

***PRESS RELEASE***

***FOR IMMEDIATE RELEASE***

***CONTACT PERSON: JAMES A. BADAMI***

***PHONE: 501-682-1050***

***August 8, 2001***

The Judicial Discipline and Disability Commission today announced the resignation of Batesville Municipal Court Judge Roy Thomas to be effective October 01, 2001. Judge Thomas has agreed to resign voluntarily and to abide by the terms of Act 5 of 2001 regarding future service in the Arkansas Judiciary. A copy of the judge's resignation letter to Governor Huckabee is attached.

On May 31, 2001 a formal statement of charges was served on Judge Thomas. Later Judge Thomas filed an answer to those charges and a Formal Disciplinary Hearing was scheduled for Wednesday, August 22. With his resignation and agreement to voluntarily abide by the terms of Act 5 of 2001, that is to not serve again in the Arkansas Judiciary, the Formal Disciplinary Hearing has been cancelled.

The Judicial Discipline and Disability Commission believes there is clear and convincing evidence to substantiate the pending charges against Judge Thomas. While in his answer to those charges Judge Thomas admits to some of the charges, no findings of fact or conclusions of law have been made in this case. It is anticipated that no further action in this matter will be necessary.

**DISTRICT COURT OF INDEPENDENCE COUNTY**

368 E. MAIN, ROOM 205  
BATESVILLE ARKANSAS 72501  
PH. (870) 793-8817 • FAX (870) 793-8875

Roy E. Thomas  
DISTRICT JUDGE

Donna Gay  
DISTRICT CLERK

August 7, 2001

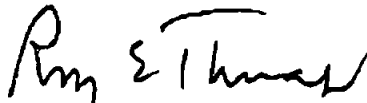
Hon. Mike Huckabee  
Governor of Arkansas  
State Capitol  
Little Rock, AR 72201

Re: Letter of Resignation

Dear Governor:

Please accept my letter of resignation as Batesville Municipal Court Judge effective October 1, 2001. I agree to abide by the terms of Act 5 of 2001 regarding future service in the Arkansas judiciary.

Sincerely,



Roy E. Thomas

RT:kl

cc: Judicial Discipline and Disability Commission

**PRESS RELEASE**

**FOR IMMEDIATE RELEASE**

**CONTACT PERSON: JAMES A. BADAMI**

**PHONE: 501-682-1050**

**May 31, 2001**

The Judicial Discipline and Disability Commission today announced that formal charges have been served on Batesville Municipal Court Judge Roy Thomas and that the Commission will proceed to a formal disciplinary hearing on those charges. The hearing will be conducted as a result of the Commission's investigation of two complaints opened against the judge.

The formal charges allege that while serving as the part-time Batesville Municipal Court Judge, Roy Thomas:

1. Presided as judge in proceedings involving his personal clients in eight cases.
2. Made threatening remarks to an individual who filed a judicial ethics complaint against him.
3. Attempted to use his judicial office to have a sheriff "help" him to have a speeding ticket issued to him dismissed.
4. Improperly used his judicial office to interfere with a police officer's duties by directing the police officer not to arrest and to release a minor in possession of three kegs of beer.
5. Knowingly and without lawful authority, issued temporary driver's permits to people whose drivers licenses had been revoked.
6. Used his judicial office to have a client released from jail. At that time he threatened police staff with jail if they failed to release the client on his own recognizance.

7. After an improper ex-parte meeting with a defense counsel, he dismissed criminal charges against an individual. The defense counsel was then able to use the dismissal issued by Judge Thomas to avoid a parole revocation.
8. During a pretrial conference he was told by a deputy prosecuting attorney that a statutory rape charge was going to be nolle pross and later the charge would be refiled in circuit court. Later, without the presence of the prosecutor, nor without notice given to the prosecutor, Judge Thomas accepted a guilty plea to a lesser charge.
9. Accepted gifts and favors from a car dealership and at the same time he presided over cases involving that car dealership. Judge Thomas ruled in favor of the car dealership 43 times and against it once.
10. Wrote approximately 166 checks with insufficient funds in the checking accounts.

Attorney Tom Thompson of Batesville is representing Judge Thomas and Brian Brooks of the Attorney General's office is the Special Counsel to the Judicial Discipline and Disability Commission and will be presenting the case at the formal disciplinary hearing.

Judge Thomas has 20 days to file an answer to the formal charges. Thereafter a hearing, open to the public, will be scheduled.

A copy of the formal charges against Judge Thomas is attached.

**FORMAL DISCIPLINARY HEARING**

**BEFORE THE ARKANSAS JUDICIAL DISCIPLINE AND  
DISABILITY COMMISSION**

In the matter of:

Honorable Roy Edward Thomas        )       No. 96-215, 97-238  
Municipal Court Judge, Batesville,    )         
Arkansas, Respondent                 )       **FORMAL STATEMENT OF CHARGES**

Pursuant to authority granted in Amendment 66 to the Arkansas Constitution, Arkansas Code annotated Section 16-10-401 through 411 and the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission promulgated by the Arkansas Supreme Court on May 8, 1989, as amended, and at the direction of the Judicial Discipline and Disability Commission (hereafter referred to as Commission), this formal statement of charges is filed alleging the willful violation by Honorable Roy Edward Thomas (hereafter referred to as respondent) of the Code of Judicial Conduct, commission of conduct involving dishonesty, fraud, deceit or misrepresentation, and the commission of conduct that is prejudicial to the administration of justice. The background and facts of the formal statement of charges are set forth in the following paragraphs.

Background

1. Respondent is now and has been a municipal court judge since January 1, 1979, in Independence County, Arkansas.
2. In complaint # 96-215, respondent was first notified of the complaint by letter dated July 31, 1996. A Statement of Allegations was served on the respondent on October 20, 2000. Respondent and his counsel attended a Probable Cause Hearing that was held on March 16, 2001.
3. In complaint # 97-238, the respondent was first notified of the complaint by letter dated August 18, 1997. A Statement of Allegations was served on the respondent on October 20, 2000. The respondent and his counsel attended a Probable Cause Hearing that was held on March 16, 2001.
4. On May 23, 2001 at a special meeting following the March 16, 2001 Probable Cause Hearing, the Commission by unanimous vote found there was probable cause to believe that respondent's conduct as shown in the investigations of complaint #96-215 and #97-238 was of a nature requiring proceeding to a formal disciplinary hearing.

Supporting Facts and Charges

1. Roy Edward Thomas (hereinafter referred to as respondent) is the Batesville Municipal Court judge and has served in that capacity since January 1, 1979.
2. On November 4, 1993, the respondent represented Gerald Swaim in a divorce. On November 8, 1993, the respondent authorized own recognizance release (no bond required) for Swaim on a Domestic Abuse charge. On December 12, 1993, the respondent presided at the trial and dismissed the domestic abuse charge against Swaim. On January 12, 1994, the respondent heard another domestic abuse charge against Swaim and sentenced him to probation.

3. The respondent represented Wanda Calamese on December 6, 1993 in a felony criminal case, involving insufficient funds checks (State v. Calamese). During the same time period, the respondent as municipal judge also signed arrest warrants for Ms. Calamese. On March 14, 1994, the respondent authorized Ms. Calamese' release on her own recognizance on a felony arrest for insufficient funds checks.
4. On June 5, 1996, the respondent presided over a case and dismissed a criminal charge against his client, Terry Garlin. The respondent represented Mr. Garlin in a divorce case in 1988 & 1989. The respondent again represented Garlin about a week after the criminal case was decided. The respondent also represented Garlin's parents two years prior to the criminal case.

Terry Garlin was charged with terrorist threatening and battery resulting from an incident at his workplace on April 23, 1996. It was alleged that he attacked a co-worker, Mr. Ebby Shreve. Mr. Shreve reported Garlin for smoking marijuana on the job. As a result of the alleged attack, Shreve was injured and missed work for eight days. When the criminal case came to trial, the respondent did not recuse, but instead dismissed the charge. The respondent did not announce his decision to dismiss the charge in open court. Instead, he met with Garlin four days after the court appearance and told him that the charge would be dismissed.

On August 7, 1996, after Shreve filed a complaint with the Commission regarding this case, the respondent approached Shreve and his son at a convenience store and made a threatening remark, telling Shreve that he needed to talk with him "in a formal setting" and "teach him something".

5. The respondent asked Independence County Sheriff Ron Webb for "help" with a speeding ticket the judge had received in Elkins, Arkansas on October 24, 1997. The respondent failed to appear for his court date on November 4, 1997 and a Failure to Appear warrant was issued on December 31, 1997. In February of 1998, the respondent was involved in an accident near Harrison, Arkansas. Harrison Police Department discovered the outstanding warrant when they checked his driver's license number. The respondent told the police that it was a mistake and again called Sheriff Webb to ask him to "help". The sheriff made a telephone call to Judge Ray Reynolds of Elkins. Judge Reynolds dismissed the case against the respondent. At Judge Reynolds' instruction the Municipal court clerk called the Harrison Police Department and told them the warrant was a mistake. The respondent was released. The respondent never appeared in court or paid a fine.
6. On June 8, 1997, Independence County deputy sheriff officers arrested Paul McDonald. Mr. McDonald was underage, and in possession of three kegs of beer. He was on his way to a keg party. When he was arrested, he used his cell phone to call the respondent. Mr. McDonald spoke to the respondent and then handed the cellular phone to the arresting officer telling him that the judge wanted to speak with him. The respondent directed the police officer not to make the arrest and to let Mr. McDonald go. The officer complied. Mr. McDonald delivered the beer to the party. Other individuals at that same party were also arrested and brought to the Independence County jail. The respondent released the people who were brought to the jail on their own recognizance regardless of whether or not they were intoxicated. One of the persons released was Ronnie McSpadden, who is related by marriage to the respondent.
7. In 1995, the respondent represented Melissa Ann Wood in a civil case, Hagler v. Wood. On November 15, 1995, the respondent presided over a case involving Ms. Wood and dismissed charges of "Too Fast for Conditions" and "Failure to Appear" even though Ms. Wood pled guilty to those charges.
  - A. On June 4, 1997, the respondent again presided at a case involving Ms. Wood. She was charged with theft by receiving. She pled guilty and was sentenced by the respondent.

- B. On October 7, 1997, the respondent authorized Ms. Wood's release on her own recognizance and waived fees on a felony arrest for hot checks.
  - C. On October 17, 1997, the respondent authorized Ms. Wood's release on her own recognizance on three counts of theft by receiving.
  - D. On November 5, 1997, the respondent found Ms. Woods guilty of contempt.
8. The respondent has issued temporary driver's permits to people whose driver's licenses, have been revoked, knowing that he lacks the authority to do so. He has asked police officers to accept his "permits" as valid. Arkansas law does not permit a Municipal Court judge to issue temporary driver's permits to persons arrested and charged with DWI. Driver's licenses are surrendered to the arresting officer. Administrative suspensions and temporary permits are issued by the Arkansas Department of Finance and Administration pursuant to statute.
  9. The respondent has asked the Independence County sheriff to fire deputies that the respondent disliked. The respondent has telephoned the sheriff and visited the sheriff's home to convince him to hire or fire individual deputies.
  10. The respondent presided over a criminal case involving his former client Terry Hawkins. Hawkins was charged with assault against his wife, Vickie Hawkins. Hawkins was arrested on June 12, 1997 and appeared before the respondent that day. The respondent released Hawkins on his own recognizance and took the case under advisement for a year. The respondent previously represented Hawkins in December of 1988 in a divorce action and again in 1996 in a child support matter against his previous wife, Lisa. The respondent never disclosed his prior representation of the defendant in the criminal case and did not recuse.
  11. On May 22, 1998, the respondent's client William Pearce was arrested for domestic battery, DWI, resisting arrest and driving on a suspended license. Despite previously representing Pearce in two divorce cases, the respondent failed to recuse and instead presided at the trial on June 17, 1998. The respondent was displeased with the arrest and demanded that the Sheriff's office provide him with the personnel records of the arresting officer. The respondent threatened the officers with contempt and jail time if the personnel record was not provided. The personnel record was provided to the judge. The respondent reviewed the arresting officer's personnel records including his military service records and concluded that the officer had lied on the job application form and had also testified falsely in the case. Based on his review of the officer's personnel records, the respondent dismissed the criminal charges against his client.
  12. In July of 1998, an arrest warrant was issued for one of the respondent's clients, Jonathan Edgin. When he learned of the warrant the judge used his police radio in his automobile to call the warrant officer, Deputy David Aldridge to inform him that Edgin would turn himself in at the county jail. The respondent further instructed the deputy sheriff officers that when Mr. Edgin turned himself in, he was to be released on his own recognizance. It was unclear to the officers if the respondent was acting as municipal judge or as an attorney representing a client. The officers did not release Edgin.

The respondent later telephoned the jail and was irritated that Edgin had not been released. He called the sheriff and was told by the secretary that the sheriff was out of town. The respondent cursed and threatened the staff with jail, stating "I don't give a f--- where the sheriff is", and "Somebody is going to jail" if his client was not released. Edgin was released on his own recognizance.

13. In September of 1998, the respondent dismissed a charge against John Henderson while the deputy prosecuting attorney was out of town. John Henderson was charged with fleeing the scene, contributing to the delinquency of a minor, public intoxication, disorderly conduct, and criminal mischief. He was on parole at the time of the charges. The deputy prosecuting attorney learned of the

dismissal when he was contacted by a police officer asking the reason for the dismissal. The respondent met ex parte with the defense attorney, Keith Watkins and dismissed the charge.

The respondent's action allowed Henderson to avoid a parole revocation. John Henderson's parole was being revoked because of the criminal charges. When his parole case was heard, Henderson and his attorney presented the dismissal issued by respondent to the hearing officer. This was done in order to convince the hearing officer that the criminal charges which were the basis for the revocation had been nolle prossed. Henderson and his attorney were able to give the impression that there would be no further proceedings on the criminal charges. In fact the respondent acted without the knowledge of the prosecutor in dismissing the case. The prosecutor had no intention of dismissing the case against Henderson and later re-filed the charges.

14. On June 20, 1995, the respondent represented Cindy Brock in a divorce case against her husband, Timothy Brock. On March 17, 1996, the respondent presided over a DWI charge against Timothy Brock. Mr. Brock pled guilty. On January 29, 1998, the respondent authorized Mr. Brock's release on his own recognizance for a DWI and for Failure to Appear on a previous DWI charge.
15. On February 3, 1999 the respondent met with a deputy prosecuting attorney, Linda Boone, and defense counsel Oscar Jones in chambers regarding a case involving a charge of statutory rape (State v. Durham). The deputy prosecuting attorney stated her intention to nolle prosee the charge and refile it in circuit court. The conference then concluded. The deputy prosecuting attorney later learned that after she left, the respondent had accepted a guilty plea from the defendant. The deputy prosecuting attorney was not notified of any trial, plea or that any action was to be taken on the case.
16. The respondent has accepted gifts and favors from Stanley Wood Chevrolet in the form of "in house" financing. The respondent benefited from this arrangement which required no set payment schedule and either no interest or a rate below market. From 1991 through 1999, at the same time that he accepted this gift from the car dealership, the respondent presided over cases involving that car dealer in municipal court. In those cases the respondent decided in the car dealer's favor forty three times and ruled against it only once.
17. The respondent has written approximately 166 checks with insufficient funds in his checking accounts, dating from 1993 through 1999.

**Citizen's Bank of Batesville  
Account Number 05-291-76**

Date	Paid or Returned	Amount Of Fee	Amount of Check	Check#
1/21/93	Paid	\$15.00	\$254.57	no check#
1/26/93	Paid	\$15.00	\$254.57	no check#
2/10/93	Paid	\$15.00	\$73.68	no check#
2/11/93	Paid	\$15.00	\$77.46	no check#
2/23/93	Paid	\$15.00	\$30.00	no check#
3/17/93	Paid	\$15.00	\$45.00	no check#
3/25/93	Paid	\$15.00	\$48.63	no check#
3/29/93	Returned	\$15.00	unknown nsf	no check#
3/30/93	Returned	\$15.00	unknown nsf	no check#
4/2/93	Paid	\$15.00	\$128.12	no check#
4/5/93	Paid	\$15.00	\$50.81	no check#



4/5/93	Returned	\$15.00	unknown nsf	no check#
4/6/93	Paid	\$15.00	\$269.57	no check#
4/7/93	Paid	\$15.00	\$114.63	no check#
4/13/93	Paid	\$15.00	\$269.57	no check#
4/15/93	Returned	\$15.00	unknown nsf	no check#
4/21/93	Paid	\$15.00	\$269.57	no check#
4/22/93	Paid	\$15.00	\$30.00	no check#
4/27/93	Returned	\$15.00	unknown nsf	no check#
4/28/93	Paid	\$15.00	\$269.57	no check#
4/29/93	Paid	\$15.00	\$269.57	no check#
5/4/93	Paid	\$15.00	\$269.57	no check#
5/11/93	Paid	\$15.00	\$269.57	no check#
5/14/93	Returned	\$15.00	unknown nsf	no check#
5/17/93	Paid	\$15.00	\$60.00	no check#
5/18/93	Paid	\$15.00	\$269.57	no check#
5/25/93	Paid	\$15.00	\$269.57	no check#
5/26/93	Paid	\$15.00	\$300.00	no check#
6/2/93	Paid	\$15.00	\$269.57	no check#
6/9/93	Paid	\$15.00	\$269.57	no check#
6/29/93	Paid	\$15.00	\$269.57	no check#
6/30/93	Paid	\$15.00	\$160.00	no check#
7/6/93	Paid	\$15.00	\$55.38	no check#
7/7/93	Returned	\$15.00	unknown nsf	no check#
7/9/93	Paid	\$15.00	\$269.57	no check#
7/13/93	Returned	\$15.00	unknown nsf	no check#
7/20/93	Paid	\$15.00	\$114.60	no check#
7/21/93	Paid	\$15.00	\$30.00	no check#
7/21/93	Returned	\$15.00	unknown nsf	no check#
7/27/93	Paid	\$15.00	\$60.14	no check#
7/27/93	Returned	\$15.00	unknown nsf	no check#
7/27/93	Returned	\$15.00	unknown nsf	no check#
7/29/93	Paid	\$15.00	\$93.83	no check#
8/2/93	Returned	\$15.00	\$269.57	2636
8/2/93	Returned	\$15.00	unknown nsf	no check#
8/3/93	Returned	\$15.00	unknown nsf	no check#
8/4/93	Returned	\$15.00	unknown nsf	no check#
8/4/93	Returned	\$15.00	unknown nsf	no check#
8/9/93	Paid	\$15.00	\$90.86	2639
8/10/93	Returned	\$15.00	unknown nsf	no check#
8/27/93	Paid	\$15.00	\$300.00	2647
8/30/93	Paid	\$15.00	\$73.68	2651
9/1/93	Paid	\$15.00	\$121.63	2653
10/1/93	Paid	\$15.00	\$56.84	2665
10/5/93	Paid	\$15.00	\$148.08	2664
10/27/93	Paid	\$15.00	\$88.31	2669
11/3/93	Paid	\$15.00	\$517.68	2670
11/15/93	Paid	\$15.00	\$300.00	2672
11/16/93	Paid	\$15.00	\$127.99	2680
11/17/93	Paid	\$15.00	\$123.18	2679

11/18/93	Paid	\$15.00	\$56.04	2681
11/18/93	Paid	\$15.00	unknown nsf	no check#
12/1/93	Paid	\$15.00	\$57.54	2682
12/8/93	Paid	\$15.00	\$129.80	2674
12/9/93	Paid	\$15.00	\$65.57	2677
12/10/93	Paid	\$15.00	\$45.00	2683
12/10/93	Paid	\$15.00	\$73.68	2675
12/15/93	Paid	\$15.00	\$56.84	2676
12/21/93	Paid	\$15.00	\$122.33	2684
12/30/93	Paid	\$15.00	\$49.00	2685
1/6/94	Paid	\$15.00	\$400.00	2687
1/7/94	Paid	\$15.00	\$300.00	2686
1/7/94	Paid	\$15.00	\$150.00	2689
1/18/94	Paid	\$15.00	\$61.13	2693
1/18/94	Paid	\$15.00	\$126.36	2691
1/18/94	Paid	\$15.00	\$249.66	2692
1/18/94	Paid	\$15.00	\$164.56	2694
1/19/94	Paid	\$15.00	\$112.50	2695
1/19/94	Paid	\$15.00	\$56.04	2696
1/21/94	Paid	\$15.00	\$300.00	2697
1/25/94	Paid	\$15.00	\$30.00	no check#
2/2/94	Returned	\$15.00	unknown nsf	no check#
2/4/94	Returned	\$15.00	unknown nsf	no check#
2/8/94	Returned	\$15.00	unknown nsf	no check#
3/1/94	Paid	\$15.00	\$185.52	2705
3/2/94	Paid	\$15.00	\$400.00	2707
3/2/94	Paid	\$15.00	\$50.00	2701
3/4/94	Returned	\$15.00	unknown nsf	no check#
3/4/94	Returned	\$15.00	unknown nsf	no check#
3/8/94	Paid	\$15.00	\$20.00	2711
3/9/94	Paid	\$15.00	\$57.12	2709
3/9/94	Paid	\$15.00	\$126.15	2710
3/17/94	Returned	\$15.00	unknown nsf	no check#
3/21/94	Paid	\$15.00	\$456.63	2714
3/23/94	Paid	\$15.00	\$30.00	no check#
3/31/94	Paid	\$15.00	\$400.00	2716
4/5/94	Paid	\$15.00	\$55.69	2721
4/5/94	Paid	\$15.00	\$110.52	2722
4/8/94	Returned	\$15.00	unknown nsf	no check#
4/15/94	Paid	\$15.00	\$108.06	2717
4/22/94	Paid	\$15.00	\$30.00	no check#
4/28/94	Paid	\$15.00	\$114.08	2724
5/1/94	Paid	\$15.00	\$400.00	2725
5/5/94	Paid	\$15.00	\$63.35	2725
5/5/94	Paid	\$15.00	\$111.20	2727
5/23/94	Returned	\$15.00	unknown nsf	no check#
5/26/94	Returned	\$15.00	unknown nsf	no check#
6/2/94	Returned	\$15.00	unknown nsf	no check#
6/10/94	Returned	\$15.00	unknown nsf	no check#

6/15/94	Returned	\$15.00	unknown nsf	no check#
6/17/94	Returned	\$15.00	unknown nsf	no check#
6/17/94	Returned	\$15.00	unknown nsf	no check#
6/20/94	Returned	\$15.00	unknown nsf	no check#
6/21/94	Paid	\$15.00	\$118.68	118.68
6/21/94	Paid	\$15.00	\$84.06	84.06
6/22/94	Returned	\$15.00	unknown nsf	no check#
6/22/94	Returned	\$15.00	unknown nsf	no check#
6/23/94	Returned	\$15.00	unknown nsf	no check#
6/23/94	Returned	\$15.00	unknown nsf	no check#
6/23/94	Returned	\$15.00	unknown nsf	no check#
6/27/94	Returned	\$15.00	unknown nsf	no check#
6/27/94	Returned	\$15.00	unknown nsf	no check#
6/28/94	Returned	\$15.00	\$93.00	2737
6/29/94	Returned	\$15.00	\$129.47	2718
7/11/94	Paid	\$15.00	\$79.39	2738
7/11/94	Paid	\$15.00	\$160.50	2739
7/14/94	Paid	\$15.00	\$800.00	2740
7/15/94	Returned	\$15.00	unknown nsf	no check#
7/21/94	Returned	\$15.00	unknown nsf	no check#
8/4/94	Returned	\$15.00	unknown nsf	no check#
8/4/94	Returned	\$15.00	unknown nsf	no check#
8/17/94	Returned	\$15.00	unknown nsf	no check#
8/19/94	Returned	\$15.00	unknown nsf	no check#
8/25/94	Returned	\$15.00	unknown nsf	no check#
8/25/94	Returned	\$15.00	unknown nsf	no check#
9/2/94	Returned	\$15.00	unknown nsf	no check#
9/6/94	Returned	\$15.00	unknown nsf	no check#
9/19/94	Returned	\$15.00	unknown nsf	no check#
9/20/94	Returned	\$15.00	unknown nsf	no check#
9/21/94	Returned	\$15.00	unknown nsf	no check#
9/23/94	Returned	\$15.00	unknown nsf	no check#
10/5/94	Returned	\$15.00	unknown nsf	no check#
10/17/94	Returned	\$15.00	unknown nsf	no check#

**Citizen's Bank of Batesville**  
**Account Number 05-476-03**

Date	Paid or Returned	Amount of Fee	Amount of Check	Check#
12/15/93	Paid	\$15.00	\$269.57	119
1/25/94	Paid	\$15.00	\$269.57	124
5/26/94	Paid	\$15.00	\$269.57	141
6/17/94	Paid	\$15.00	\$269.57	145
6/24/94	Paid	\$15.00	\$269.57	146
7/1/94	Paid	\$15.00	\$269.57	147
1/17/95	Paid	\$15.00	\$269.57	177
1/26/95	Paid	\$15.00	\$269.57	178

1/27/95	Paid	\$15.00	\$269.57	179
2/3/95	Returned	\$15.00	\$269.57	179
2/8/95	Paid	\$15.00	\$269.57	181
3/13/95	Paid	\$15.00	\$269.57	186
3/20/95	Paid	\$15.00	\$269.57	187
4/24/95	Paid	\$15.00	\$269.57	192
5/1/95	Paid	\$15.00	\$269.57	194
5/2/95	Paid	\$15.00	\$22.10	193
5/15/95	Paid	\$15.00	\$269.57	196
6/2/95	Paid	\$15.00	\$269.57	199
6/23/95	Paid	\$15.00	\$269.57	202
7/3/95	Paid	\$15.00	\$269.57	203
7/7/95	Paid	\$15.00	\$269.57	204
7/14/95	Paid	\$15.00	\$269.57	205
8/18/95	Paid	\$15.00	\$269.57	210
9/15/95	Paid	\$15.00	\$269.57	215
9/25/95	Paid	\$15.00	\$269.57	216
10/6/95	Paid	\$15.00	\$269.57	218
10/20/95	Paid	\$15.00	\$269.57	220
10/30/95	Paid	\$15.00	\$269.57	221
11/7/95	Paid	\$15.00	\$269.57	222
11/10/95	Paid	\$15.00	\$269.57	223
11/17/95	Paid	\$15.00	\$269.57	224
11/24/95	Returned	\$15.00	\$269.57	225
12/4/95	Paid	\$15.00	\$269.57	228
12/6/95	Paid	\$15.00	\$20.80	227
12/8/95	Returned	\$15.00	\$20.80	227
12/14/95	Paid	\$15.00	\$269.57	230
12/15/95	Returned	\$15.00	\$269.57	230
12/19/95	Returned	\$15.00	\$269.57	230
12/21/95	Returned	\$15.00	\$269.57	230
12/22/95	Paid	\$15.00	\$269.57	234
12/27/95	Returned	\$15.00	\$269.57	234
12/29/95	Returned	\$15.00	\$269.57	234
1/2/96	Paid	\$15.00	\$269.57	237
1/4/96	Returned	\$15.00	\$269.57	237
2/9/96	Paid	\$15.00	\$269.57	247
2/26/96	Paid	\$15.00	\$269.57	249
5/6/96	Paid	\$20.00	\$269.57	261
5/13/96	Paid	\$20.00	\$269.57	262
5/20/96	Paid	\$20.00	\$269.57	263
5/31/96	Paid	\$20.00	\$269.57	265
6/17/96	Paid	\$20.00	\$269.57	267
6/24/96	Paid	\$20.00	\$269.57	268
7/1/96	Returned	\$20.00	\$269.57	268
7/5/96	Returned	\$20.00	\$269.57	268
7/22/96	Paid	\$20.00	\$269.57	273
7/25/96	Returned	\$20.00	\$269.57	273
7/30/96	Returned	\$20.00	\$269.57	273

8/1/96	Returned	\$20.00	\$269.57	273
8/12/96	Returned	\$20.00	\$269.57	273
8/14/96	Paid	\$20.00	\$269.57	279
8/16/96	Returned	\$20.00	\$269.57	279
8/26/96	Returned	\$20.00	\$269.57	279
8/29/96	Paid	\$20.00	\$269.57	284
9/4/96	Returned	\$20.00	\$269.57	284
9/23/96	Paid	\$20.00	\$269.57	289
9/30/96	Paid	\$20.00	\$269.57	290
11/6/96	Returned	\$20.00	UNKNOWN NSF	
11/18/96	Paid	\$20.00	\$269.57	299
11/25/96	Returned	\$20.00	\$269.57	299
11/29/96	Returned	\$20.00	\$269.57	299
1/27/97	Returned	\$20.00	UNKNOWN NSF	
2/21/97	Paid	\$20.00	\$269.57	316
3/11/97	Returned	\$20.00	UNKNOWN NSF	
3/14/97	Returned	\$20.00	UNKNOWN NSF	
3/17/97	Paid	\$20.00	\$269.57	318
3/18/97	Returned	\$20.00	UNKNOWN NSF	
3/24/97	Returned	\$20.00	UNKNOWN NSF	
3/26/97	Returned	\$20.00	\$269.57	322
3/31/97	Returned	\$20.00	\$269.57	322
6/25/97	Paid	\$20.00	\$65.00	344
6/25/97	Returned	\$20.00	\$65.00	344
6/26/97	Paid	\$20.00	\$269.57	347
7/8/97	Returned	\$20.00	UNKNOWN NSF	
7/11/97	Returned	\$20.00	UNKNOWN NSF	
7/18/97	Returned	\$20.00	UNKNOWN NSF	
9/5/97	Returned	\$20.00	UNKNOWN NSF	
11/17/97	Paid	\$20.00	UNKNOWN NSF	
11/24/97	Returned	\$20.00	UNKNOWN NSF	
2/2/98	Returned	\$20.00	UNKNOWN NSF	
2/23/98	Returned	\$20.00	UNKNOWN NSF	
3/30/98	Returned	\$20.00	UNKNOWN NSF	

4/6/98	Paid	\$20.00	\$269.57	395
4/17/98	Paid	\$20.00	\$269.57	397
5/7/98	Returned	\$20.00	UNKNOWN NSF	
7/21/98	Returned	\$20.00	UNKNOWN NSF	
12/14/98	Paid	\$20.00	\$170.00	431
1/14/99	Returned	\$40.00	UNKNOWN NSF	
7/19/99	Returned	\$20.00	UNKNOWN NSF	
8/10/99	Paid	\$20.00	\$12.00	467
9/2/99	Paid	\$20.00	\$170.00	473
10/4/99	Returned	\$20.00	\$170.00	479
10/8/99	Paid	\$20.00	\$170.00	479
12/6/99	Paid	\$20.00	\$33.16	488
2/2/00	Returned	\$80.00	UNKNOWN NSF	
5/10/00	Returned	\$20.00	UNKNOWN NSF	
5/10/00	Returned	\$20.00	UNKNOWN NSF	
5/24/00	Returned	\$20.00	UNKNOWN NSF	
7/24/00	Returned	\$20.00	UNKNOWN NSF	
7/31/00	Paid	\$20.00	\$170.00	539

**Citizen's Bank of Batesville**  
**Account Number 18-332-27**

Date	Paid or Returned	Amount of Fee	Amount of Check	Check#
7/31/97	Returned	\$20.00	not indicated	not listed
8/1/97	Returned	\$20.00	\$192.09	not listed
9/15/97	Paid	\$20.00	\$337.68	not listed
1/20/99	Returned	\$20.00	\$19.21	not listed

**First Community Bank of Batesville**  
**Account Number 801688**

Date	Paid or Returned	Amount of Fee	Amount of Check	Check#
11/5/97	Returned	\$15.50	\$283.76	110
11/7/97	Returned	\$15.50	\$9.52	115
11/7/97	Returned	\$15.50	\$222.97	113

11/10/97	Returned	\$15.50	\$180.99	114
11/19/97	Returned	\$15.50	\$400.00	117
11/20/97	Returned	\$15.50	\$2500.00	116
12/17/00	Returned	\$15.50	\$882.70	137
12/23/97	Returned	\$15.50	\$1664.79	138
12/30/97	Returned	\$15.50	\$1664.79	138
12/31/97	Returned	\$15.50	\$500.95	142
1/08/98	Returned	\$15.50	\$500.95	142
2/13/98	Returned	\$15.50	\$2500.00	149
2/18/98	Returned	\$15.50	\$286.54	150
6/23/98	Returned	\$15.50	\$250.00	165
6/25/98	Returned	\$15.50	\$2500.00	166
11/30/98	Returned	\$15.50	\$2721.95	219
1/15/99	Returned	\$15.50	\$446.50	240
1/25/99	Returned	\$15.50	\$446.50	240
2/3/99	Returned	\$15.50	\$200.00	244
2/3/99	Returned	\$15.50	\$200.60	246
2/4/99	Returned	\$15.50	\$348.86	243
2/8/99	Returned	\$15.50	\$200.60	246
2/11/99	Returned	\$15.50	\$348.86	243
3/29/00	Returned	\$15.50	\$300.00	282
5/3/99	Returned	\$15.50	\$950.00	283
6/16/00	Returned	\$15.50	\$2000.00	290
6/22/00	Returned	\$15.50	\$414.80	291
6/22/00	Returned	\$15.50	\$2000.00	290

#### Conclusions:

The members of the Judicial Discipline & Disability Commission by unanimous vote found there is probable cause to believe that the respondent's conduct in the above noted matters is of a nature requiring a formal disciplinary hearing.

#### Basis for Commission Action

On May 23, 2001, at a special meeting following the March 16, 2001 probable cause hearing, the Commission found that probable cause exists for believing that there has been misconduct of a nature requiring a formal disciplinary proceeding. Respondent is charged with violating ACA 16-10-410 (b) (3) by the Commission of conduct involving dishonesty, fraud, deceit, or misrepresentation; violating ACA 16-10-410 (b) (4) by the commission of conduct that is prejudicial to the administration of justice; and violating ACA 16-10-410 (b) (5), willful violation of the Code of Judicial Conduct, specifically Canons 1, 2A, 2B, 3A, 3B and 3E of the Code of Judicial Conduct.

#### **CODE OF JUDICIAL CONDUCT**

## **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 high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.**

### **Commentary:**

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of the Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

## **CANON 2 - A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S 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.**

### **Commentary:**

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

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

### **Commentary:**

Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the



orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used to gain a personal advantage or to effect an economic advantage. Letters of recommendation may be written on judicial stationery based on personal knowledge of the applicant, but not merely for the purpose of lending the prestige of the judicial office to the applicant.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 4D(5)(a) and Commentary.

### **CANON 3**

#### **A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

**A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.**

##### **B. Adjudicative Responsibilities.**

**(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.**

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

##### **Commentary:**

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

**(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, sex, religion, or national origin, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.**

##### **Commentary:**

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

**(7) 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. 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 communication 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 the ex parte communication, and**

**(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.**

**Commentary:**

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae.

Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

**E. Disqualification.**

**(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:**

**Commentary:**

Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.

**(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, 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 has been a material witness concerning it;**

WHEREFORE, Respondent is advised that an answer to this formal statements of charges should be filed by the Respondent with the Commission, located at 323 Center Street, Suite 1060, Little Rock, AR 72201 within twenty (20) days after service upon Respondent of this formal statement of charges; and that the Commission shall thereafter set a time and place of hearing of this formal statement of charges and shall give notice thereof to Respondent. Respondent is hereby advised of his right to counsel and to file an answer in his own behalf or through counsel, and that all of the proceedings in connection with the formal statement of charges shall be in accordance with the said procedural rules of this Commission. The offenses and violations contained in the formal statement of charges constitute willful violation of the Code of Judicial Conduct, commission of conduct involving dishonesty, fraud, deceit or misrepresentation, and the commission of conduct that is prejudicial to the administration of justice.

This formal Statement of Charges and respondent's answer are the only pleadings required.

Dated this \_\_\_\_\_ day of May, 2001

BY ORDER OF THE  
ARKANSAS JUDICIAL DISCIPLINE AND DISABILITY COMMISSION

By: \_\_\_\_\_

James A. Badami  
Executive Director