct in office.

COUNT IX

On or about December 11, 2015, 2015, in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, you failed to be dignified, patient, and courteous to both parties by shouting or raising your voice and by making belittling, condescending, derisive, inappropriate and disparaging remarks, to wit: (a) "You didn't pick a very good spouse and she's probably not the ideal mother. You picked her, I didn't."; (b) "You present this as though you're a white knight, that you're the one who has been the savior of the children. You're forcing those children to make a decision, not based on a situation they created, but a situation you created. You picked Ms. Limon.... You produced two children and if you can't have it your way, you're just gonna cut 'em loose."; and, (c) "Once again, you're back to your normal approach. If it doesn't go your way, you're just gonna throw a tantrum like a 2-year old. You know how immature this is?"

Such conduct violates Rules 21-101, 21-102, and 21-208(B) NMRA 2012, and constitutes willful misconduct in office.

COUNT X

You failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when your impartiality could reasonably be questioned by the following statements you made on the dates indicated, suggesting you were prejudging what would happen to the parties in future hearings, to wit: (a) June 10, 2014 – "Here's the visitation I plan on. The visitation schedule is whoever has the children is out of custody, whoever does not have the children is in custody. Maybe we'll do a week on, week off. Maybe she'll only have weekends, but you'll be spending the rest of the time, when the children are not in your custody, in jail."; (b) June 10, 2014 – "I want to make sure both of you understand, we have any more problems, one or both of you are going to jail and it may not require a hearing. I see

anything else like this, I'm issuing a warrant. We are done."; (c) June 10, 2014 – "I'm going to address problems with you two very simply – with detention orders or arrest warrants. There will be no more warnings."; (d) December 4, 2014 – "I'll come up with a custody plan. You spend a week in jail, she has custody. She spends a week in jail, you have custody."; (e) November 10, 2015 – "I'll warn both of you, if behavior keeps up, you'll be serving a lot more time than that.... Next time we issue an order to show cause hearing, make sure you're ready because at an order to show cause hearing I can give you each 179 days county jail with no further hearing. Probably likely that I will."; and, (f) November 10, 2015 – "I'm not gonna play referee for your cage match. I'm just gonna put you in a cage."

Such conduct violates Rules 21-101, 21-102, 21-202, and 21-205(A) NMRA 2012, and constitutes willful misconduct in office.

COUNT XI

You failed to recuse in the case of *Rene Muñoz v. Elizabeth Muñoz nka Elizabeth Limon*, D307-DM-2002-1279, when your impartiality could reasonably be questioned by the following statements you made on December 21, 2015, suggesting you were using contempt procedures to punish Mr. Muñoz for his actions regarding his children, to wit: (a) "After both parties had apparently served their time, Mr. Muñoz, quite inappropriately and in flagrant disregard for this Court's orders, put his child in a position of having to decide between his parents. And when the child's decision was not to Mr. Muñoz' liking, he retaliated essentially by telling that child he wanted nothing more to do with him. For these two children and what they've gone through, that is one of the most cold-blooded, heartless acts I've ever seen. And it's in direct violation of this Court's order. It's contemptuous behavior...."; (b) "He wanted nothing more to do with his children. That's contemptuous."; (c) "[A]ny claims from Mr. Muñoz that he was not specifically prohibited from cruelly forcing his child to make such an inappropriate decision is

contemptuous.”; (d) “In his own words at our last hearing he [Mr. Muñoz] said that he has ‘paid and paid and paid.’ He doesn’t seem to acknowledge that his children have paid for the acts of the parents. They’ve paid in blood and pain.”; (e) “I can require him to be a not bad parent. What he did to this child is inexcusable.”; (f) “[H]is children have paid the price. He wants to take a pound of flesh out of the children. The Court may make him pay the price for that.”; and, (g) “For direct criminal contempt. For the infliction of emotional distress on your child, the Court sentences you to 179 days in the county jail.”

Such conduct violates Rules 21-101, 21-102, 21-202, and 21-205(A), and 21-211(A) NMRA 2012, and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, **you shall file a written answer to this notice within twenty-one (21) days of its service upon you. Your answer shall be filed with:**

Judicial Standards Commission
P.O. Box 27248
Albuquerque, New Mexico 87125-7248

Your answer should be legible and **your signature must be verified.**

Article VI, Section 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION


By: _____


Joyce Bustos, Chair
Post Office Box 27248
Albuquerque, NM 87125-7248

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing *Notice of Formal Proceedings* was mailed via certified U.S. mail, receipt requested, on this 19th day of December, 2016, to the following:

*Hon. Darren Kugler
c/o Matthew G. Watson, Esq.
Watson Smith LLC
P.O. Box 2183
Mesilla Park, NM 88047-2183*


SHARIESSE T. MCCANNON
Clerk of the Commission