



MDJCCC Maryland Judicial Campaign Conduct Committee, Inc.

REPORT OF THE MARYLAND JUDICIAL CAMPAIGN CONDUCT COMMITTEE

ELECTIONS 2010

MDJCCC
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Committee chair

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Members

Chair

Linda Pierson — Former president, League of Women Voters of Maryland; member, Attorney Grievance Commission (2001-present); resident of Baltimore City.

Members

Marcellus Alexander, Jr. — Executive Vice President, National Association of Broadcasters' (NAB) Television Department; former General Manager, WJZ-TV; resident of Montgomery County.

Rebecca Saybolt Bainum — Director of Academic Services, University of Baltimore School of Law; Managing Director, Clinical Law Program, University of Maryland School of Law (2007-2008); Staff Associate, Maryland Judicial Campaign Conduct Committee (2006 – 2007); Research Director and Legal Projects Manager, The Women’s Law Center of Maryland (2001-2006), Legal Counsel, Massachusetts State Senate (1995-1997); resident of Baltimore City.

George Beall — Partner, Hogan & Hartson; U.S. Attorney for the District of Maryland (1970-1975); resident of Baltimore County.

P. Tyson Bennett — Managing partner, Carney, Kelehan, Bresler, Bennett & Scherr, LLP (Annapolis); Adjunct Professor (School Law and Disability Law), Johns Hopkins University; resident of Anne Arundel County.

Gilbert Holmes — Professor, University of Baltimore School of Law; former Dean, University of Baltimore School of Law (2001 – 2007); former faculty member, Texas Wesleyan University School of Law, Southern Methodist Law School, and Seton Hall University Law School; resident of Howard County.

Donald Hutchinson — Interim President and CEO, Maryland Zoo in Baltimore; former President and CEO, SunTrust Bank, Maryland; former President, Greater Baltimore Committee; County Executive, Baltimore County (1978-1986); Maryland State Senate (1974-1978); Maryland House of Delegates (1969-1974); resident of Baltimore County.

Sherrilyn A. Ifill — Professor of Law, University of Maryland School of Law; member, National Ad Hoc Advisory Committee on Judicial Campaign Conduct; resident of Baltimore City.

Eugene M. Lerner — Associate Judge, Anne Arundel County Circuit Court, 5th Judicial Circuit, (1979-2001); resident of Anne Arundel County.

Timothy Maloney — Partner, Joseph, Greenwald & Laake (Greenbelt); Member, Maryland House of Delegates (1979-1995) representing Prince George’s County; resident of Montgomery County.

A. Dwight Pettit — Principal, A. Dwight Pettit, P.A.; Member, Board of Regents of the University System of Maryland; President, Monumental Bar Association (1976-1978); resident of Baltimore City.

Donald B. Robertson — Partner, Ross, Marsh & Foster; Maryland House of Delegates (1970-1989), Speaker Pro Tem (1987-1989), Majority Leader (1979-1987); resident of Montgomery County.

Stephen H. Sachs — Of Counsel, Wilmer, Cutler, Pickering, Hale and Dorr; U.S. Attorney for the District of Maryland (1967-1970); Maryland Attorney General (1979-1987); resident of Baltimore City.

Carmen Shepard — Counsel, Buc & Beardsley (Washington, D.C.); Deputy Attorney General, Office of the Maryland Attorney General (1996-2002); resident of Washington, D.C.

Kenneth Thompson — Partner, DLA Piper Rudnick Gray Carey; Chairman, Judicial Nominating Commission for Baltimore City; resident of Baltimore City.

Christopher West — Principal, Semmes, Bowen & Semmes; Former counsel, Republican Party of Maryland; resident of Baltimore County.

Legal Specialist

Karen Thomas — Certified paralegal; former reporter for USA TODAY (1982-2007); resident of Howard County.

I. Background

In his 2005 state of the judiciary address, Chief Judge Robert M. Bell of the Court of Appeals of Maryland, acting on the recommendations of the Judicial Ethics Committee and the Public Trust and Confidence Committee, called for the formation of a citizens' committee to study and monitor the conduct of contested judicial elections in Maryland. Chief Judge Bell asked former United States Attorney George Beall and former United States Attorney and Maryland Attorney General Stephen H. Sachs to co-chair the committee and invited Professor Sherrilyn A. Ifill of the University of Maryland School of Law, who has studied and written extensively on judicial elections, to serve as a committee member and its reporter.

Messrs. Beall and Sachs and Professor Ifill recruited the other members of the Maryland Judicial Campaign Conduct Committee (MDJCCC), a diverse, representative and bi-partisan group of Marylanders committed to maintaining respect for the uniqueness of the judicial office, and to promoting civility in the conduct of contested elections for Maryland's circuit court judgeships. In January 2009, Chief Judge Bell appointed Linda Pierson as chair of the committee. Messrs. Bell and Sachs and Professor Ifill continue as committee members.

The creation of MDJCCC was the result of several developments in the law. First, in 2002 the Supreme Court of the United States in *Republican Party of Minnesota v. White*, 536 U.S. 765, struck down on First Amendment grounds restrictions on candidate speech that prevent judicial candidates from announcing their views on legal and political issues. In an attempt to accommodate the ruling in *White*, the Maryland Judicial Ethics Committee and the Rules Committee of the Court of Appeals incorporated into Canon 5 of the Maryland Code of Judicial Conduct and Rule 8.2 of the Rules of Professional Conduct changes that promote the free exercise of speech in judicial campaigns.

Second, perhaps as a consequence of the decision in *White* – or perhaps as a reflection of a more general political and social contentiousness – subsequent judicial contests throughout the nation have been marked by incivility and partisanship. Indeed, some responsible commentators have questioned the appropriateness of several instances of campaign conduct by both challengers and incumbents in recent contested judicial elections here in Maryland. Nationwide, civic groups, bar associations and organizations such as The National Center for State Courts have promoted efforts to insure campaign conduct by judges and judicial aspirants and their supporters appropriate to the judicial function. Maryland is one of 25 states that have created Judicial Campaign Conduct Committees.

MDJCCC is a volunteer organization. Its members have broad experience in law, business, politics, journalism, government service and other civic activities. They appreciate the uniqueness of the judicial office and the need to preserve its reputation for fairness and impartiality. MDJCCC's commitment is to promote public education about the role of judges, and to improve the level of public discourse in judicial campaigns.

MDJCCC underscores two important aspects of its role: MDJCCC is an unofficial body. The role envisioned by MDJCCC does not purport to duplicate that of the Judicial Ethics Committee, the Attorney Grievance Commission or any other body that governs judicial or attorney misconduct. Nor will MDJCCC's activities affect in any way the official responsibilities of those bodies. Indeed, it cannot. MDJCCC has no formal authority. It cannot proscribe or censure with the force of law. Such influence as MDJCCC may have will stem only from the public's respect for its integrity, objectivity and representativeness.

Furthermore, MDJCCC does not, and will not, express any view on the wisdom of contested judicial elections. That question is appropriately left to public debate and to determination by the Legislature. MDJCCC believes that its credibility depends in substantial part on its absolute neutrality on that issue. Indeed, the private views of the members of MDJCCC vary widely on the subject. So long as trial judges are elected in Maryland, however, MDJCCC's purpose is to do what it can to insure that those elections are conducted in a manner that promotes respect for the integrity and legitimacy of the bench. This report outlines the activities of the Committee and an analysis of its impact during the 2010 electoral season.

STATEMENT OF PURPOSE

MDJCCC'S purpose is to promote civil and dignified conduct in judicial elections. At the root of the Committee's concern is maintaining the dignity of judicial office and both the fact and appearance of judicial impartiality to which every litigant has a right guaranteed by the Due Process clause of the Constitution.

Impartiality

MDJCCC's credo is simple. Judicial elections are different.

Unlike contests for legislative and executive office, in which candidates are expected, even obligated, to announce their views on current political and social issues and to commit to furthering them if elected, judges should have no such agenda. Judges are servants of the law as it is, not as others, even they, might wish it to be. The trial judge's obligation is to resolve disputes based solely on the law and the facts developed in his or her courtroom. Impartiality – and the appearance of impartiality – are the watchwords of the judicial function. “Justice,” as the Supreme Court reminded us over fifty years ago, “must satisfy the appearance of justice.” *Offut v. United States*, 358 U.S. 11, 14 (1954). If the public's constitutional right to an impartial judiciary is to be preserved, therefore, it is essential that contested judicial elections and the inevitable debates among judicial candidates do not impair – *and are not perceived as impairing* – the ability of those candidates to decide controversies that come before them as judges without bias, prejudice or predisposition.

Dignity

The frankly partisan, occasionally bare knuckles, conduct that we have come to tolerate in campaigns for legislative and executive office are inconsistent with the dignity we rightly count on in those who hold judicial office. The exaggerated rhetoric often employed in contemporary discussions of political issues, when used in the context of judicial elections, is corrosive of the public's perception of the integrity of the court system. Such campaign tactics damage the integrity of the judiciary – regardless of whether the communication falls within the ambit of constitutionally protected speech.

Maintaining the dignity of the judiciary is necessary to protect the rule of law – a root principle of our social compact and the one sure standard upon which this diverse and frequently fractious nation believes it can rely. The rule of law promises justice, neutrality and fairness. It does not exaggerate to say that the concept has an iconic status and that faith in the rule of law is akin to a civil religion. Judges are symbols of the rule of law. Therefore, those who aspire to judicial office have a special responsibility – a duty in fact – to conduct themselves in their campaigns with a dignity that reflects and honors the public's reverence for the unique office they seek.

II. Organizational presence

In accordance with the founding Committee's intent, Articles of Incorporation were filed with the Maryland State Department of Assessments & Taxation in Baltimore in order to restore and maintain the Committee's status as a simple non-stock corporation. The Committee maintains a Post Office Box in Baltimore, Md., and established early in 2010 a regional phone number (410-480-5148) able to receive phone calls and faxes and a general e-mail address (committee@mdjccc.org). All contact information was added to the Committee's website and stationery.

Funding was provided by the Maryland Judiciary and included a salary for a part-time legal specialist and administrative expenses such as phone and postage.

III. Standards

MDJCCC formulated Standards for campaign conduct and applied them during the 2006 and 2008 election seasons. These standards were continued during the first half of the 2010 election season. The Committee asked that all judicial candidates for the Circuit Court – incumbents and challengers alike – adhere to the Standards during their campaigns.

The Committee’s Standards for campaign conduct were compiled in a packet titled Standards and Commentaries for 2010 Judicial Elections. In addition to the Standards, the packet includes a history of MDJCCC and its creation and a description of the committee members. It also includes a candidate acknowledgement form that restates the Standards and provides a place for judicial candidates to indicate their willingness to abide by the Standards during the election. The full text of the Standards is posted on the Committee’s website.¹

Incorporation of new Rules Order

In March, Maryland’s Court of Appeals issued a rules order relating to the adoption of a new Rule 16-813 (Maryland Code of Judicial Conduct). The new Rule, which went into effect on July 1, 2010, eliminated Canons and replaced them with Rules and Comments. While the change did not have a significant substantive effect on MDJCCC Standards and Commentaries, it did require application, editing and re-working of the Standards and Commentaries.

Using email, the Committee discussed and reviewed proposed changes to the Standards and Commentaries adopted in 2006. At a June 14, 2010, meeting, the Committee voted to adopt the changes, which were incorporated into the Standards and Commentaries on July 1, 2010. On that date, the MDJCCC website (www.mdjccc.org) was updated to reflect the changes, and all 2010 judicial candidates were sent a letter advising them of the changes to MDJCCC Standards and Commentaries.

The MDJCCC Standards, rewritten to reflect the adoption of a new Rule 16-813, appear in the table below:

STANDARD I. *Maryland’s Rules*. A candidate for judicial office shall be familiar with, and subscribe to, the Maryland Code of Judicial Conduct (in particular Rules 2.3 and 4.4) and the Maryland Rules of Professional Conduct (in particular Rule 8.2).

STANDARD II. *Campaign Communications – Impartiality*. A candidate for judicial office shall not make any statement concerning his or her views that might reasonably be understood to compromise his or her impartiality and objectivity with respect to a case that may come before the court.

STANDARD III. *Campaign Communications – Truthfulness and Dignity*. A candidate for judicial office shall not knowingly make a false or misleading representation about his or her own qualifications, record or experience, or those of any other judicial candidate. A candidate shall communicate in a dignified manner and shall refrain from making inflammatory, sensational or abusive statements. A candidate shall not authorize or encourage such communication by others and shall promptly and publicly disavow such communication should it be made by individuals or organizations that act in cooperation or coordination with the candidate’s campaign.

¹ Thanks to invaluable assistance from Thomas Wilhelmy and Theresa Thomas from the Maryland Judiciary Office of Communications and Public Affairs, MDJCCC continued the website created in 2006 (www.mdjccc.org).

STANDARD IV. *Campaign Communications – Misrepresentation of Title.* A candidate for judicial office shall not use the title of an office not currently held by the candidate in a manner that implies that the candidate currently holds the office.

STANDARD V. *Campaign Communications – Appeals to Bias and Prejudice.* Campaign communications shall not suggest that an opponent is not qualified or competent to serve as a judge because of the opponent's race, sex, gender, religion, national origin, ethnicity, sexual orientation or socioeconomic status, nor shall campaign communications invoke invidious stereotypes to suggest that age or disability, in and of themselves, constitutes a lack of competence or qualification.

STANDARD VI. *Campaign Communications – Visual Materials.* A candidate must take particular care to insure that visual campaign materials conform to the foregoing Standards and comport with the dignity and integrity of judicial office.

STANDARD VI. *Financial Contributions.* A judicial candidate must not only abide by Maryland's election laws governing campaign fundraising but must take all reasonable steps to ensure that campaign fundraising does not undercut the dignity or impartiality of judicial office.

IV. Education

Candidate Education

Between January 1, 2010 and June 30, 2010, all individuals who filed with the State Board of Elections to be a candidate for Circuit Court judge in any of Maryland's eight judicial circuits received a letter from MDJCCC inviting voluntary compliance with the committee Standards. The letters included a copy of the Standards and Commentaries for 2010 Judicial Elections and requested that the candidate sign a "Candidate Acknowledgement Form" if he or she agreed to abide by the Standards. The letter also informed the candidates that the Committee would publicly identify those candidates who agreed to adhere to the Standards. As new candidates filed certifications of candidacy with the State Board of Elections, MDJCCC sent the Committee's Standards packet and letter of invitation to sign onto the Standards. The website maintained an up-to-date listing of all filed candidates with an indication of whether each candidate had signed the Candidate Acknowledgement Form.

On July 1, 2010, all judicial candidates who had already filed with the State Board of Elections received a second letter from MDJCCC along with the updated Standards and Commentaries reflecting the new Rule. The letters invited candidates to review the new Standards and to return the signed Candidate Acknowledgement Form in a self-addressed, stamped envelope. All candidates who filed with the State Board of Elections between July 1, 2010 and the deadline on July 5, 2010 received only the updated Standards.

In Maryland's eight judicial circuits, there were thirty-one candidates (including incumbents and challengers) for election to the Circuit Court. Twenty-seven of those candidates – 87 percent – signed the Candidate Acknowledgement Form, agreeing to abide by the MDJCCC

standards. It reflects the highest participation rate since MDJCCC's inception. During the 2006 election, there were thirty-five candidates; twenty-five of those candidates – 71 percent – signed the Candidate Acknowledgement Form. In 2008, participation dropped to 53 percent — 15 of the 28 candidates (all incumbents) signed the Candidate Acknowledgement Form.

The table below reveals the specific candidates from each Judicial Circuit:

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Candidates who have filed for election to judicial office	Candidates who have signed the Candidate Acknowledgement Form, agreeing to abide by the MDJCCC Standards
First Judicial Circuit (Dorchester, Somerset, Wicomico, and Worcester)	
No Candidates	
Second Judicial Circuit (Caroline, Cecil, Kent, Queen Anne's and Talbot)	
Barnes, Harry D.	Barnes, Harry D.
Bowman, Paul M.	
Buck, John H.	
Whelan, Michael V.	Whelan, Michael V.
Third Judicial Circuit (Baltimore and Harford)	
Alexander, Jan M.	Alexander, Jan M.
Bailey, Sherrie	Bailey, Sherrie
Beckman, T. Scott	
Brobst, Ann	Brobst, Ann
Nagle, John J. III	Nagle, John J. III
Fourth Judicial Circuit (Allegany, Garrett, and Washington)	
Dwyer, Daniel P.	Dwyer, Daniel P.
McDowell, John H.	McDowell, John H.
Fifth Judicial Circuit (Anne Arundel, Carroll, and Howard)	
Asti, Alison	Asti, Alison
Kiessling, Laura S.	Kiessling, Laura S.
Jarashow, Ronald H.	Jarashow, Ronald H.
Sixth Judicial Circuit (Frederick and Montgomery)	
Burrell, Sharon V.	Burrell, Sharon V.
Callahan, Cynthia	Callahan, Cynthia
Jordan, Richard E.	Jordan, Richard E.
McCally, Cheryl A.	McCally, Cheryl A.
Quirk, Joseph M.	Quirk, Joseph M.
Salant, Steven G.	
Woodard, Beverly J.	Woodard, Beverly J.
Seventh Judicial Circuit (Calvert, Charles, Prince George's, and St. Mary's)	
Green, Leo E.	Green, Leo E.
Harrington, Helen Ina	Harrington, Helen Ina
Krug, Warren J.	Krug, Warren J.
Nichols, C. Philip Jr.	Nichols, C. Philip Jr.
Pearson, Michael R.	Pearson, Michael R.
Eighth Judicial Circuit (Baltimore City)	
Brown, Videtta Arthyne	Brown, Videtta Arthyne
Fletcher-Hill, Lawrence	Fletcher-Hill, Lawrence
Sfekas, Stephen James	Sfekas, Stephen James
Shar, Marcus Z.	Shar, Marcus Z.
Welch, Martin P.	Welch, Martin P.

The state had three contested elections for Circuit Court judges in 2010:

- In the Second Judicial Circuit (Caroline, Cecil, Kent, Queen Anne’s, and Talbot Counties), Harry D. Barnes and John H. Buck challenged recently-appointed incumbent V. Michael Whelan in Cecil County. Whelan won the primary election and was not challenged in the general election.
- In the Third Judicial Circuit (Baltimore and Harford Counties), T. Scott Beckman ran against four sitting judges in Baltimore County (Jan Alexander, Sherrie Bailey, Ann Brobst, John J. Nagle III) for four positions. The incumbents won the primary elections and were not challenged in the general election.
- In the Fifth Circuit (Anne Arundel, Carroll, and Howard), Alison Asti ran for one of the two open positions in Anne Arundel County against incumbent judges Laura Kiessling and Ronald Jarashow in the primary and general elections. Asti and Kiessling were elected.

Public/voter Education

For the first time, the Committee attempted a public outreach program utilizing a pamphlet. The gist of the MDJCCC Standards and program were combined with sample candidate questions into a three-fold, four-color brochure aimed at the voting public.² MDJCCC’s goal was that the pamphlets would help educate the voting public about the unique role that judges play in our society and the importance of appropriate conduct by candidates seeking judicial office. In addition, the Committee intended that the pamphlets would not be candidate- or time-specific, which would allow the brochures to be distributed during future elections.

The Committee began idea-generating discussions at a February meeting, and followed up with emails and phone calls to review the content as it began to take shape. Design elements and wording were reviewed in a second meeting with a final product reviewed by all Committee Members via email.

Four thousand four hundred brochures were delivered to the MDJCCC offices in July for distribution as follows:

- 15 to 18 MDJCCC Committee Members: 270
- 40 to 31 judicial candidates: 1240
- 50 to 31 law libraries statewide: 1550
- 100 to the Office of Communications and Public Affairs: 100
- 200 to Administrative clerk at Anne Arundel Circuit Court: 200
- Total: 3360**

In addition, a digital .pdf version of the brochure was placed on the home page of mdjccc.org website where it remains available for downloading.

² With generous and invaluable assistance from graphic artist Mary Brighthaupt and editor Molly Kalifut in the Office of Communications and Public Affairs.

V. Complaints

Complaint protocol/process

During the 2010 elections, the Committee continued the internal protocol used during the 2006 and 2008 elections for considering alleged violations of the Standards for the Conduct of Contested Judicial Elections:

1. *Complaints alleging violations of MDJCCC's Standards may be received from judicial candidates or members of the public.*
2. *Complaints must be in writing using the form available on MDJCCC's website or from the committee, accompanied by any and all supporting material, signed by the complainant and mailed or faxed to the committee.*
3. *Complaints may also be received in person, by phone at the Committee's hotline (410-480-5148) or email (committee@mdjccc.org) on the Committee's website (www.mdjccc.org). In that event the recipient of the complaint shall inform the complainant to sign and submit the complaint as described above but shall also immediately bring the complaint to the attention of the Chair, who shall proceed as described below. The Chair may designate these functions to Committee members, as necessary.*
4. *If, after receiving a complaint, it is the judgment of the Chair in consultation with such Committee members as she deems necessary, that there is no adequate basis for further inquiry, the complainant shall be promptly notified that no further action shall be taken. The Chair shall promptly inform the full Committee of this determination.*
5. *If the Chair determines that there is an adequate basis for further inquiry, the Chair shall promptly notify the full Committee of the substance of the complaint, and shall designate one or more Committee members to conduct such further inquiry. The Chair or her designee on the Committee may request additional information from the complainant but, in any case, shall notify the respondent of the complaint and request a prompt written response.*
6. *Upon completion of the inquiry, the Committee member(s) assigned to a particular complaint shall report findings to the Chair and the full Committee.*
7. *The Committee shall confer promptly to discuss the complaint and findings. Committee members who are unable to attend in person may consult by conference call and/or e-mail.*

8. *A finding that the conduct in question violates the Standards requires a vote of a majority of the Committee. Committee members may abstain from voting for any reason.*

9. *The decision of the Committee shall be communicated promptly to the complainant and the respondent. A written decision shall be provided.*

10. *The deliberations of the Committee shall be confidential.*

11. *The complaint and request for investigation, the candidate's response (if any), and the findings and action of the Committee, however, shall be available to the public and may be disclosed to any persons or entities, including the media.*

12. *When deemed appropriate by a majority of the entire Committee, complaints may be referred to the Judicial Ethics Committee or to the Attorney Grievance Commission.*

Pursuant to the protocol established by MDJCCC, each complaint that the Committee Chair determined provided an adequate basis for inquiry was assigned to a sub-committee of MDJCCC members, called an “inquiry panel.” Members of the inquiry panel reviewed the complaint form and the evidentiary materials submitted by the complainant(s). The individual who was the subject of the complaint received all the complaint materials as well and was asked to provide a written response to the inquiry panel within a specified time period (usually one week). The members of the inquiry panel also interviewed any and all individuals identified in the complaint as having any additional information about the matters raised by the complainant. Upon review of all the evidentiary support for and in relation to the complaint, the inquiry panel developed a written proposed recommendation for the full Committee.

The full Committee, upon consideration of the inquiry panel's recommendation, discussed, debated and voted on the recommendation. Based on the Committee's action, a document detailing the Committee's findings was prepared and finalized. The written decision of the committee was transmitted first to the complainant(s) and the candidate before being released to the public and to the press. All findings were posted on the Committee's website.

Overview

MDJCCC received several complaints during the 2010 campaign season and after the general election. The complaints are summarized below:

- **Subject: The Sitting Judges Slate of Baltimore County**
8.19.10 – Received from challenger T. Scott Beckman
Issue: Standard III – Campaign Communications – Truthfulness and Dignity
Status: Findings issued September 9, 2010

- **Subject: T. Scott Beckman, candidate for Baltimore County Circuit Court**
9.3.10 – Received from Sitting Judges of Baltimore County
Issue: Standard III – Campaign Communications – Truthfulness and Dignity
Status: Findings issued September 9, 2010

- **Subject: Alison Asti, candidate for Anne Arundel Circuit Court**
12.6.10 – Received from Maryland resident and voter Anne LoLordo
Issue: Standard III – Campaign Communications – Truthfulness and Dignity;
Standard VII – Financial Contributions
Status: Findings issued January 12, 2011

- **Subject: Laura Kiessling and Ronald Jarashow, candidates for Anne Arundel Circuit Court**
2.9.11 — Received from Maryland resident Joyce E. Thomann
Issue: Standard III — Campaign Communications — Truthfulness and Dignity; Standard IV — Campaign Communications — Visual materials
Status: Findings issued May 18, 2011

- **Subject: Miscellaneous complaints outside the scope of MDJCCC Standards**
8.4.10 – Received from Hon. Vicky L. Ivory-Orem, Orphans’ Court, Prince George’s County.
Issue: Unapproved solicitation of campaign funds
Status: Inadequate for review because beyond the scope of committee

8.9.10 – Received from Hons. Joyce Baylor-Thompson and Lewyn Scott Garrett, Orphans’ Court, Baltimore City
Issue: Distribution of campaign materials
Status: Inadequate for review because it is beyond the scope of committee; recommended conduct be brought to courthouse security personnel.

Complaint Details

T. Scott Beckman/Sitting Judges of Baltimore County: MDJCCC received an email complaint from judicial candidate T. Scott Beckman regarding the campaign conduct of Judge Jan M. Alexander, Judge Sherrie R. Bailey, Judge S. Ann Brobst and Judge John J. Nagle, III, all incumbent judges of the Baltimore County Circuit Court. The complaint alleged that a campaign worker for the Sitting Judges violated MDJCCC Standards during the course of online discussions on the social networking site Facebook about Mr. Beckman’s qualifications as a judicial candidate. Beckman further alleged that a website created by the Sitting Judges (scottbeckmantherealstory.com) also violated MDJCCC Standards. After a

meeting of the inquiry panel on August 27, 2010 a copy of the complaint was provided to Mr. Andrew Alperstein on behalf of the Sitting Judges. In their response dated September 9, 2010, the Sitting Judges officially lodged a complaint against Mr. Beckman regarding his “Beckman for Judge” page on Facebook.

After several discussion and review meetings, the inquiry panel and full Committee agreed that the candidates’ conduct violated MDJCCC standards. In a decision issued September 9, 2010, the Committee found that both Mr. Beckman and the Sitting Judges have attempted to avoid criticism for Internet postings by claiming they were not intended for viewing by the public or they were not relevant to the campaign. That such Internet writings are the subject of the instant complaints should dispel thoughts about the privacy or anonymity of any Internet writing, and candidates in future judicial elections would be well-advised to conduct their campaigns accordingly.

Copies of the written decision were distributed to Mr. Beckman and the Sitting Judges before it was posted on mdjccc.org. In its press release to approximately 300 media outlets statewide, MDJCCC noted it was releasing its first ever decision regarding social media and the Internet.

Alison Asti, Judge, Anne Arundel Circuit Court: MDJCCC received an email complaint from Anne Arundel County resident and voter Anne LoLordo, who faxed the following day a signed Complaint Form along with several attachments. Ms. LoLordo amended her complaint to also include allegations that a December 7, 2010 fundraiser for the Asti campaign violated rules prohibiting judges from fundraising after an election. Copies of the complaint were sent by e-mail, fax and regular mail December 7, 2010 to Ms. Asti and two representatives, Mr. Arthur Frank and Mr. James Astrachan. The Committee sought a reply by December 14, 2010.

The inquiry panel met several times before issuing a draft report to the full Committee for approval. The Committee agreed that Judge Asti violated MDJCCC’s Standard III – Campaign Communications: Truthfulness and Dignity – by disseminating a campaign flyer that conveyed a message that Asti was part of a joint campaign effort with Judge Kiessling. The Committee also agreed that Judge Asti did not violate MDJCCC Standards by holding a post-Election fund-raiser. In a decision issued January 12, 2011, the Committee noted that “the message conveyed by the flyer to the casual, or even careful, reader is that it is distributed in support of a joint campaign by two candidates for the Circuit Court, Judge Kiessling and Ms. Asti. In fact, this representation is not true. The only joint campaign conducted in connection with the Circuit Court election was conducted by Judge Kiessling and Judge Jarashow. Ms. Asti was not part of any joint campaign effort. Furthermore, the flyer’s use of the distinctive color scheme associated with the campaign logo used by Judge Kiessling and Judge Jarashow along with other design characteristics further contributed to the misleading impression communicated by the flyer that Ms. Asti was part of a joint campaign effort with Judge Kiessling.”

Judge Asti and Ms. LoLordo received copies of the decision, which was also posted on the Committee’s website. The Committee’s findings were reported in the *Baltimore Sun*, *The Daily Record*, *The Capital*, *The Maryland Gazette* and *Pasadena Patch*.

Laura Kiessling, Judge, and Ronald Jarashow, former Judge, Anne Arundel Circuit Court: MDJCCC received from Joyce Thomann an email complaint on February 9, 2011, which was amended on March 2, 2011. Ms. Thomann alleged that candidates Kiessling and Jarashow acted in cooperation with a political action committee to distribute a flyer containing allegedly false and misleading information about then-candidate and now-Judge Alison Asti. Chair Linda B. Pierson appointed an inquiry panel consisting of the same Members appointed to review an earlier complaint in the same election. The Committee requested and received responses from T. Joseph Touhey, Treasure of the PAC, Leonard E. Moodispaw, Chairman of the PAC, Judge Alison Asti and the Arundel Judges Slate.

The panel met several times to review the responsive materials before presenting to the full Committee a draft report of the decision. The Committee agreed that there was insufficient evidence to support a conclusion that MDJCCC Standards were violated. In the decision dated May 18, 2011, the Committee noted that there “was not persuasive evidence of an agency relationship or conduct that could be deemed cooperation or coordination” between the PAC and then-candidates Kiessling and Jarashow.

On May 18, 2011, the Committee furnished copies of the decision to Ms. Thomann and Mr. Andrew Alperstein, counsel for Kiessling and Jarashow, and also made the decision available at www.mdjccc.org.

VI. Conclusion

As noted in both the 2006 and 2008 reports, deterrence continues to be the primary influence of the MDJCCC. The Committee received just four complaints lodged against candidates during the 2010 election, a significant reduction from the number of complaints received in 2006 when the Committee was first launched. The topic of two of the complaints – campaigning on the Internet and using social media – is a novel subject in the realm of elections.

The Committee also saw its highest participation rate among candidates who agreed to abide by MDJCCC Standards: 96 percent of incumbents and 25 percent of challengers returned a signed Acknowledgement Form.

Additionally, the Committee’s foray into outreach to the voting public generated positive response within the community, including a request by one Circuit Court (Anne Arundel) for an additional 150 brochures for distribution.

Finally, in preparation for its work in the 2012 election cycle, MJCCC has instituted a

concerted effort to recruit more members for the Committee, to enhance its geographical diversity and the variety of background and experience of its membership.

The Committee recommends that MDJCCC be continued in preparation for the 2012 elections.