Judicial Discipline & Disability Commission

JUDGE JOYCE WILLIAMS WARREN
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DAVID J. SACHAR
EXECUTIVE DIRECTOR

PRESS RELEASE

POINT OF CONTACT: DAVID SACHAR

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FOR IMMEDIATE RELEASE

March 28, 2017

The Arkansas Judicial Discipline and Disability Commission today announced that a dismissal with cautionary instruction letter has been issued to the Seventeenth Judicial District Judge Tom Hughes of the First Division Circuit Court in White and Prairie Counties, in Commission case #16-103, #16-179, #16-260 and #16-284. A copy of the dismissal letter to Judge Hughes follows this press release.

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DAVID J. SACHAR
EXECUTIVE DIRECTOR

March 28, 2017

Honorable Thomas M. Hughes
Wilbur D. Mills Courts Building
301 West Arch
Searcy, AR 72143

Re: JDDC #16-103, #16-179, #16-260 and #16-284

DISMISSAL WITH CAUTIONARY INSTRUCTION TO THE JUDGE

Dear Judge Hughes:

As you know, a Judicial Discipline and Disability Commission Investigative Panel reviewed multiple complaints filed against you by three attorneys and one litigant. The complaints concerned different allegations about recent rulings by you and the allegations that your rulings exhibit a pattern of judicial misconduct. A Commission Panel investigation was conducted to determine if the allegations constituted a basis for the Panel to recommend action by the full Commission.

Of particular interest to the Panel was the manner in which you handled two separate hearings before your court and the ultimate decisions made by you toward attorneys. The Investigation Panel considered these complaints most serious, resulting from the fact that three complaints were filed by different attorneys practicing before your court. While the investigation did not reveal sufficient evidence for the Panel to recommend action for judicial misconduct, wrongdoing or incapacity under the Judicial Code, the Panel was concerned about your conduct in light of **Canon 1 and 2, Rules 1.1, 2.2, 2.3, 2.5 and 2.6** of the Code of Judicial Conduct which mandates:

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

> *Comment [5] to Rule 1.1: Actual improprieties include violations of the law, court rules, or provisions of the 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.*

2.2, A judge shall uphold and apply the law and shall perform all duties of the judicial office fairly and impartially.

2.3, A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials or others subject to the judge's direction and control to do so.

2.6, A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

2.8(B), A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials and others subject to the judge's direction and control.

Please consider this correspondence a cautionary instruction. The comments to **Rule 2.2** provide additional insight. Comment [1] reminds judges to ensure impartiality and fairness to all parties and to be objective and open-minded in all dealings before the court. Comment [1] to **Rule 2.3** states that a judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

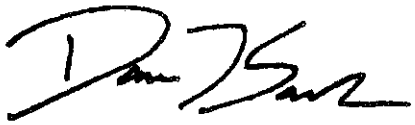
Particular to JDDC Case No. 16-103, the JDDC considered the opinion of the Arkansas Supreme Court, issued November 10, 2016 regarding your handling of the contempt hearing. The Panel wishes to remind you that due process of law requires notice and an opportunity to prepare a defense and to be heard. Particular to 16-179 and 16-260, the Panel considered the fact that the attorneys involved chose to settle the Rule 11 award for significantly less than your ruling, to avoid time and expense involved in appealing your decision of this unprecedented Rule 11 sanction. Lastly, the Panel considered your sporadic and delayed reactions to recusal requests by counsel. The Panel recognizes the delay could be the result of staffing challenges but urges you to resolve any internal problems expeditiously. Pursuant to **Rule 2.12**, ultimate responsibility for delays in processing paperwork through your office lies with you. Pursuant to **Rule 2.11**, you should disqualify yourself in any proceeding where your impartiality *might reasonably be questioned.*

In each issue of law discussed above, the Panel recommends you evaluate similar issues more fully in the future and exercise the appropriate protections afforded litigants and their attorneys, even if you ultimately rule in opposition to them. Instances of legal error may rise to the level of judicial misconduct if certain factors are met. The Panel evaluated each of those factors and reconciled them with the facts of each complaint filed above. The Panel took into consideration all witness statements and your responses and finds, at this time, each complaint is dismissed without prejudice. The Panel bears a responsibility to re-evaluate these cases should similar complaints be filed against you in the future. The Panel does recommend that you make every effort to avoid even the appearance of impropriety

and that you strive to abide by the Code of Judicial Conduct at all times. This dismissal notice is the Commission's final notice in these complaints and is public information.

Should you have further questions or concerns, please feel free to contact our office. Otherwise, the Commission will assume great consideration is given to this resolution by your compliance with the Panel's recommendations and avoidance of this type of future conduct.

With kindest regards,



David J. Sachar, J.D.
Executive Director