

COMPLAINT FORM



STATE OF WASHINGTON COMMISSION ON JUDICIAL CONDUCT

P.O. Box 1817 Olympia, WA 98507 (360) 753-4585 Fax (360) 586-2918

For Office Use Only

Inq.# _____

CONFIDENTIAL

This form is designed to provide the Commission with information required to make an initial evaluation of your complaint, and to begin an investigation of your allegations. Please read the accompanying materials on the Commission's function and procedures before you complete this form.

- ▶ **Do not send original records.**
- ▶ **Materials filed in the Commission's confidential records cannot be copied or returned to you. Please contact our office if you need accommodation. If you need to maintain a record, keep a copy.**
- ▶ **For security reasons, we do not accept thumb-drives or other removable storage devices. CDs and DVDs will be accepted.**

PLEASE TYPE OR PRINT ALL INFORMATION

Your Name: Heather Wood

Address: 9129 James Rd, SW _____

City: Rochester State: WA Zip: 98579

Daytime telephone: (360)999-8493 Evening telephone: (360)999-8493

Email address: hthrwood012@gmail.com

Name of Judge/Commissioner: Matthew Clucas County: Kitsap

Court level: ☐ Municipal ☐ District ☒ Superior ☐ Appeals ☐ Supreme

Case Name and Docket Number, if applicable: 07-3-01713-1

Attorneys involved: Amanda Anne Williamson #47579 & Laura Elizabeth Yelish #48127 (w/o standing)

If this complaint relates to a trial or other court proceeding, has it been or will it be appealed?

☐ Yes ☐ No ☒ Not applicable

Please provide a brief summary of the unethical actions or behaviors that you believe were committed by this judge or commissioner. (If you wish, you may refer to the Code of Judicial Conduct which you can find in the Washington Court Rules or on our website at www.cjc.state.wa.us.)

Leonard Feulner, the Respondent in the above listed Kitsap Superior Family Court cause #, improperly filed an Emergency Motion to Show Cause w/o notice heard by Judge Houser on 8-4-23. It was improper because Leonard Feulner modified the case caption and substituted his name as the 'Petitioner' for Heather Wood's name, the TRUE Petitioner of record w/o leave or a court Order permitting him to do so. Adeline, 16 years old, her custody in this matter being the issue, had been with the father, Leonard Feulner, since 7-20-23, the date she refused to return home from the hospital where she'd been taken for drug testing. i.e. No genuine/true emergency existed, the child having been in the father's possession for over 15 days despite a valid existing order providing the mother, Heather Wood, w/sole custody of the girl. Nevertheless, Judge Houser entered a Show Cause Order, temporarily granting Mr. Feulner, the Moving party and RESPONDENT, custody, but ignoring the impropriety of the facially defective pleadings filed by Mr. Feulner wherein Feulner had switched the identity of the litigants. Moreover, the Clerk's notes in the matter at that 8-4-23 hearing referred to Adeline Feulner, the rebellious 16yo at issue as a pro se party, which is legally incorrect as a matter of law, but appears in the record and also misidentifies Leonard Feulner as the Plaintiff. Judge Houser set a date of 8-15-23 in the AM for Ms. Wood to appear and respond to the allegations, which she did w/less than one day's notice, being served the evening of 8-14-23.

On the morning of 8-15-23, both parties, sans Adeline, appeared in the court room #206 w/Commissioner Matthew Clucas presiding. Both sides were heard, but when Ms. Wood answered the Commissioner's inquiry into what she wanted from him. Heather responded she wanted the Commissioner to enforce the law w/respect to her fundamental rights to parent her child and enjoin any custodial interference. Commissioner Matthew Clucas continued his berating and haranguing of Heather Wood from the bench, sneering at her w/rhetorical questions like, 'Do you want me to put her [the child, Adeline] In handcuffs? Zip ties?' This went on uncomfortably for a long time when Commissioner Matthew Clucas then berated both parents for allowing the case to languish since 2009. In the end, Commissioner Clucas denied Feulner's MTSC, suggested Heather seek ARY assistance, and disposed of the case as the court's audio record (now transcribed and contained in the embedded declaration for the Motion to have Commissioner Clucas RECUSE himself heard by Clucas on 9-1-206 in Kitsap Superior Court room 206, there being no provision in Washington state law/rules to disqualify a court commissioner. In the end on the morning of 8-5-23, Clucas denied the MTSC before him and dismissed the parties, disposing of the matter. Subsequently, outside the courtroom, a commotion could be heard through the walls of the courtroom, caused by Heather Wood's recalcitrant 16yo daughter refusing to go home w/her. In the ensuing altercation, the daughter pushed her mother (Heather) nearly toppling from the staircase, prompting a short instinctive yelp that could be heard in the courtroom Clucas was presiding over in a subsequent case calendared for that morning, finally adjudicating that matter and the putting the court into recess and off the record.

In the meantime, tensions outside the court were rising as the incorrigible child, Adeline, darted around the mother, and raced to her father's car which she drove w/o a driver's license, up onto the sidewalk where it became blocked by a light standard, coming to a halt. The police were called, and a Sgt. Main, of the Port Orchard Police Dept. arrived on the scene. She ordered the child (Adeline) out of the vehicle. Adeline refused to comply. During the earlier phase of the altercation, Adeline had run into the ongoing hearing then presided over by Commissioner Clucas, disrupting the hearing and pleading, 'Judge, Judge, I don't want to go home w/my mother.' Notably, Commissioner Clucas responded, 'There's nothing I can do about it,' indicating for all intents and purposes he had already ruled and disposed of the matter/case.

Two non-participating attorneys witnessed some of the altercation outside the Courtroom #206. They are, as noted in this online application, Amanda Anne Williamson, esq, bar #47579, and Laura Yelish, esq, bar #48127. Both attorneys have offices in Kitsap county, Bremerton and Port Orchard respectively. Both are well known to Commissioner Clucas and can be heard in the court's audio recording (now transcribed and contained in the Motion to Recuse heard by Commissioner Clucas on 9-1-23) that they PRIVATELY contacted Clucas (through Ms. Loki(?) to supplement the record!!) about this cause #07-3-01713-1 and the commotion they witnessed (caused by the rebellious teenager) outside the courtroom, in the hall & lobby. It is a fundamental proscription in Washington law, and the Code of Judicial ethics, judges not be approached and influenced off the record or in private. But it gets worse. Amanda Williamson, esq. approached me (after she and Laura Yelish, esq. had privately discussed the case w/Clucas) to some kind of meeting to aid me in controlling my daughter. I had no forewarning of what was to ensue. Mr. Feulner and I walked through the door and Commissioner Clucas, w/no consent from either party, went on the record, announced the names of the two said attorneys and conducted a colloquy with both, neither being placed under oath! Nor was either party permitted to cross examine either attorney after they made their statements into the record. I received no opportunity to confront my accusers or participate, or utter one word in what was the most transparently Kangaroo court hearing I have ever witnessed. Commissioner Clucas summarily punished me in this unlawfully held impromptu hearing by stripping me of any meaningful right to parent my child, contact, or even communicate w/her except if she chose to do so. It's my firmly held belief any order or act by Commissioner Clucas emanating from his summary Kangaroo hearing was void ab initio for want of proper jurisdiction (under the circumstances). His injunction/order against me, stripping my rights to parent my child, and infringing on my most fundamental rights/liberties, must be subjected to strict scrutiny, and found to fail under that light and the mandates of the code of judicial conduct. But, it got even worse at the 9-1-23 Review Hearing Commissioner Clucas scheduled, sua sponte where I presented my Motion to Recuse to Clucas for all the reasons, along w/points and authorities alluded to therein. That Motion will be included here as a file attachment for the Commission's consideration and research given it sanctioned a Washington judge for very similar behavior in 1999, cited in IV Arguments, Points & Authorities in said document made available here.

I have yet to acquire the court's audio record for the 9-1-23 hearing, despite being indigent and having an order to proceed in forma pauperis because the court clerk's office refuses to wave the \$25 fee contrary to the unanimous bright line decision handed down on 5-23-2013 by the Washington State Supreme Court in Jafar v. Webb, 87009-8. The Clerk's office refused to abide by said ruling which italicizes the word ALL in their published ruling when the Kitsap Superior Court clerk's office insisted I pay this additional cost in litigating my cause in the instant case as noted above.

At the 9-1-23 hearing, Commissioner Clucas became even more belligerent, threatening, and abusive, telling me he questioned my veracity, widened his eyes, and said...'You even used the word KANGAROO COURT and COLLUSION!' Commissioner Clucas' hostility became increasingly intense, as he openly threatened me w/Rule 11 sanctions. Clucas threatened and then ordered an investigator be assigned to research my background on the expressed opinion (by clucas on the record) I must be guilty of some form of misconduct or delinquency given my daughter's refusal to come home w/me.

Commissioner Clucas conducted an impromptu investigation of events outside his courtroom after disposing of the MTSC and denying it. He colluded w/2 non participant attorneys w/no standing in the case, and condoned their tampering w/the record w/o being sworn or providing the litigants an opportunity to defend themselves or speak for the record. Commissioner Clucas did so in a belligerent, abusive threatening manner from a Kangaroo bench w/no legal authority to hear the matter in the summary punitive retaliatory presumptive unlawful manner he did. Commissioner Clucas through his lawless actions visited incalculable harm on Heather Wood and her daughter, Adeline in the most UnAmerican way possible. Commissioner Clucas must be taken to the woodshed for the sake of Ms. Wood and her daughter, for the sake of the dignity and respect the court needs to function properly, and for the sake of We The People of the Un ited States of America.

Please list the dates of alleged misconduct: 8-4-23, 8-15-23, 9-1-23

SUPPORTING FACTS:

Please state specific facts to support your allegation(s) of judicial misconduct. Include all pertinent dates, and name(s) of witnesses, if known. Attach **copies** of any documents which may support your position. You may attach additional pages if needed.

(SEE embedded Motion to Recuse pages w/sworn declaration, facts, Argument, Points & Authorities below):

Superior Court of Washington, County of Kitsap

In re the parenting & support of:
Adeline Marylynn Feulner, (child)

Petitioner/s (*person/s who started this case*):
Heather Lynn Wood (mother)

And Respondent/s (*other party/parties*):
Lenard Ray Feulner (father)

No. 07-3-01713-1

Emergency Ex Parte Motion to Recuse
Heather Wood

RE: Void/Vacate/Recuse Commissioner
Clucas

Motion to Recuse & Objections

TO: The Kitsap County Superior Court Clerk, 614 Division St #202, Port Orchard, WA 98366, (360) 337-716; AND

Lenard Feulner, Respondent, 4101 Anderson Hill Rd. SW, Port Orchard, WA 98367, lilmissarries@yahoo.com

I Identity of the Parties & Jurisdiction

COMES now, Heather Wood, pro se of necessity, without counsel, indigent, in Forma Pauperis to make the Objections noted here and seek the following relief:

JURISDICTION & VENUE

While the instant case is properly within Kitsap County's Family Court subject matter and in personum jurisdiction due to the minor child's birth and both litigant's residency in Washington State, the kangaroo unlawfully held impromptu hearing on 8-15-23 before Commissioner Clucas, without a scintilla of due process after the regularly scheduled MTSC hearing was disposed of and Lenard Feulner's motion dismissed, it had no such jurisdiction nor authority when it subsequently lured the parties back into the courtroom with no notice in collusion with two non-participating attorneys who observed a commotion/altercation between Heather Wood, mother, and Adeline, her child, OUTSIDE the courtroom in the hallway/lobby where it ensued.

(1) OBJECTION 1: Commissioner Clucas was subsequently privately contracted by these two women, local attorneys, Amanda Williams and Laura Yelish, who manipulated the court into unlawfully recalling the case w/o due process, notice, an opportunity to confront the litigants' accusers, and taking statements from the two attorneys on the record w/o swearing them in: i.e. with NO testimony as a basis, and an illegally held hearing at that. Heather Wood takes exception on the record to this outrage and lawless Kangaroo hearing.

Heather Wood, the complaining mother in this instance takes exception to this violation of her civil rights and the kidnapping of her child under the pretext of the Court's authority without even the color of State law.

Judicial & Professional Code of Conduct Mandates

In Washington State, the recusal (disqualification) of a court commissioner is typically governed by the Washington Code of Judicial Conduct, which sets out ethical standards for judges and court commissioners. Specifically, Canon 3E(1) of the Code of Judicial Conduct addresses the disqualification of judges and court commissioners. This Canon states:

"A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; (b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or lawyer has been a material witness; (c) the judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is: (i) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party; (ii) acting as a lawyer in the proceeding; (iii) known by the judge to have more than a de minimis interest that could be substantially affected by the proceeding; or (iv) to the judge's knowledge likely to be a material witness in the proceeding."

This Canon emphasizes the importance of avoiding situations where a judge or court commissioner's impartiality could be questioned. If a party believes that a court commissioner should be recused due to a conflict of interest, bias, or any other reason mentioned in the Canon, they can typically file a motion requesting the court commissioner's disqualification from the case. The specific procedures and requirements for making such a motion may vary depending on the court's rules and local practices.

II RELIEF SOUGHT

- 1. In recognition of the egregious conduct and irregularities cited above, void/vacate, Nunc Pro Tunc, any order depriving/interfering w/Heather Wood's (Mother) ONLY child, Adeline, a 16 year old minor.**
- 2. Commissioner Clucas to recuse himself immediately from this cause and any other litigation involving Heather Wood, the true Petitioner in this case, now or in the future.**
- 3. Enter a finding of fact, and a conclusion of law Commissioner Clucas had no lawful authority to do what he did as cited above during the impromptu hearing culminating in the punishment of Heather Wood for a commotion she did not cause outside the courtroom and had no opportunity to defend herself or participate before being stripped of her parental rights for even 5 seconds in the Kangaroo hearing**

III Material & Relevant Facts

- 1. Contrary to recent Court check boxes marked on the mandatory pattern forms/orders, Heather Wood and Lenard never lived together.**
- 2. Heather Wood and Lenard Feulner had a child in common born in Washington State on 6-2-07 where both resided and continue to today.**
- 3. A Parentage action was filed in WA. State v. Lenard Feulner and Heather Wood, 07-5-00352-8, in which a judgment entered required Mr. Feulner to pay child support for his daughter, Adeline – a fact and order Feulner has resented ever since.**
- 4. Lenard Feulner has threatened Heather Wood on several occasions when she contemplated filing for adjustments in the amount ordered, despite having the ability to pay, and working under the table.**

5. On 7-20-23, alarmed by newly discovered evidence of her underage daughter's delinquency and drug use, Heather Wood transported her daughter to the Providence hospital in Chehalis for drug testing
- .
6. Adeline, Heather's daughter, bridled out of resentment and embarrassment, refusing to return home w/her mother upon discharge.
7. Adeline's father agreed to pick up Adeline and drove her to his 93 year old mother's residence in Port Orchard where Adeline remained for over 15 days. No emergency existed during this entire time, or ever, justifying the stripping of the mother's parental rights and bond w/her daughter.
8. During the above described fortnight, Adeline and Lenard Feulner colluded to file an emergency ex parte show cause hearing in the instant case to strip Heather of her parental rights and property, including insurance proceeds.
9. Judge Houser entered an emergency ex parte order stripping the mother of her parental rights w/o sufficient evidence/proof of an imminent irreversible threat to Adeline or her father's safety/welfare.
10. Judge Houser allowed Lenard Feulner to have his minor daughter, Adeline (the subject of a heated custody battle between the parents, and alienation by the father) to appear in court as a witness testifying against her mother for the most self serving purposes. It is not certain Adeline was sworn in, given Commissioner Clucas' failure to do so for two non-participant local attorneys well known to him and in collusion with the commissioner to pervert court rules, due process, and the laws of Washington State and its code of judicial conduct.
on 8-15-23 conducted AFTER this cause had been disposed of earlier the same morning, MTSC denied

Clerk: Do you want me to tell them to come in?

Clucas: Please.

Clucas: Great were back in the record of the Feulner/Wood case number:

07-3-01713-1.

After the parties stepped out into the hallway I heard a lot of yelling and screaming coming down the hallway and I've been told that there's been a lot of activity including someone calling the police. Miss Yeish is an of - an attorney who is not a part of the ___ in this matter, and so is Miss Williamson, and apparently they were out there and saw what happened.

Miss Yelish, can you give the court a brief description of what you saw?

Yelish: Um, Yes your honor. I will provide the first half of the incident, and I believe Miss Williamson has some additional information.

Clucas: 'kay

Yelish: But I was in courtroom 210 and I heard elevated voices/raised voices, the mother had a raised voice, yelling at the child and kind of encroached upon the child while she was sitting on the bench. She [mother] indicated the child was coming with her 'cause she had full custody. Child indicated that she did not want to leave. Um, then got up, stood up and the mother was blocking her way at the top of the stairs. They then walked downstairs, security was called. At that point, the mother was still blocking the child from her being able to move out the exit. The child appeared to be telegraphing that she was going to be running, or at least try and get away from the mother. At that point the father was threatened by the male individual with the mother, stating that there was custodial interference of the 1st degree, that he was going to have, you apparently have some kind of charge for that.

Father stepped back and did not participate in the conflict, merely watched.

The child kept edging toward the door.

Mom became very verbally aggressive, was standing in the child's space.

Child then made a run, ran out the door, then immediately out the front door then turned to the right. Father did indicate that she had his car keys on her. So he was concerned that she had keys to the car but security did asked the father to stay back, so he did stay back in there. By the time, time that I walked toward where the child was, it appeared that the child had gotten into the driver's side and pulled the car up onto the sidewalk.

Clucas: Pulled the car up into the sidewalk?

Yelish: yes, Your Honor. The mother and the male individual who was with her were still there. There still appeared to be some heated conversation going on, however I was not close enough to overhear anything that was happening. At that point I, um, walked back, spoke to the father and then, just kind of um made sure that he was staying back, and at that point, law enforcement had already arrived. There were police on the scene, they were speaking to everybody. At that point I came in to ask Miss Loki if perhaps it would be possible for the parties to supplement the record that something had happened with this child who was, uh, indicating by all intents and purposes that she did not want to be with the mother.

Clucas: Miss Williamson, is there anything else too that you would like to add?

Williamson: I um, oh I was within the same vicinity of Miss Yelish, so I

witnessed all of the same things, um, Miss Yelish and I had a discussion. She came by here to ask if you could recall the case, I stayed, um, at the scene and I asked the officers if I could speak to the child and I let the officers know that I was a guardian ad litem for children, so I thought that maybe I could be helpful in speaking to the child, and I did have the opportunity to do that and talked with her while we determined if you could recall the case, and while they were talking to the mother, I will..at one point I asked, um, the mother if she could not speak so loudly because the child was hearing everything the mother was reporting to the police, and it was upsetting her. I'll tell the court the child seems genuinely afraid to go home, well, I won't give my opinion, but she did seem genuinely afraid to go home. She did walk back to the courthouse with Miss Yelish and when she was

outside she indicated that she could have spoken to you herself, but we told her, well, I told her that that's not normally what happens. She seemed very upset, so...

Clucas: Court's signing an order today that states the following: Pending further order of the court, the child shall remain with the father on a temporary basis.

The child shall have visits with the mother at the child's discretion. The court shall review this on September 1, 2023 at 1:30. So pending for the order of the court, sir, the child shall reside with you.

Ma'am you are not to call or reach out to your child unless she reaches out

to you. I will see you both back here. Ma'am if ,you had followed that At Risk Youth petition as I told you to do, versus trying to cause a scene in the courthouse requiring law enforcement to come, you could do so, and I will review the status on September 1st.

Will you please make copies for these folks, get them copies here, and Officer, if you will please help them find their way out of the court house safely.

Thank you all. We're at recess.2e

1. r
2. RCW 4.12.050 - Disqualification of Judge: This statute outlines the circumstances under which a judge must disqualify themselves from a case due to personal bias, prejudice, or other grounds for disqualification. It's important to note that this statute might have been updated or revised after my last knowledge update.
3. Code of Judicial Conduct:
The Washington State Code of Judicial Conduct sets forth ethical guidelines and rules for judges. Canon 3E(1) of the Code specifically addresses disqualification and recusal. It states that a judge shall disqualify themselves in any proceeding in which the judge's impartiality might reasonably be questioned, including situations where the judge has a personal bias or prejudice concerning a party or a personal interest in the case.
4. **It is inherently within the power of the court to grant the relief sought as well as the right thing to do. Lawless pique carried out in Family Court without even so much as the color of State law should not and cannot be tolerated.**

Grounds for Motion to Recuse Judge

5. While the grounds for a finding of abuse of judicial discretion are high, they have been more than met in the instant case as described and recorded above. No competent reasonable judge would have conducted the impromptu ad hoc sua sponte hearing Commissioner Clucas did on 8-15-23 subsequent to this cause being disposed of earlier on the same morning. The denial of Heather Wood's civil and parental rights wasn't a close call, but complete.
6. All parties are entitled to a fair trial, which requires that the judge overseeing the trial be completely impartial. See [*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 \(2009\)](#); [*Hope v. Charlotte-Mecklenburg Bd. of Educ.*, 110 N.C. App. 599 \(1993\)](#). If either the state or the defendant believe that circumstances exist that would prevent the trial judge from carrying out his or her duties in an impartial manner, the party may move the court for recusal on the following grounds:
7. Statutory

Per [G.S. 15A-1223\(b\)](#) and [\(e\)](#), a party may move that the trial judge disqualify himself or herself from a hearing or trial on the grounds that the judge is:

- a. Prejudiced against either party;
- b. Closely related by blood or marriage to the defendant;
- c. A witness for or against one of the parties in the case; or
- d. Unable to perform the duties required of him or her for any other reason.

Washington's Code of Judicial Conduct provides that upon the motion of any party, a judge should disqualify himself or herself in a proceeding in which his or her impartiality may reasonably be questioned, including but not limited to instances where he or she has a personal bias or prejudice concerning a party.

8. Due Process

Although it will apply “only in the most extreme of cases,” such as here, a party may also move for a judge’s recusal on due process grounds if one or more of the following circumstances exist:

- a. The judge has a direct, personal, and substantial pecuniary interest in the outcome of the case;
 - b. The court is structured such that the judge may be tempted to impose a fine because the judge’s governmental entity would benefit (e.g., where judge was also the mayor, and imposing fines would benefit the town’s budget);
 - c. The judge trying the criminal case was responsible for initially bringing the criminal charges, or in contempt cases where judge has a strong personal interest in the outcome; and/or
 - d. One party has made a campaign contribution to the judge that was large enough to have likely affected the outcome, and knowing that the party’s case would come before that judge.
 - e. See [*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 \(2009\)](#) (key inquiry for due process analysis is whether there exists a “constitutionally intolerable probability of actual bias”); [*Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 \(1986\)](#) (allegations of judge’s bias based on “general frustration with insurance companies” were “insufficient to establish any constitutional violation”); [*Ward v. Monroeville*, 409 U.S. 57 \(1972\)](#) (finding due process violation where mayor also sat as judge hearing traffic violations, and thus stood to benefit financially from fines, costs, and fees collected in court).
9. While not a criminal case as outlined in ‘c’ (ibid), here, Commissioner Clucas in collusion with the 2 local non-participant attorneys cited above in III(11), well known to Clucas by his own admission, was completely responsible for reconvening what amounted to a Kangaroo hearing completely devoid of any due process, notice, consent, swearing of putative witnesses, confrontation of the mother’s accusers, or recourse before being stripped of her parental rights w/o representation. Commissioner’s glib instructions to the mother about pursuing an ARY remedy were stonewalled by the agency due to the Commissioner’s unlawful removal of the at risk child from the mother’s custody—Catch 22! Having cruelly set up the mother for failure, the Commissioner added insult to injury by prohibiting any contact by he mother with her delinquent child except pursuant to the child’s largess. JFK said in his inaugural address to

Congress, "The rights of man do not flow from the largess of government, but are endowed upon us by our Creator."

10. Standing alone, "a mere allegation of bias or prejudice is inadequate to compel recusal." [*State v. Moffitt*, 185 N.C. App. 308 \(2007\)](#). See [*State v. Kennedy*, 110 N.C. App. 302, 305 \(1993\)](#) (allegation that the judge's wife had been seriously injured by an impaired driver, without more, did not show the requisite bias or prejudice and did not disqualify superior court judge from presiding over trial); [*State v. Honaker*, 111 N.C. App. 216 \(1993\)](#) (defendant who alleged that judge made biased comment, necessitating recusal, has burden of producing record or other evidence proving that judge made the remark and context of remark).
11. Instead, the party moving to disqualify a judge must "demonstrate objectively that grounds for disqualification actually exist. Such a showing must consist of substantial evidence that there exists such a personal bias, prejudice or interest on the part of the judge that the judge would be unable to rule impartially." [*State v. Fie*, 320 N.C. 626, 627 \(1987\)](#); accord [*State v. Honaker*, 111 N.C. App. 216 \(1993\)](#); [*In re Nakell*, 104 N.C. App. 638 \(1991\)](#) (stating that where judge is embroiled in personal dispute with defendant, maintaining appearance of absolute impartiality and fairness may require judge to recuse himself).
12. Here, there can be no doubt as to the evidence for it issues from Commissioner Clucas' own mouth as reflected in the transcript of the audio from the impromptu Kangaroo hearing he orchestrated.
13. As noted above, the standard for ordering recusal is whether there are reasonable grounds to question the judge's objectivity. The judge is only required to order recusal (or refer the matter over to another judge to decide whether recusal is necessary) if a reasonable person, knowing all the facts, would have doubts about the judge's ability to be impartial in the case.
14. The general rule is that, to warrant recusal, a judge's expression of an opinion about the merits of a case, or his familiarity with the facts or the parties, must have originated in a source outside the case itself. This is referred to in the United States as the "extra-judicial source rule" and was recognized as a general presumption, although not an invariable one, in the 1994 U.S. Supreme Court decision in *Liteky v. United States*.

15. At times justices or judges will recuse themselves sua sponte (on their own motion), recognizing that facts leading to their disqualification are present. However, where such facts exist, a party to the case may suggest recusal. Generally, each judge is the arbiter of a motion for the judge's recusal, which is addressed to the judge's conscience and discretion. However, where lower courts are concerned, an erroneous refusal to recuse in a clear case can be reviewed on appeal or, under extreme circumstances, by a petition for a writ of prohibition.

16. A judge who has grounds to recuse himself is expected to do so. If a judge does not know that grounds exist to recuse themselves the error is harmless. If a judge does not recuse themselves when they should have known to do so, they may be subject to sanctions, which vary by jurisdiction. Depending on the jurisdiction, if an appellate court finds a judgment to have been made when the judge in question should have been recused, it may set aside the judgment and return the case for retrial.

17. In re the Honorable Mary Ann Ottinger

CJC No. 4475-F-119

May 5, 2006

The Commission conducted a public hearing on allegations that Judge Mary Ann Ottinger of the King County District Court violated Canons 1, 2(A), and 3(A)(1) by routinely failing to adequately advise unrepresented criminal defendants of their constitutional due process rights. The Commission found that the misconduct occurred and was compounded by the fact that Respondent was previously censured by the Commission for similar behavior (CJC 3811-F-110). The Commission censured Judge Ottinger and recommended to the Washington State Supreme Court that she be suspended from office for thirty days without pay. The State Supreme Court affirmed the Commission's decision and suspended Judge Ottinger for thirty days.

[Supreme Court Order In re Ottinger, No. 200,389-3](#) filed 7/20/2006.

[Commission Decision](#) filed 5/5/2006.

[Answer to Statement of Charges](#) filed 6/30/2005.

[Statement of Charges](#) filed 6/14/2005.

18. In re the Honorable Rudolph J. Tollefson

CJC No. 2699-F-81

August 21, 2000

On December 16, 1999, the Commission filed a Statement of Charges alleging that Judge Rudolph J. Tollefson of the Pierce County Superior Court violated the Code of Judicial Conduct by using intemperate and abusive language and behavior towards court staff and another judge; engaging in improper conduct by entering ex parte orders when he was a district court judge; engaging in ex parte contacts and failing to maintain his impartiality in a child custody matter pending before him; including undertaking an ex parte investigation outside the courtroom; and failing to maintain, enforce, and observe high standards of judicial conduct so that the integrity and independence of the judiciary would be preserved.

Judge Tollefson agreed that there was sufficient evidence to establish his described conduct and that such conduct violated Canons 1, 2 (A), 2 (B), 3 (A)(1, 2, 3, 4, 5 and 7), 3 (B)(1), 3 (B)(3), and 3 (D)(1) of the Code of Judicial Conduct. The judge agreed to a censure, to take a course in judicial ethics, and to participate in anger management therapy. The judge further agreed to a five-month suspension without pay. The State Supreme Court approved the stipulation and suspended Judge Tollefson for five months without pay.

[Certification and Order of Completion](#) filed 2/2/2001.

[Supreme Court Order In re Honorable Rudolph J. Tollefson In re Tollefson, 70051-6](#) filed 8/30/2000.

[Stipulation, Agreement and Order of Censure, and Recommendation for Suspension](#) filed 8/21/2000.

[Stipulated Amendment to the Statement of Charges](#) filed 1/31/2000.

[Answer to Statement of Charges](#) filed 1/6/2000.

[Statement of Charges](#) filed 12/16/1999.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct.

DATED this 27th day of August, 2023, in the County of **Thurston**, WA.

Heather Wood

(Signature)

Heather Lynn Wood

(Printed Name)

9129 James Rd, SW

(Address)

Rochester, WA 98579

(City & State)

(Zip Code)

Signed: _____

Heather Wood

Date: 9-3-23

Printed Name: Heather L. Wood

Send completed form to: Commission on Judicial Conduct, PO Box 1817, Olympia, WA 98507

Note: Due to confidentiality requirements complaints cannot be accepted via e-mail.

[If you have a disability which requires assistance in filing a complaint or you would like this form in an alternate format, such as Braille, large print or audio tape, contact this office at (360) 753-4585 voice or TDD. We will take reasonable steps to accommodate your needs.]

Revised 3/22/16