

**BEFORE THE JUDICIAL INVESTIGATION COMMISSION OF WEST VIRGINIA**

**IN THE MATTER OF,  
THE HONORABLE SALLY G. JACKSON,  
JUDGE OF THE 24<sup>TH</sup> FAMILY COURT CIRCUIT**

**COMPLAINT NO. 07-2021**

**PUBLIC ADMONISHMENT OF THE HONORABLE SALLY G. JACKSON,  
JUDGE OF THE 24<sup>TH</sup> FAMILY COURT CIRCUIT**

The matter is before the Judicial Investigation Commission (“JIC”) upon a complaint filed by Judicial Disciplinary Counsel (“JDC”) setting forth certain allegations against the Honorable Sally G. Jackson, Judge of the 24<sup>th</sup> Family Court Circuit (“Respondent”). An investigation was conducted pursuant to the Rules of Judicial Disciplinary Procedure (“RJDP”). After a review of the complaint, the Judge’s written response, the information and documents obtained from the investigation and the pertinent Rules contained in the Code of Judicial Conduct, the JIC found probable cause that Judge Jackson violated Rules 1.1, 1.2, 1.3, 2.10(A) and (B), and 3.1(C) of the Code of Judicial Conduct at a recent meeting and ordered that she be publicly admonished pursuant to RJDP 1.11 and 2.7(c) as set forth in the following statement of facts and conclusions found by the Commission.

**STATEMENT OF FACTS**

Respondent was appointed as a Family Law Judge in 2001 and was elected to the bench in 2002. She was re-elected in 2008 and 2016. She has served continuously in that position for twenty years. At all times relevant to the instant complaint, Respondent was serving in her capacity as a Family Court Judge.

On or about January 5, 2021, Respondent posted a story on Facebook about Wisconsin pharmacist Steven Brandenburg being arrested for allegedly destroying multiple doses of the COVID-19 vaccine by leaving them out at room temperature overnight. Respondent also made

negative comments pertaining to the alleged actions of the pharmacist. On the same day, Respondent was contacted by JDC and informed that the comments violated Rule 2.10 of the Code of Judicial Conduct. Respondent agreed to take the comments down. JDC also reminded Respondent that it was not the first time that she had been asked to take Facebook posts down because they violated Rule 2.10 and that if it happened again, JDC would have no choice but to open an ethics complaint against her.

Despite being warned, Respondent repeatedly posted stories and/or inappropriate comments about the siege at the United States Capitol in Washington, D.C. on her Facebook page from January 6, 2021, through January 11, 2021. They included stories and negative statements about former Wayne County House of Delegates member Derrick Evans who allegedly participated in the siege and was the subject of federal criminal charges. For example, the following posts were made concerning former Delegate Evans:

Facebook friend: As the video ends, Evans shouts “our house! And then “I don’t know where we’re going, but I’m following the crowd.” What is he? 12?  
Respondent: (Name) that is very disrespectful . . . to 12-year olds!

...

Facebook friend: It sad, but I’m glad he was. No one is above the law!  
Respondent: (Name) it’s not sad!  
Facebook friend: It’s sad that delegates or any elected official would do this is what I mean. I’m not sad he was arrested. I’m sad and mad about what they all did!  
Respondent: YES

Each of Respondent’s posts elicited numerous responses.

On January 11, 2021, JDC opened the above-captioned complaint against Respondent and sent her a letter requesting a reply to the allegations contained therein. By letter dated January 15, 2021, Respondent stated:

Please be advised that on January 11, 2021, I deactivated my Facebook account. I am embarrassed by my actions and sincerely apologize. I must point out in my defense that my Facebook page was not accessible to the public but was viewable only by my friends and family. I was expressing my feelings to friends, not the general public. My second point is that nothing on my page identified me as a judge, although of course, my friends know that. You have been more than patient with me, and I regret any inconvenience this has caused you. I have no plans to reactivate my Facebook account until I retire. . . .

## CONCLUSIONS

The Commission unanimously<sup>1</sup> found that probable cause exists in the matters set forth above to find that the Honorable Sally G. Jackson, Judge of the 24<sup>th</sup> Family Court Circuit, violated Rules 1.1, 1.2, 1.3, 2.10(A) and (B) and 3.1(C) of the Code of Judicial Conduct as set forth below:

### **1.1 – Compliance With the Law**

A judge shall comply with the law, including the West Virginia Code of Judicial Conduct.

### **1.2 – Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

### **1.3 – Avoiding Abuse of the Prestige of Judicial Office**

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

### **2.10 – Judicial Statements on Pending and Impending Cases**

- (A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending **in any court** or make any nonpublic statement that might substantially interfere with a fair trial or hearing.
- (B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

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<sup>1</sup> The vote was 8-0. The Honorable Bridget Cohee, Judge of the 23rd Judicial Circuit recused herself.

### 3.1 – Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- ...  
(C) participate in activities that would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality. . . .

(emphasis added).

The Commission further found that formal discipline was not essential as Respondent had no prior disciplinary actions. However, the Commission found that the violations were serious enough to warrant a public admonishment.

The Preamble to the Code of Judicial Conduct provides:

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to the American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law. . . . Good judgment and adherence to high moral and personal standards are also important.

Comment [1] to Rule 1.2 states that “[p]ublic confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.” Comment [2] provides that “[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code.” Comment [3] notes that “[c]onduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.” Comment [4] states that “[j]udges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.” Comment [5] provides:

Actual improprieties include violations of law, court rules or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this

Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

Comment [1] to Rule 2.10 states that “restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary. Comment [6] to Rule 3.1 provides that “[t]he same Rules of the Code of Judicial Conduct that govern a judicial officer’s ability to socialize and communicate in person, on paper or over the telephone also apply to the Internet and social networking sites like Facebook.

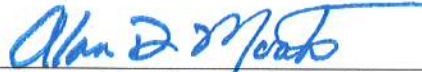
The concept of a “public comment” applies to Facebook whether a judicial officer opens his or her personal page only to family and friends or to the public at large. For purposes of the term “public,” the JIC believes the portion of the definition contained in Black’s Law Dictionary which states that the “word does not mean all the people nor most of the people nor very many of the people of a place, but so many of them as contradistinguishes them from a few” is appropriate. *See Black’s Law Dictionary* 1227 (6<sup>th</sup> Ed. 1990).

At all times when engaged on social media judges should remember the immortal words of industrialist Henry Ford that “[u]nder pressure, the mouth speaks when the brain is disengaged and sometimes unwittingly, the gearshift is in reverse when it should be in neutral.” Judges can never go wrong when they limit their Facebook posts to comments about family, pets, sports or the weather. In all other respects, a judge must maintain his/her impartiality particularly when commenting about issues that may come before the court.

Therefore, it is the decision of the Judicial Investigation Commission that the Honorable Sally G. Jackson, Judge of the 24<sup>th</sup> Family Court Circuit, be disciplined by this Admonishment. Accordingly, the Judicial Investigation Commission hereby publicly admonishes Judge Jackson for her conduct as fully set forth in the matters asserted herein.


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Pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure, the Respondent has fourteen (14) days after receipt of the public admonishment to file a written objection to the contents thereof. If the Respondent timely files an objection, the Judicial Investigation Commission shall, pursuant to the Rule, file formal charges with the Clerk of the Supreme Court of Appeals of West Virginia.



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The Honorable Alan D. Moats Chairperson  
Judicial Investigation Commission



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Date

ADM/tat