

September 7, 2018

Lee Cassis  
Senate Clerk  
Room 211M, Bldg. 1  
State Capitol Complex  
Charleston, WV 25305

Re: *In re Matter of Impeachment Proceedings Against Respondent Chief Justice  
Margaret Workman*

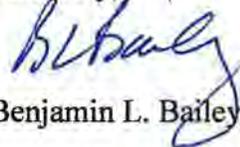
Dear Clerk Cassis:

Please find enclosed, for filing in the above referenced matter, Respondent's Motion to Set Trial Date and Briefing Schedule.

A copy has been provided to all parties as indicated on the Certificate of Service.

Should you have any questions please contact me.

Sincerely,



Benjamin L. Bailey

BLB/md  
Enclosure

cc: Honorable Paul T. Farrell  
Honorable Roger Hanshaw  
Honorable Ray Hollen  
Honorable John Shott  
Honorable Rodney Miller  
Honorable Andrew Byrd  
Chief Justice Workman

**IN THE WEST VIRGINIA SENATE**

***IN THE MATTER OF IMPEACHMENT PROCEEDINGS AGAINST  
RESPONDENT CHIEF JUSTICE MARGARET WORKMAN***

Honorable Paul T. Farrell  
Acting Justice of the  
Supreme Court of Appeals of West Virginia  
Presiding Officer

**RESPONDENT'S MOTION TO SET TRIAL DATE  
AND BRIEFING SCHEDULE**

Respondent Chief Justice Margaret Workman, by counsel, respectfully moves the Presiding Officer to set a date no earlier than Monday, October 15, 2018, for the commencement of her trial in the Senate, and to set an appropriate briefing schedule for motions. In support of this motion, Respondent states as follows:

1. The Articles of Impeachment, and particularly Article XIV, allege a broad range of misconduct at the Supreme Court of Appeals, from remodeling to lunches to picture framing to the content of the justices' tax submissions. Because the trial will concern subjects so numerous and varied, an enormous amount of evidence must be obtained and reviewed not only by the defense, but also by the Board of Managers. Respondent has identified more than sixty possible witnesses, and today will produce in excess of 35,000 pages of documents that could be used at trial. On information and belief, there are thousands more potentially relevant documents yet to be obtained and evaluated for production.

2. In addition, there is considerable motion practice that must be conducted prior to any trial. Respondent anticipates filing no fewer than a dozen discretely targeted motions to dismiss the charges. The Board of Managers will require time to respond substantively to each such motion. Respondent will also move for a bill of particulars seeking additional information

with particular respect to Article XIV, which does not specify which justices caused which instances of alleged misconduct, or what those justices did to cause them. If Respondent's motion for a bill of particulars is granted, then she must be afforded the opportunity to file additional dismissal motions premised on the details thereby disclosed. Respondent will also file motions in limine to exclude irrelevant or unfairly prejudicial evidence from the Senate's consideration, each of which will require a response from the Board of Managers.

3. In a criminal case of comparable complexity, the parties would generally be afforded at least six months to digest the legal and factual issues in order to ready themselves for trial. In a comparable civil matter, the parties would expect to have no less than one year to prepare their presentations, and frequently much longer. The Articles of Impeachment were adopted on August 13, 2018, and Respondent recognizes the exigencies that the Senate consequently confronts in attempting to conduct as many as four impeachment trials prior to the expiration of the 83rd Legislature. For that reason, Respondent's counsel is making its best efforts to compress within a two-month period the preparation of a robust defense that, under normal circumstances, would take at least two to three times that long. The necessary timeframe cannot be further condensed without running afoul of fundamental requirements of due process.

4. A reasonable trial date no earlier than October 15, 2018, would also permit the imposition of an orderly briefing schedule. Respondent moves for the following schedule:

September 10, 2018 — Respondent's motion for bill of particulars;

September 13, 2018 — Board of Managers' response to motion for bill of particulars;

September 14, 2018 — Respondent's reply in support of motion for bill of particulars;

September 17, 2018 — Presiding Judge's ruling on motion for bill of particulars;

September 17, 2018 or  
four (4) weeks prior to trial — Motions to dismiss not premised on bill of particulars;

September 20, 2018 — Bill of particulars to be furnished, if motion granted;

September 24, 2018 or  
three (3) weeks prior to trial — Motions to dismiss premised on bill of particulars;

September 24, 2018 or  
three (3) weeks prior to trial — Motions in limine;

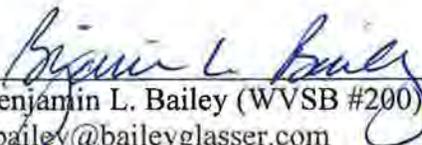
October 1, 2018 or  
two (2) weeks prior to trial — Oppositions to dismissal motions and motions in limine;

October 8, 2018 or  
one (1) week prior to trial — Replies in support of dismissal motions and motions in limine.

WHEREFORE, Respondent respectfully requests that the Presiding Officer: (i) grant this motion; (ii) set a trial date no earlier than Monday, October 15, 2018; and (iii) establish a briefing schedule in substantial conformance with the foregoing.

CHIEF JUSTICE MARGARET WORKMAN

By Counsel:

  
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**IN THE WEST VIRGINIA SENATE**

***IN THE MATTER OF IMPEACHMENT PROCEEDINGS AGAINST  
RESPONDENT CHIEF JUSTICE MARGARET WORKMAN***

Honorable Paul T. Farrell  
Acting Justice of the  
Supreme Court of Appeals of West Virginia  
Presiding Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of September, 2018, a true and correct copy of the foregoing **RESPONDENT'S MOTION TO SET TRIAL DATE** was served by electronic mail and by depositing a true copy thereof in the United States mail, first class, postage prepaid, in envelopes upon the following:

Honorable Roger Hanshaw  
Room 408M, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

Honorable Ray Hollen  
Room 224E, Bldg. 1  
1900 Kanawha Blvd. E.  
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Honorable John Shott  
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Honorable Rodney Miller  
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BENJAMIN L. BAILEY