

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

**MISSISSIPPI COMMISSION
ON JUDICIAL PERFORMANCE**

V.

CAUSE NO. 2008 JP 460

**CIRCUIT COURT JUDGE
BOBBY B. DELAUGHTER**

FILED

MAR 19 2008

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

**PETITION FOR INTERIM SUSPENSION OF
CIRCUIT COURT JUDGE
BOBBY D. DELAUGHTER**

COMES NOW the Mississippi Commission on Judicial Performance, (“Commission”), pursuant to Section 177A of the Mississippi Constitution of 1890, as amended, Mississippi Code Annotated, Section 9-19-13 and the Rules of the Commission, and files its Petition for Interim Suspension of Bobby D. DeLaughter, Circuit Court Judge, for the Seventh Circuit Court District of Mississippi (“Respondent”), the Respondent in the Commission’s Inquiry Concerning a Judge No. 2008-022 and 2008-027.

1. The Mississippi Commission on Judicial Performance was created by Constitutional amendment adopted November 6, 1979, amending the Mississippi Constitution of 1890, Section 177A. Accompanying enabling legislation, Sections 9-19-1 et seq of the Mississippi Code of 1972, became effective January 1, 1980. This legislation provided for the appointment of the Commission members and for the operation of the Commission.

MOTION# 2008-806

2. Pursuant to Section 9-19-23 of the Mississippi Code of 1972, as amended, the Commission drafted rules to implement its Constitutional and statutory authority and submitted the proposed rules to the Mississippi Supreme Court. The Court approved the Commission Rules on July 11, 1980.(Amended 2002)

3. In accordance with said Rules, the Commission received information concerning the Respondent judge, investigated and on March 14, 2008 found probable cause to institute a formal complaint of judicial misconduct in, Inquiry Concerning a Judge No. 2008-022 and 2008-027.

4. The Formal Complaints were filed on and served upon the Respondent on this date; a copy of the Formal Complaint in Inquiry Concerning a Judge No. 2008-022 is attached as Exhibit 1 to this Petition; a copy of the Formal Complaint in Inquiry Concerning a Judge No. 2008-027 is attached as Exhibit 2 to this Petition.

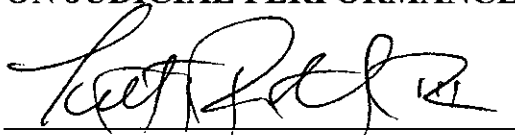
5. Due to the serious nature of the judicial misconduct and the charges in these two Inquiries, in addition to finding probable cause to file a Formal Complaint, on March 14, 2008 the Commission further voted to Petition the Mississippi Supreme Court for the Interim Suspension of the Respondent, Circuit Court Judge Bobby D. DeLaughter, so long as Inquiry Concerning a Judge No. 2008-022 and 2008-027 are pending. The vote to file said Petition was unanimous six (6) for and zero (0) against, as reflected by an excerpt of the Commission minutes included herein as Exhibit 3 & 4 to this Petition.

WHEREFORE, the Mississippi Commission on Judicial Performance respectfully files with the Mississippi Supreme Court, pursuant to Section 177A of the Mississippi Constitution of 1890, Mississippi Code Annotated 9-19-13 and Rules 7 & 10 of the Rules of the Commission on Judicial Performance, its recommendation regarding suspension of the

Respondent in this cause and prays that the Supreme Court consider this petition in accordance with Section 177A of the Constitution under the procedures established by the Commission Rules as approved by this Court, and this Court will suspend the Respondent, Circuit Court Judge Bobby D. DeLaughter, while the Commission's Inquiry Concerning a Judge No. 2008-022 and Inquiry Concerning a Judge No. 2008-027 are pending before the Commission and before this Court.

Respectfully submitted,

**MISSISSIPPI COMMISSION
ON JUDICIAL PERFORMANCE**



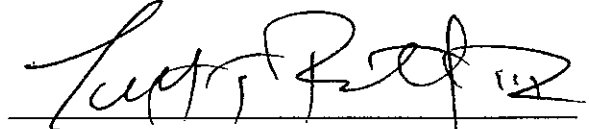
**Luther T. Brantley, III
Executive Director**

**Luther T. Brantley, III
Mississippi Bar No. 4382
Darlene Ballard
Mississippi Bar No. 1736
Ayanna Batiste
Mississippi Bar No. 102073
Post Office Box 22527
Jackson, Mississippi 39225
Telephone: (601) 359-1273
Facsimile: (601) 354-6277**

CERTIFICATE

I, Luther T. Brantley, III, Executive Director of the Mississippi Commission on Judicial Performance on Judicial Performance, do hereby certify that I have this date mailed posted pre-paid a copy of the foregoing Petition for Interim Suspension of Circuit Court Judge Bobby D. DeLaughter to Judge Patricia D. Wise, Chairman of the Mississippi Commission on Judicial Performance, P.O. Box 22527, Jackson, Mississippi 39225 and to the Respondent, Bobby D. DeLaughter, at his office address P.O. Box 27, Raymond, Mississippi 39154.

This the 18th day of March 2008.



Luther T. Brantley, III

MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO.

2008-022

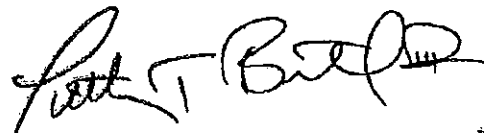
NOTICE OF FORMAL COMPLAINT

JUDGE BOBBY B. DELAUGHTER
7TH CIRCUIT COURT DISTRICT
STATE OF MISSISSIPPI

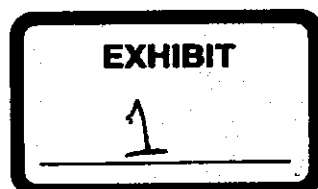
You are hereby given notice that the attached Formal Complaint has been filed against you before the Mississippi Commission on Judicial Performance. You have the right to be represented by counsel and to file a written, sworn answer to the complaint within thirty (30) days after service of this notice. You should file the answer with the Commission at Post Office Box 22527, Jackson, Mississippi 39225-2527. Failure to answer may be taken as evidence of the facts alleged in the Formal Complaint.

A copy of the Rules of the Mississippi Commission on Judicial Performance is also attached for your information and to assist you in filing your answer.

Date: 3-19-08



Luther T. Brantley, III
Executive Director



**BEFORE THE MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE
INQUIRY CONCERNING A JUDGE NO.**

NO. 2008-022

**FORMAL COMPLAINT AGAINST CIRCUIT
JUDGE BOBBY B. DELAUGHTER**

COMES NOW the undersigned, Mississippi Commission on Judicial Performance (“Commission”) and herewith files its Formal Complaint against Bobby B. DeLaughter, Circuit Court Judge, District 7, State of Mississippi, hereafter referred to as “Respondent”, to wit:

PARTIES

1. The Commission is a body created pursuant to Section 177A, Mississippi Constitution of 1890, as amended.

2. The Respondent, is now and at all times hereinafter mentioned, a Circuit Court Judge for District 7, State of Mississippi. The Respondent may be served with this Formal Complaint at the Hinds County Circuit Courthouse, Second Judicial District, 121 West Main Street, Raymond, Mississippi, 39154.

JURISDICTION

3. The Commission has jurisdiction over the Respondent under the authority granted by Section 177A of the Mississippi Constitution of 1890, as amended, applicable statutes, and the Rules of the Commission.

4. The Commission, acting upon the attorney complaint of Vicki R. Slater and

William B. Kirksey, charges the Respondent with judicial misconduct constituting a violation certain canons of the Code of Judicial Conduct of Mississippi Judges and of Section 177A, Mississippi Constitution of 1890, as amended.

COUNT ONE

5. On or about June, 2002 civil litigation involving attorney fee disputes was initially assigned to the Respondent herein in the Circuit Court of the First Judicial District of Hinds County, Mississippi. The case was styled *Wilson v. Scruggs*, Cause No. 251-94-582CIV, wherein the defendant was Richard F. “Dickie” Scruggs.

6. On or about December, 2005 representation of the defendant Scruggs was undertaken by Joseph C. Langston and Timothy R. Balducci of the Langston Law Firm based in Booneville, Mississippi. Both Langston and Balducci made a formal entry of appearance before the Respondent in January, 2006.

7. Some time in the early part of January 2006, Joseph C. Langston and Timothy R. Balducci, with the assistance of Steven A. Patterson, contacted and retained the services of Attorney Edward J. Peters. Peters is a close friend of Respondent, the Respondent having served as Assistant District Attorney during Peters’ tenure as District Attorney for the 7th Circuit Court District of Mississippi. For Peters’ services Langston agreed to pay Peters \$50,000 in cash. The aforementioned individuals agreed to work on a reverse contingency basis and be paid from any division of any money over and above what Scruggs was “willing to pay in the *Wilson* matter” to resolve the case. Eventually Peters received an additional

\$950,000 for his services.

8. Although the Respondent was well aware of Peters' involvement in the eventual settlement of the lawsuit, Peters never entered a formal appearance in the case and the Respondent failed to make the plaintiffs in the litigation aware of Peter's interest in the case or Peters' involvement with the Defendant Scruggs and his attorneys of record.

9. By engaging in the aforementioned conduct, the Respondent in his official capacity as Circuit Court Judge for the 7th District of the State of Mississippi violated Canons 1, 2A, 2B, 3A, 3B(2), 3B(5), 3B(7), 3B(8), 3C(1), and 3C(4) of the Code of Judicial Conduct of Mississippi Judges, a copy of which is included as Attachment 1 of the Formal Complaint.

COUNT TWO

10. Once Peters employment was procured, Peters, Langston, Balducci and Steven Patterson were in contact on a regular basis on matters surrounding the *Wilson v. Scruggs* litigation. This contact consisted of electronic and telephonic communication as well as frequent meetings which often took place in Jackson, Mississippi.

11. The subject matter discussed was often of a strategic nature which resulted in certain information and proposed draft orders being distributed to the Respondent, with Peters acting as a conduit. The result therefore was the Respondent's ability to review all potential motions and proposed orders on behalf of the Defendant Scruggs prior to any actual court filings or service upon the Plaintiff.

12. As the aforementioned litigation progressed, the Respondent on a least one occasion presented to Peters a rough draft of an opinion that Respondent planned to enter in the case, thus allowing those representing Scruggs to review the opinion before the same was entered and forwarded to all parties.

13. By engaging in the aforementioned conduct, the Respondent in his official capacity as Circuit Court Judge for the 7th District of the State of Mississippi violated Canons 1, 2A, 2B, 3A, 3B(2), 3B(5), 3B(7), 3B(8), 3C(1), and 3C(4) of the Code of Judicial Conduct of Mississippi Judges, a copy of which is included as Attachment 1 of the Formal Complaint.

COUNT THREE

14. While the case of *Wilson v. Scruggs* continued in litigation, Scruggs and Langston were made aware that Respondent was interested in acquiring a federal judgeship. Again, with Edward Peters as the conduit, the Respondent was made aware that in exchange for a favorable ruling, Scruggs, who is the brother-in-law of then Senator Trent Lott, would insure that the Respondent would be considered for the position of a federal judgeship. Lott did in fact submit the Respondent's name for the federal position and so notified the Respondent. Respondent was also fully aware that Scruggs was the brother-in-law of Senator Lott. Respondent failed to notify the proper authorities of the improprieties of counsel and in addition, failed to recuse himself after circumstances warranted a question as to his impartiality in the case.

15. By engaging in the aforementioned conduct, the Respondent in his official capacity as Circuit Court Judge for the 7th District of the State of Mississippi violated Canons 1, 2A, 2B, 3A, 3B(2), 3B(5), 3B(7), 3B(8), 3C(1), 3C(4), 3D(2) and 3E(1) of the Code of Judicial Conduct of Mississippi Judges, a copy of which is included as Attachment 1 of the Formal Complaint.

COUNT FOUR

16. The Respondent's conduct as set forth in Paragraphs 5 through 15 herein above violated Section 177A of the Mississippi Constitution of 1890, as amended, as said conduct constitutes willful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

WHEREAS, PREMISES CONSIDERED, Respondent is advised pursuant to Section 177A, Mississippi Constitution of 1890, as amended, applicable statutes and the rules of the Commission, that an answer to this Formal Complaint may be filed by the Respondent with the Commission within thirty (30) days after service upon the Respondent of this Formal Complaint at the Commission office at Suite 201, 455 North Lamar Street, Jackson, Mississippi 39202, or the Commission mailing address at P.O. Box 22527, Jackson, Ms 39225 and that the Commission shall thereafter set a time and place of hearing of this Formal Complaint and shall give notice thereto to Respondent. Respondent is hereby advised of his right to counsel and to file an answer in his behalf through counsel, and Respondent is further

advised that all the proceedings in connection with the complaint shall be in accordance with Section 177A of the Mississippi Constitution of 1890, as amended, applicable statutes and the said Rules of the Commission.

Respectfully submitted,

MISSISSIPPI COMMISSION ON
JUDICIAL COMMISSION

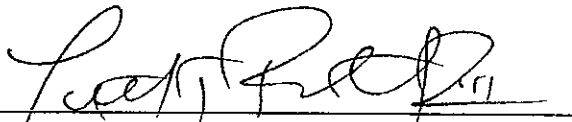


LUTHER T. BRANTLEY, III
EXECUTIVE DIRECTOR

Luther T. Brantley, III
Mississippi Bar # 4328
Irene Mikell Buckley
Mississippi Bar # 7028
P.O. Box 22527
Jackson, Mississippi 39225
Telephone: 601-359-1273
Facsimile: 601-354-6277


STATE OF MISSISSIPPI
COUNTY OF HINDS

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the aforesaid jurisdiction, the within named LUTHER T. BRANTLEY, III, Executive Director of the Mississippi Commission on Judicial Performance, who stated under oath that he signed the foregoing Formal Complaint for and on behalf of the said Commission after having first been authorized so to do, and that the allegations hereinabove set forth are true and correct to the best of his knowledge and belief.



Luther T. Brantley, III
Executive Director

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 19th day of March, 2008.



Notary Public

My Commission Expires:

Notary Public State of Mississippi At Large
My Commission Expires: August 22, 2009
Bonded Thru Heiden, Brooks & Garland, Inc.

ATTACHMENT 1

CANON 1

A Judge Shall Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

CANON 2

A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All His Activities

- A.** A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B.** Judges shall not allow his family, social or other relationships to influence his judicial conduct or judgment. Judges shall not lend the prestige of his office to advance the private interests of others; nor shall judges convey or permit others to convey the impression that they are in a special position to influence him. Judges shall not testify voluntarily as a character witness.

CANON 3

A Judge Shall Perform the Duties of His Office Impartially and Diligently

A. Judicial Duties in General.

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

- (2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.
- (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race; gender, religion, national origin, disability,

age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others to subject to the judge's direction and control to do so. A shall refrain from speech, gestures, other conduct that could reasonably be perceived as sexual harassment and shall require the same standard of conduct of others subject to the judge's direction and control.

(7) A judge shall accord to all who are legally interested in a proceeding, or their lawyers, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

- (a) where circumstances require ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided.
 - (i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of ex parte communication, and
 - (ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and
- (b) Judges may obtain the advice of a disinterested expert on the law applicable to a proceeding before them if the judges give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.
- (c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.
- (d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.
- (e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

C. Administrative Responsibilities.

- (1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.
- (4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

D. Disciplinary Responsibilities.

- (2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.

E. Disqualification.

- (1) Judges should disqualify himself in a proceeding in which his 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 lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
 - (c) the judge knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - (d) he or his spouse, or person within the third degree of relationship to either of them, or the spouse of such a person:
 - (i) is a party to the proceeding, or an officer, director, or trustee of a party;
 - (ii) is acting as a lawyer in the proceeding.
 - (iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
 - (iv) is to the judge's knowledge likely to be a material witness in the proceeding;

MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO.

2008-027

NOTICE OF FORMAL COMPLAINT

**JUDGE BOBBY B. DELAUGHTER
7TH CIRCUIT COURT DISTRICT
STATE OF MISSISSIPPI**

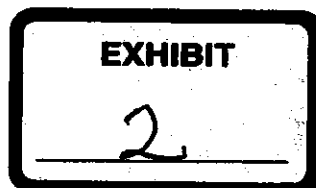
You are hereby given notice that the attached Formal Complaint has been filed against you before the Mississippi Commission on Judicial Performance. You have the right to be represented by counsel and to file a written, sworn answer to the complaint within thirty (30) days after service of this notice. You should file the answer with the Commission at Post Office Box 22527, Jackson, Mississippi 39225-2527. Failure to answer may be taken as evidence of the facts alleged in the Formal Complaint.

A copy of the Rules of the Mississippi Commission on Judicial Performance is also attached for your information and to assist you in filing your answer.

Date: 3-19-08



Luther T. Brantley, III
Executive Director



BEFORE THE MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE NO.

NO. 2008-027

**FORMAL COMPLAINT AGAINST CIRCUIT
JUDGE BOBBY B. DELAUGHTER**

COMES NOW the undersigned, Mississippi Commission on Judicial Performance (“Commission”) and herewith files its Formal Complaint against Bobby B. DeLaughter, Circuit Court Judge, District 7, State of Mississippi, hereafter referred to as “Respondent”, to wit:

PARTIES

1. The Commission is a body created pursuant to Section 177A, Mississippi Constitution of 1890, as amended.
2. The Respondent, is now and at all times hereinafter mentioned, a Circuit Court Judge for District 7, State of Mississippi. The Respondent may be served with this Formal Complaint at the Hinds County Circuit Courthouse, Second Judicial District, 121 West Main Street, Raymond, Mississippi, 39154.

JURISDICTION

3. The Commission has jurisdiction over the Respondent under the authority granted by Section 177A of the Mississippi Constitution of 1890, as amended, applicable statutes, and the Rules of the Commission.
4. The Commission, acting upon the attorney complaint of Eric Stracener, charges

the Respondent with judicial misconduct constituting a violation certain canons of the Code of Judicial Conduct of Mississippi Judges and of Section 177A, Mississippi Constitution of 1890, as amended.

COUNT ONE

5. On or about February 5, 1996, Mike Kirk filed inter alia, a breach-of contract action against Randy Pope and Dixieland Products Inc. in the Circuit Court of the First Judicial District of Hinds County, Mississippi. Kirk was represented by attorneys Eric Stracener and David Baria and the defendant Pope was represented by Leonard Melvin. The case was eventually assigned to the Respondent herein and a jury trial was held in the fall of 2002. The jury awarded Kirk, the Plaintiff, \$350,000.00 in compensatory damages. The Respondent then allowed a jury instruction on the issue of punitive damages after which the jury returned an additional verdict of \$350,000.00 in punitive damages; the verdict was returned on October 18, 2002. A Final Judgment was entered by the Respondent on October 28, 2002.

6. Throughout the trial proceedings the Respondent was extremely complimentary of Kirk's trial counsel regarding their level of professionalism and competency. On or about November 5, 2002, attorney Cynthia Stewart entered her appearance as attorney of record for Pope. Leonard Melvin was still listed as attorney of record for Pope.

7. Cynthia Stewart then moved for and was granted leave to remove Kirk v. Pope to Federal Court on November 28, 2002 alleging that the case was connected to Kirk's ongoing bankruptcy proceeding. Previously, Stracener and Baria had been approved as bankruptcy counsel by the bankruptcy trustee and the bankruptcy estate had been reopened to include Kirk's claims against Pope. After considerable citation of authority and legal arguments and upon the motion of Kirk's attorney, Kirk v. Pope was remanded back to Circuit Court. The Order remanding the case was signed by United States District Court Judge Henry T. Wingate on June 24, 2003.

8. Throughout the summer and fall of 2003, the litigation in Kirk v. Pope was active with motions and ensuing orders signed by Respondent. The attorneys of record continued to be Stracener and Baria for Kirk and Stewart and Melvin for Pope. During this period of time, the Respondent's demeanor and treatment of the plaintiff's attorneys changed dramatically. On November 19, 2003, Respondent reduced the jury verdict via remittitur to \$400,000.00 upon motion of Pope, and entered a Final Judgment allowing the Plaintiff to execute on the same.

9. On or about the evening of November 25, 2003 Edward J. Peters, a close personal friend and former employer of the Respondent, telephoned the Respondent *ex parte* at the Respondent's home on behalf of Pope and attorney Stewart. At this time Peters was not listed as an attorney of record for Pope. Based on this *ex parte* communication, unbeknownst to the plaintiff, Respondent essentially acted as an advocate for the defense

by imparting advice to Peters and Stewart as to proper procedure in the case. As a result of the telephone call and the ensuing conversation between Peters and Respondent, on November 25, 2003 Respondent agreed to allow Stewart's Motion for Reconsideration and to grant a stay of the final judgment of November 19, 2003. On November 25, 2003, at Respondent's directive to Peters, Stewart provided the Respondent with her motion and a proposed order. The proposed order was granted the next day, without notice to Plaintiff or opportunity to be heard. Stewart was advised to provide a copy of the same to counsel for Kirk which she did on November 26, 2003. On December 1, 2003, Respondent entered an Order *sua sponte* detailing the *ex parte* communication with Peters and including language that deprived the Plaintiff Kirk of his opportunity to execute on the judgment of November 19, 2003. Pope was also prohibited from divesting himself of any assets. This was the first time counsel for Kirk was made aware that the *ex parte* conversation with Peters had taken place or that he was involved as an attorney in the case.

10. On or about August 7, 2003, Stewart, in a letter to Respondent, referenced Peters as a "witness" for the defense. Subsequently, Edward J. Peters filed an Entry of Appearance as counsel for Pope on December 4, 2003.

11. By engaging in the aforementioned conduct, the Respondent in his official capacity as Circuit Court Judge for the 7th District of the State of Mississippi violated Canons 1, 2A, 2B, 3A, 3B(2), 3B(5), 3B(7), 3B(8), 3C(1), 3D(2) and 3E(1) of the Code of Judicial Conduct of Mississippi Judges, a copy of which is included as Attachment 1 of the Formal

Complaint.

COUNT TWO

12. The Respondent's conduct as set forth in Paragraphs 5 through 11 herein above violated Section 177A of the Mississippi Constitution of 1890, as amended, as said conduct constitutes willful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

WHEREAS, PREMISES CONSIDERED, Respondent is advised pursuant to Section 177A, Mississippi Constitution of 1890, as amended, applicable statutes and the rules of the Commission , that an answer to this Formal Complaint may be filed by the Respondent with the Commission within thirty (30) days after service upon the Respondent of this Formal Complaint at the Commission office at Suite 201, 455 North Lamar Street, Jackson, Mississippi 39202, or the Commission mailing address at P.O. Box 22527, Jackson, Ms 39225 and that the Commission shall thereafter set a time and place of hearing of this Formal Complaint and shall give notice thereto to Respondent. Respondent is hereby advised of his right to counsel and to file an answer in his behalf through counsel, and Respondent is further advised that all the proceedings in connection with the complaint shall be in accordance with Section 177A of the Mississippi Constitution of 1890, as amended, applicable statutes and the said Rules of the

Commission.

Respectfully submitted,

MISSISSIPPI COMMISSION ON
JUDICIAL COMMISSION

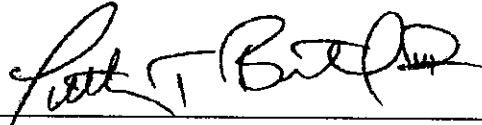
A handwritten signature in black ink, appearing to read "Luther T. Brantley, III", written over a horizontal line.

LUTHER T. BRANTLEY, III
EXECUTIVE DIRECTOR

Luther T. Brantley, III
Mississippi Bar # 4328
Irene Mikell Buckley
Mississippi Bar # 7028
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Jackson, Mississippi 39225
Telephone: 601-359-1273
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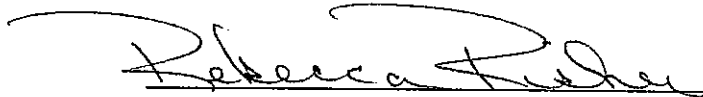
STATE OF MISSISSIPPI
COUNTY OF HINDS

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the aforesaid jurisdiction, the within named LUTHER T. BRANTLEY, III, Executive Director of the Mississippi Commission on Judicial Performance, who stated under oath that he signed the foregoing Formal Complaint for and on behalf of the said Commission after having first been authorized so to do, and that the allegations herein above set forth are true and correct to the best of his knowledge and belief.



Luther T. Brantley, III
Executive Director

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 19th day of March, 2008.



Notary Public

My Commission Expires:

Notary Public State of Mississippi At Large
My Commission Expires: August 22, 2009
Bonded Thru Helden, Brooks & Garland, Inc.

ATTACHMENT 1

CANON 1

A Judge Shall Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

CANON 2

A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All His Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. Judges shall not allow his family, social or other relationships to influence his judicial conduct or judgment. Judges shall not lend the prestige of his office to advance the private interests of others; nor shall judges convey or permit others to convey the impression that they are in a special position to influence him. Judges shall not testify voluntarily as a character witness.

CANON 3

A Judge Shall Perform the Duties of His Office Impartially and Diligently

A. Judicial Duties in General.

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race; gender, religion, national origin, disability,

age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others to subject to the judge's direction and control to do so. A shall refrain from speech, gestures, other conduct that could reasonably be perceived as sexual harassment and shall require the same standard of conduct of others subject to the judge's direction and control.

(7) A judge shall accord to all who are legally interested in a proceeding, or their lawyers, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

- (a) where circumstances require ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:
 - (i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of ex parte communication, and
 - (ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and
- (b) Judges may obtain the advice of a disinterested expert on the law applicable to a proceeding before them if the judges give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.
- (c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.
- (d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.
- (e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

C. Administrative Responsibilities.

- (1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.
- (4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

D. Disciplinary Responsibilities.

- (2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.

E. Disqualification.

- (1) Judges should disqualify himself in a proceeding in which his 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 lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
 - (c) the judge knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - (d) he or his spouse, or person within the third degree of relationship to either of them, or the spouse of such a person:
 - (i) is a party to the proceeding, or an officer, director, or trustee of a party;
 - (ii) is acting as a lawyer in the proceeding.
 - (iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
 - (iv) is to the judge's knowledge likely to be a material witness in the proceeding;

MINUTES

MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE
455 NORTH LAMAR STREET
SUITE 201
JACKSON, MISSISSIPPI

March 14, 2008

MINUTES EXCERPT

This meeting was called to order by Chairman, Judge Patricia D. Wise. Other members present were Vice-Chairman Judge Frank Coleman, Leslie B. Lampton, Judge Henry L. Lackey, Judge John Shirley, Allegra Brigham and Gaines Dyer, Esq. Alternate members present were Judge H. David Clark, II, C. Ray Phillips, Rick J. Coulter, Judge Charles R. Brett, and Robert R. Bailess, Esquire.

FORMAL COMPLAINTS:

NO. 2008-022: Judge Coleman moved that the Commission find probable cause to file a formal complaint and further that the Commission recommend an interim suspension of the Respondent judge to the Mississippi Supreme Court. Judge Clark seconded and motion passed by unanimous vote of 6 for and 0 against, with Judge Wise and Judge Lackey taking no part.

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FORMAL COMPLAINTS:

NO. 2008-027 : Judge Coleman moved that the Commission find probable cause to file a formal complaint and further that the Commission recommend an interim suspension of the Respondent judge to the Mississippi Supreme Court. Judge Clark seconded and motion passed by unanimous vote of 6 for and 0 against, with Judge Wise and Judge Lackey taking no part.

EXHIBIT 4