

STATE OF NORTH CAROLINA
COUNTY OF MOORE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 26CV000199-620

TODD MANESS,)
Plaintiff,)
)
v.)
)
DEBORAH ANNE J. DUERRING and)
DONNA ELIZABETH TANNER,)
Defendants.)

**DEFENDANTS' JOINT
MOTION TO DISQUALIFY
JUDGE MICHAEL A. STONE**

NOW COME Defendant Donna Elizabeth Tanner ("Defendant Tanner") and Defendant Deborah Anne J. Duerring ("Defendant Duerring"), by and through their undersigned counsel of record, and hereby move the Court to disqualify Judge Michael A. Stone from any involvement in this matter. In support of their motion, Defendants show the Court as follows:

PROCEDURAL AND FACTUAL HISTORY

1. On December 6, 2023, Defendant Tanner initiated a contempt proceeding against Plaintiff Todd Maness ("Plaintiff Maness") in Moore County 23 CR 827 ("Contempt Proceeding") based on Plaintiff Maness's failure to comply with Defendant Tanner's orders and Plaintiff Maness's obstruction of Defendant Tanner's access to juvenile case files for matters over which Defendant Tanner was scheduled to preside. The North Carolina Administrative Office of the Courts ("AOC") assigned a special prosecutor, Joshua Walthall ("Mr. Walthall"), to represent the State in the Contempt Proceeding.

2. On December 20, 2023, Plaintiff Maness filed a civil action against Defendant Tanner and former Senior Resident Superior Court Judge James M. Webb ("Judge Webb") in *Todd Maness v. James M. Webb and Donna Elizabeth Tanner*, Moore County 23CVS001738-620 ("Prior Action").

3. Plaintiff Maness's Complaint in the Prior Action, much like his Complaint in this action, contained numerous false statements of material fact impugning the character of Judge Webb, Defendant Tanner, the former Moore County Clerk of Superior Court, and others.

4. On January 17, 2024, less than one month after filing his Complaint in the Prior Action, Plaintiff Maness voluntarily dismissed all claims in the Prior Action. At the time Plaintiff Maness dismissed his claims in the Prior Action, the Contempt Proceeding was still pending.

5. On January 19, 2024, Michael Porter ("Mr. Porter") who represents Plaintiff Maness in this case and also represented Plaintiff Maness in the Prior Action and the Contempt Proceeding, emailed a draft of an Administrative Order to Christy Bennett ("Ms. Bennett"), the judicial assistant for Senior Resident Superior Court Judge Michael A. Stone ("Judge Stone"). A copy of this email is attached hereto as **EXHIBIT A** and incorporated by reference herein. The Administrative Order pertained to the subject matter of the pending Contempt Proceeding and the allegations made by Plaintiff Maness against Defendant Tanner in the Prior Action. Mr. Porter did not copy Mr. Walthall, Defendant Tanner, Defendant Tanner's attorney in the Prior Action, or Judge Webb's attorney in the Prior Action on his email to Ms. Bennett. Although the email was directed to Ms. Bennett, Mr. Porter's email and the draft Administrative Order were intended to reach Judge Stone.

6. Ms. Bennett replied to Mr. Porter's January 19, 2024 email on the same day, thanking Mr. Porter for the draft. Ms. Bennett did not copy Mr. Walthall, Defendant Tanner, Defendant Tanner's attorney in the Prior Action, or Judge Webb's attorney in the Prior Action on her email to Mr. Porter. A copy of Ms. Bennett's email to Mr. Porter is attached hereto as **EXHIBIT B** and incorporated by reference herein.

7. On January 24, 2024, Judge Stone and Chief District Court Judge Don W. Creed, Jr. (“Judge Creed”), entered the Administrative Order, which was in substantially similar form as the draft sent by Mr. Porter on January 19, 2024. The Complaint in this action characterizes the Administrative Order as the product of Judge Stone’s independent investigation and describes it as having been entered “as a direct result of Defendant Tanner’s misconduct,” (Compl. ¶ 13).

8. On January 24, 2024 at 9:21 a.m. (approximately one hour after the Administrative Order was filed), Mr. Porter sent an email to Mr. Walthall with a copy of the Administrative Order attached and said, “I assume that, in your discretion, you will now dismiss the [Contempt Proceeding] against [Plaintiff Maness].” In the email, Mr. Porter told Mr. Walthall that the Administrative Order had been drafted by Judge Stone, Judge Creed, and Judge Jeffery Carpenter of the North Carolina Court of Appeals. Mr. Porter did not disclose to Mr. Walthall that he had prepared the draft Administrative Order and sent it to Judge Stone on January 19, 2024, using Ms. Bennett as a conduit.

9. As a result of the entry of the Administrative Order, Mr. Walthall dismissed the Contempt Proceeding against Plaintiff Maness.

10. At the time Mr. Porter drafted the Administrative Order and Judge Stone entered it, Mr. Porter was serving as Judge Stone’s personal attorney in a civil action filed on November 9, 2023 in another county by Judge Stone and his wife, *Michael A. Stone and Miriam P. Stone v. First Horizon Bank and Standard Mortgage Corp.*, Cumberland County 23CVS006637-250. Judge Stone did not disclose to Mr. Walthall, Defendant Tanner, Defendant Tanner’s attorney in the Prior Action, or Judge Webb’s attorney in the Prior Action that Mr. Porter, who was representing Plaintiff Maness in both the Contempt Proceeding and the Prior Action, was Judge Stone’s personal attorney at the time.

11. Although Judge Stone did not preside over hearings in the Prior Action or the Contempt Proceeding, his exercise of administrative authority as Senior Resident Superior Court Judge by entering an order that benefited Plaintiff Maness (his own attorney's client), mooted a criminal contempt proceeding against Plaintiff Maness, and restricting Defendant Tanner's judicial conduct as sought by Plaintiff Maness was no less an exercise of judicial power. The nature of Judge Stone's involvement made the conflict less visible and, therefore, more pernicious. Defendant Tanner had no docket entry to review, no hearing at which to raise an objection, and no procedural mechanism through which to seek disqualification of Judge Stone.

12. Upon information and belief, Judge Stone directed Plaintiff Maness's attorney (who was also Judge Stone's own personal attorney at the time) to draft an order affecting Defendant Tanner's professional conduct in perpetuity without disclosing the involvement of Plaintiff Maness's attorney in the preparation of the Administrative Order. Judge Stone effectively allowed the attorney who represented both Judge Stone and Plaintiff Maness to convert disputed allegations into binding administrative directives without notice or an opportunity for Mr. Walthall or Defendant Tanner to be heard.

13. On or about December 6, 2025, Defendant Tanner privately sent Judge Stone text messages regarding concerns that the Moore County Jury Commission had not been constituted as required by N.C. Gen. Stat. § 9-1 and that, because there was not a functioning Jury Commission in place, Moore County may not be able to hold jury trials in upcoming court sessions. Defendant Tanner raised this issue with Judge Stone because he was the senior judicial official in Moore County and one of the officials required to appoint a member to the Jury Commission.

14. After receiving Defendant Tanner's messages about the Jury Commission, upon information and belief, Judge Stone shared photos of Defendant Tanner's text messages with

Plaintiff Maness and others. Plaintiff Maness attached Defendant Tanner's messages to Judge Stone about the Jury Commission to his Complaint against Defendant Tanner and Defendant Duerring in this action.

15. Defendant Tanner is currently running in a contested Republican primary election to retain her seat as a District Court Judge in Moore County. Defendant Duerring is currently running in a contested Republican primary election against Plaintiff Maness for Moore County Clerk of Superior Court.

BASIS FOR DISQUALIFICATION

16. Judge Stone exercises administrative authority over all Superior Court proceedings in Moore County. As the Senior Resident Superior Court Judge, Judge Stone assigns judges, sets calendars, and exercises general supervisory authority over proceedings in District 29. Any judge sitting in Moore County does so within a framework shaped by Judge Stone's administrative decisions, including an Administrative Order that appears to have been secretly drafted by Plaintiff Maness's own lawyer.

17. The North Carolina Code of Judicial Conduct and the Due Process Clause of the Fourteenth Amendment to the United States Constitution require Judge Stone's disqualification in this case.

18. Canon 2(A) of The North Carolina Code of Judicial Conduct states, "A judge should respect and comply with the law and should conduct himself/herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

19. Canon 3(C)(1) further provides that "a judge should disqualify himself/herself in a proceeding **in which the judge's impartiality may reasonably be questioned.**" (Emphasis added.)

20. The examples in Canon 3(C)(1) of situations in which a judge's impartiality might reasonably be questioned are not exhaustive, and a showing of actual bias is not required for disqualification. The North Carolina Supreme Court has explained:

It is not enough for a judge to be just in his judgment; he should strive to make the parties and the community feel that he is just; he owes this to himself, to the law and to the position he holds. The purity and integrity of the judicial process ought to be protected against any taint of suspicion to the end that the public and litigants may have the highest confidence in the integrity and fairness of the courts.

State v. Fie, 320 N.C. 626, 628, 359 S.E.2d 774, 775-76 (1987) (quoting *Ponder v. Davis*, 233 N.C. 699, 706, 65 S.E. 2d 356, 360 (1951)) (citations and internal quotation marks omitted).

21. The North Carolina Court of Appeals has held that a party seeking disqualification can meet her burden to demonstrate objectively that grounds for disqualification actually exist by “showing that the circumstances are such that a reasonable person would question whether the judge could rule impartially.” *Harrington v. Wall*, 212 N.C. App. 25, 28, 710 S.E.2d 364, 367 (2011). See also John V. Orth, The Right to an Impartial Judge and “Involuntary Recusal”, 101 N.C. L. Rev. Addendum 105, 111 (2023) (analyzing precedential opinions of the appellate courts of North Carolina and concluding that, consistent with *Ponder*, “the right to an impartial judge is not limited to cases in which a judge has a personal bias, prejudice or interest in the outcome but includes the right to be tried before a judge whose impartiality cannot reasonably be questioned”).

22. In addition to the North Carolina Code of Judicial Conduct, the United States Supreme Court has determined that where, as in this case, the judge has a substantial personal or political relationship with a person who is involved in or closely tied to the subject of the litigation, the Due Process Clause of the Fourteenth Amendment to the United States Constitution requires

recusal. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 882-87 (2009). In *Caperton*,¹ the Supreme Court explained that it is not necessary to prove that the judge is actually biased or to “point to any actual conduct on his part which could be termed improper.” *Id.* at 882 (citation and internal quotation marks omitted). In fact, “[d]ue process ‘may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.’” *Id.* at 886 (quoting *In re Murchison*, 349 U.S. 133, 136 (1955)).

23. Defendants’ showing in this case far exceeds the standard for disqualification established by the North Carolina Code of Judicial Conduct and the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Judge Stone’s documented, objective actual bias against Defendant Tanner and in favor of Plaintiff Maness is demonstrated by the following:

- a. Personal bias or prejudice under Canon 3C(1)(a): Judge Stone’s pattern of conduct in secretly collaborating with Plaintiff Maness’s counsel regarding the Administrative Order, sharing photos of Defendant Tanner’s private communications with Plaintiff Maness, and entering an Administrative Order that benefited Plaintiff Maness while restricting Defendant Tanner’s conduct as a District Court Judge establishes personal bias in Plaintiff Maness’s favor.
- b. Personal knowledge of disputed evidentiary facts under Canon 3C(1)(a): The Complaint in this action characterizes the Administrative Order, which was drafted by the attorney who represented both Plaintiff Maness and Judge Stone at the time,

¹ Prior to *Caperton*, the Supreme Court had recognized that due process required recusal in two categories of cases: (1) those in which a judge had a financial interest in the outcome of the case, and (2) criminal contempt cases in which a judge had been part of the accusatory process in an earlier proceeding to such an extent that he had acted as a “one-man grand jury.” 556 U.S. at 877-81. *Caperton* held that due process may be implicated under circumstances that do not fit into either of those categories and cases that create an unconstitutional probability of bias “cannot be defined with precision.” 556 U.S. at 887.

as the product of Judge Stone's independent investigation and describes it as having been entered "as a direct result of Defendant Tanner's misconduct," (Compl. ¶ 13). The Complaint in this action also identifies Judge Stone as having conducted a "full investigation," (Compl. ¶ 21), regarding the appointment of members to the Moore County Jury Commission based on Defendant Tanner's private text messages. Plaintiff Maness conceded in his Response to Defendants' Joint Motion to Change Venue ("Response") that Judge Stone sent Defendant Tanner's text messages to Plaintiff Maness "and others." The reason for entry of the Administrative Order without the input of any affected individual other than Plaintiff Maness and Judge Stone's motive in sharing Defendant Tanner's messages with Plaintiff Maness "and others" are factual matters that the jury will be called upon to resolve.

- c. Relationship with Plaintiff Maness's counsel under Canon 3C(1): Judge Stone maintained an undisclosed concurrent attorney-client relationship with Mr. Porter while Mr. Porter represented Plaintiff Maness in the Contempt Proceeding initiated by Defendant Tanner and the Prior Action against Defendant Tanner and Judge Webb while both matters were pending in Moore County.
- d. Ex Parte Communication with Mr. Porter under Canon 3A(4): Canon 3A(4) provides that a judge "shall not initiate, permit, or consider *ex parte* communications" concerning a pending or impending proceeding. Judge Stone's communications with Mr. Porter regarding the Administrative Order were substantive communications with one party's attorney, concerned matters directly affecting the opposing party, and conducted in secret while related proceedings were pending. Having engaged in *ex parte* communications with Plaintiff Maness's

counsel in connection with a prior proceeding involving the same parties and a similar underlying dispute, Judge Stone's impartiality in this action cannot reasonably be credited.

- e. Judge Stone's involvement violates Due Process: Based on Mr. Porter's emails with Ms. Bennett on January 19, 2024 and Mr. Porter's email to Mr. Walthall on January 24, 2024, it appears that Judge Stone collaborated with Plaintiff Maness to produce the Administrative Order, which benefited Plaintiff Maness to Defendant Tanner's detriment as set out above, while maintaining an undisclosed attorney-client relationship with Plaintiff Maness's attorney in this action, the Prior Action, and the Contempt Proceeding. Judge Stone's conduct surrounding entry of the Administrative Order and in providing Plaintiff Maness the evidence upon which this action is based creates a constitutionally intolerable probability of bias. Judge Stone's continued involvement in any capacity perpetuates the institutional conflict that the Due Process Clause forbids.

24. Based on the conflicts set out above, it is necessary for Judge Stone to certify the need for disqualification to the AOC for assignment of an emergency Superior Court Judge from outside the district to hear this motion and Defendants' Joint Motion for Change of Venue and for Judge Stone to be disqualified from any involvement in this matter.

WHEREFORE, Defendant Tanner and Defendant Duerring respectfully request that this Court:

1. Allow an evidentiary hearing before an independent, neutral Superior Court Judge designated to preside over Defendants' Joint Motion for Disqualification and Defendants' Joint Motion for Change of Venue;

2. Disqualify Judge Stone from any involvement in this matter; and
3. Grant Defendant Tanner and Defendant Duerring such other and further relief as the Court deems just and proper.

This the 12th day of February, 2026.

**PARKER BRYAN BRITT
TANNER & JENKINS, P.L.L.C.**

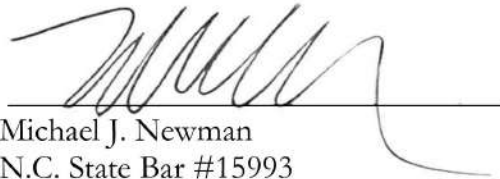
ATTORNEYS FOR
DEFENDANT TANNER



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**VAN CAMP, MEACHAM
& NEWMAN, P.L.L.C.**

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DEFENDANT DUERRING



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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing Defendants' Joint Motion to Disqualify Judge Michael A. Stone in the above-entitled action upon all other parties to this cause via Odyssey eFile & Serve properly addressed as follows:

Michael R. Porter, Esq.
The Michael Porter Law Firm
michael@michaelporterlaw.com
Attorney for Plaintiff Maness

This the 12th day of February, 2026.



Alicia Journey
Attorney for Defendant Tanner

EXHIBIT A

From: Michael Porter <michael@michaelporterlaw.com>
Sent: Friday, January 19, 2024 9:57 AM
To: Bennett, Christy R.
Subject: Admin Order
Attachments: ADMINISTRATIVE ORDER ISSUED BY THE HON. MICHAEL A. STONE, SENIOR RESIDENT SUPERIOR COURT JUDGE & DON W. CREED, JR., CHIEF DISTRICT COURT JUDGE.docx

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Ms. Bennett,

Please find attached hereto the admin order that Judge Stone asked me to prepare and forward to you for his review.

With kind regards,

MRP



Phone: (910) 339-3131 **Fax:** (910) 339-3132

E-mail: michael@michaelporterlaw.com

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5851 Ramsey Street

Fayetteville, NC 28311

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EXHIBIT A
(Attachment to Email)

ADMINISTRATIVE ORDER ISSUED BY THE HON. MICHAEL A. STONE, SENIOR
RESIDENT SUPERIOR COURT JUDGE & DON W. CREED, JR., CHIEF DISTRICT COURT
JUDGE

1. Scheduling of Court

a. **Superior Court.**

All sessions of Superior Court shall be scheduled and conducted consistent with the General Statutes of North Carolina. However, the Senior Resident Superior Judge, or any Superior Court Judge, assigned to hold a regular session of Superior Court or a Special Session of Superior Court, will consult with the Clerk of Court as soon as practicable prior to said session of Superior Court, to ensure that the Clerk of Court has staff available for said session of Superior Court, and to ensure that the Clerk of Court has sufficient time to have the files ready to be delivered to the assigned Superior Court Judge for said session of Superior Court. The strong preference is that the assigned Superior Court Judge, or said Judge's staff, will email the Clerk of Court and/or the Clerk of Court's staff at least 24 hours in advance of sessions of Superior Court with a list of the requested files; however, it is understood that there may be instances wherein this will not be possible.

b. **District Court.**

All sessions of District Court shall be scheduled and conducted consistent with the General Statutes of North Carolina. Specifically, all sessions of District Court and which District Court Judges are assigned to said sessions of District Court, in accordance with N.C. Gen. Stat. § 7A-146(1), shall be scheduled by the Chief District Court Judge. District Court Judges, other than the Chief District Court Judge, **shall not** schedule sessions of court, cancel sessions of District Court, or re-arrange what types of court are heard on particular days, without the express written consent of the Chief District Court Judge.

- c. The Chief District Court Judge will consult with the Clerk of Court as soon as practicable prior to said sessions of District Court, to ensure that the Clerk of Court has staff available for said sessions of District Court.
- d. The Chief District Court Judge will provide the Clerk of Court and other judicial staff members the District Court schedule two months in advance of sessions of District Court to ensure that the Clerk of Court and the Clerk's staff have sufficient time to arrange for staff to be present at said sessions of District Court, to include having files ready and available to the assigned District Court Judges 24 hours in advance of sessions of District Court.

2. Juvenile Files.

- a. Juvenile files as defined by N.C. Gen. Stat. §7B *et. seq.* are confidential and protected from being viewed other than by the assigned District Court Judge, the attorneys of record and other interested parties as defined by statute. No District Court Judge, attorney, or staff member, other than the staff of the Clerk of Court, or the Clerk of Court himself, is permitted unrestricted access to the juvenile files.
- b. No District Court Judge shall order a bailiff/sheriff's deputy to grant access to the area within the Clerk of Court's office whereat the juvenile files are securely held by the Clerk of Court, and no bailiff/sheriff's deputy shall obey such order by a District Court Judge.
- c. District Court Judges assigned by the Chief District Court Judge to hear juvenile matters and/or assigned to particular juvenile cases on an ongoing basis may request to view the juvenile files to which they are assigned in advance of said session of District Court. Said assigned District Court Judge shall email the Clerk of Court, or his designee, at least 24 hours prior to their need to view said files. Said District Court Judge, or said Judge's staff, will have to sign out the requested files from the Clerk of Court, and said files shall be promptly returned to the Clerk of Court. All juvenile files shall remain within the Moore County Courthouse at all times, and any District Court Judge who signs out a juvenile file is responsible for ensuring that all North Carolina General Statutes regarding confidentiality of said files are adhered to by said District Court Judge and the Judge's staff.

3. Professionalism.

- a. All Superior Court and District Court Judges, their respective staff members, members of the Bar and all other courthouse personnel, are reminded that the Clerk of Court is a judicial officer of the Superior Court, pursuant to N.C. Gen. Stat. § 7A-40, and that he is an elected official, and the Clerk of Court and his staff members will be treated with the utmost professionalism, dignity and respect.
- b. All District Court Judges and Superior Court Judges are reminded that, consistent with the General Statutes of North Carolina, that only the Senior Resident Superior Court Judge and the Chief District Court Judge have the statutory authority to supervise the administrative duties and functions of the Clerk of Court. If a Superior Court Judge has an issue arise with the Clerk of Court, said Superior Court Judge will consult with the Senior Resident Superior Court Judge about said issue. If a District Court Judge has an issue arise with the Clerk of Court, said District Court Judge shall consult with the Chief District Court Judge about said issue.

SO ORDERED, this the _ day of January, 2024.

The Hon. Michael A. Stone,
Senior Resident Superior Court Judge

The Hon. Don W. Creed, Jr.
Chief District Court Judge

From: Bennett, Christy R.
Sent: Friday, January 19, 2024 10:03 AM
To: Michael Porter
Subject: RE: Admin Order

Thank you, Mr. Porter.



Respectfully,

Christy R. Bennett, NCCP
Superior Court / Court Coordinator
Moore and Hoke Counties / Judicial District 29
P.O. Drawer 1957
Carthage, NC 28327-1957
O 910.722.5009
F 910.722.5017

From: Michael Porter <michael@michaelporterlaw.com>
Sent: Friday, January 19, 2024 9:57 AM
To: Bennett, Christy R. <christy.r.bennett2@nccourts.org>
Subject: Admin Order

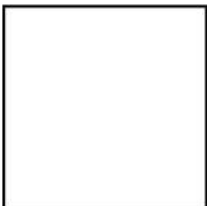
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Please find attached hereto the admin order that Judge Stone asked me to prepare and forward to you for his review.

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