

ARTICLES OF IMPEACHMENT FOR THE JUSTICES OF THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

1 *Resolved by the House of Delegates:*

2 BE IT RESOLVED, That, pursuant to the authority granted by the House of Delegates of
3 West Virginia to the House Committee on the Judiciary in House Resolution 201, dated June 26,
4 2018, the Committee on the Judiciary recommends to the House of Delegates of West Virginia:

5 THAT, pursuant to the authority granted to the House of Delegates in Section 9, Article IV
6 of the Constitution of the State of West Virginia, that Chief Justice Margaret Workman, Justice
7 Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court
8 of Appeals of West Virginia, be impeached for maladministration, corruption, incompetency,
9 neglect of duty, and certain high crimes and misdemeanors committed in their capacity and by
10 virtue of their offices as Justices of the Supreme Court of Appeals of West Virginia, and that said
11 Articles of Impeachment, being fourteen in number, be and are hereby adopted by the House of
12 Delegates, and that the same shall be exhibited to the Senate in the following words and figures,
13 to wit:

14 ARTICLES exhibited by the House of Delegates of the State of West Virginia in the name of
15 themselves and all of the people of the State of West Virginia against:

16 Margaret Workman, who was at the general election held in November 2008, duly
17 elected to the office of Justice of the Supreme Court of Appeals of West Virginia

1 and on the 29th day of December 2008, after having duly qualified as a Justice by
2 taking the required oath to support the Constitution of the United States and the
3 Constitution of the State of West Virginia and faithfully discharge the duties of that
4 office to the best of her skill and judgment, entered upon the discharge of the duties
5 thereof; and on the 16th day of February 2018, was elevated to the position of Chief
6 Justice and entered upon the discharge of the duties thereof; and

7 Allen Loughry, who was at the general election held in November 2012, duly
8 elected to the office of Justice of the Supreme Court of Appeals of West Virginia
9 and on the 14th day of December 2012, after having duly qualified as a Justice by
10 taking the required oath to support the Constitution of the United States and the
11 Constitution of the State of West Virginia and faithfully discharge the duties of that
12 office to the best of her skill and judgment, entered upon the discharge of the duties
13 thereof; and

14 Robin Davis, who was at the general election held in November 2012 duly elected
15 to the office of Justice of the Supreme Court of Appeals of West Virginia and on
16 the 13th day of January 2013, after having duly qualified as a Justice by taking the
17 required oath to support the Constitution of the United States and the Constitution
18 of the State of West Virginia and faithfully discharge the duties of that office to the
19 best of her skill and judgment, entered upon the discharge of the duties thereof;
20 and

21 Elizabeth Walker, who was at the general election held in November 2016 duly
22 elected to the office of Justice of the Supreme Court of Appeals of West Virginia
23 and on the 5th day of December 2016, after having duly qualified as a Justice by

1 taking the required oath to support the Constitution of the United States and the
2 Constitution of the State of West Virginia and faithfully discharge the duties of that
3 office to the best of her skill and judgment, entered upon the discharge of the duties
4 thereof; and

5 In maintenance and support of their impeachment against them Margaret
6 Workman, Allen Loughry, Robin Davis, and Elizabeth Walker for
7 maladministration, corruption, incompetency, neglect of duty, and certain high
8 crimes and misdemeanors.

Article I

9 That the said Chief Justice Margaret Workman, and Justice Robin Davis, being at all times
10 relevant Justices of the Supreme Court of Appeals of West Virginia, and at various relevant times
11 individually each Chief Justice of the Supreme Court of Appeals of West Virginia unmindful of the
12 duties of their high offices, and contrary to the oaths taken by them to support the Constitution of
13 the State of West Virginia and faithfully discharge the duties of their offices as such Justices, while
14 in the exercise of the functions of the office of Justices, in violation of their oaths of office, then
15 and there, with regard to the discharge of the duties of their offices, commencing in or about 2012,
16 did knowingly and intentionally act, and each subsequently oversee in their capacity as Chief
17 Justice, and did in that capacity as Chief Justice severally sign and approve the contracts
18 necessary to facilitate, at each such relevant time, to overpay certain Senior Status Judges in
19 violation of the statutory limited maximum salary for such Judges, which overpayment is a
20 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10, and, in violation of
21 an Administrative Order of the Supreme Court of Appeals, in potential violation of the provisions
22 of W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to enable or
23 assist any person to obtain money to which he was not entitled, and in potential violation of the

1 provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia Public
2 Employees Retirement System, and, in potential violation of the provisions set forth in W.Va. Code
3 §61-3-24, relating to the crime of obtaining money, property and services by false pretenses, and,
4 all of the above are in violation of the provisions of Canon I and Canon II of the West Virginia
5 Code of Judicial Conduct.

Article II

6 That the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice Robin
7 Davis, and Justice Elizabeth Walker, being at all times relevant Justices of the Supreme Court of
8 Appeals of West Virginia, unmindful of the duties of their high offices, and contrary to the oaths
9 taken by them to support the Constitution of the State of West Virginia and faithfully discharge the
10 duties of their offices as such Justices, while in the exercise of the functions of the office of
11 Justices, in violation of their oaths of office, then and there, with regard to the discharge of the
12 duties of their offices, did, in the absence of any policy to prevent or control expenditure, waste
13 state funds with little or no concern for the costs to be borne by the tax payers for unnecessary
14 and lavish spending for various purposes including, but without limitation, to certain examples,
15 such as: to remodel state offices, for large increases in travel budgets—including unaccountable
16 personal use of state vehicles, for unneeded computers for home use, for regular lunches from
17 restaurants, and for framing of personal items and other such wasteful expenditure not necessary
18 for the administration of justice and the execution of the duties of the Court; and, did fail to provide
19 or prepare reasonable and proper supervisory oversight of the operations of the Court and the
20 subordinate courts by failing to carry out one or more of the following necessary and proper
21 administrative activities:

- 22 A) To prepare and adopt sufficient and effective travel policies prior to October of 2016,
23 and failed thereafter to properly effectuate such policy by excepting the Justices from

1 said policies, and subjected subordinates and employees to a greater burden than the
2 Justices;

3 B) To report taxable fringe benefits, such as car use and regular lunches, on Federal W-
4 2s, despite full knowledge of the Internal Revenue Service Regulations, and further
5 subjected subordinates and employees to a greater burden than the Justices, in this
6 regard, and upon notification of such violation, failed to speedily comply with requests
7 to make such reporting consistent with applicable law;

8 C) To provide proper supervision, control, and auditing of the use of state purchasing
9 cards leading to multiple violations of state statutes and policies regulating the proper
10 use of such cards, including failing to obtain proper prior approval for large purchases;

11 D) To prepare and adopt sufficient and effective home office policies which would govern
12 the Justices' home computer use, and which led to a lack of oversight which
13 encouraged the conversion of property;

14 E) To provide effective supervision and control over record keeping with respect to the
15 use of state automobiles, which has already resulted in an executed information upon
16 one former Justice and the indictment of another Justice.

17 F) To provide effective supervision and control over inventories of state property owned
18 by the Court and subordinate courts, which led directly to the undetected absence of
19 valuable state property, including, but not limited to, a state-owned desk and a state-
20 owned computer;

21 G) To provide effective supervision and control over purchasing procedures which directly
22 lead to inadequate cost containment methods, including the rebidding of the
23 purchases of goods and services utilizing a system of large unsupervised change
24 orders, all of which encouraged waste of taxpayer funds.

1 The failure by the Justices, individually and collectively, to carry out these necessary and proper
2 administrative activities constitute a violation of the provisions of Canon I and Canon II of the West
3 Virginia Code of Judicial Conduct.

Article III

4 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
5 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
6 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
7 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
8 his oath of office, then and there, with regard to the discharge of the duties of his office, did on or
9 about June 20, 2013, cause a certain desk, of a type colloquially known as a "Cass Gilbert" desk,
10 to be transported from the State Capitol to his home, and did maintain possession of such desk
11 in his home, where it remained throughout his term as Justice for approximately four and one-half
12 years, in violation of the provisions of W.Va. Code §29-1-7 (b), prohibiting the removal of original
13 furnishings of the state capitol from the premises; further, the expenditure of state funds to
14 transport the desk to his home, and refusal to return the desk to the state, constitute the use of
15 state resources and property for personal gain in violation of the provisions of W.Va. Code §6B-
16 2-5, the provisions of the West Virginia State Ethics Act, and constitute a violation of the provisions
17 of Canon I of the West Virginia Code of Judicial Conduct.

Article IV

18 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
19 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
20 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
21 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
22 his oath of office, then and there, with regard to the discharge of the duties of his office, did

1 beginning in or about December 2012, intentionally acquired and used state government
2 computer equipment and hardware for predominately personal use—including a computer not
3 intended to be connected to the court's network, utilized state resources to install computer
4 access services at his home for predominately personal use, and utilized state resources to
5 provide maintenance and repair of computer services for his residence resulting from
6 predominately personal use; all of which acts constitute the use of state resources and property
7 for personal gain in violation of the provisions of W.Va. Code §6B-2-5, the provisions of the West
8 Virginia State Ethics Act, and constitute a violation of the provisions of Canon I of the West Virginia
9 Code of Judicial Conduct.

Article V

10 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
11 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
12 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
13 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
14 his oath of office, then and there, with regard to the discharge of the duties of his office, did
15 beginning in or about December 2012, intentionally acquire and use state government vehicles
16 for personal use; including using a state vehicle and gasoline purchased utilizing a state issued
17 fuel purchase card to travel to the Greenbrier on one or more occasions for book signings and
18 sales, which such acts enriched his family and which acts constitute the use of state resources
19 and property for personal gain in violation of the provisions of W.Va. Code §6B-2-5, the provisions
20 of the West Virginia State Ethics Act, and constitute a violation of the provisions of Canon I of the
21 West Virginia Code of Judicial Conduct.

Article VI

22 That the said Justice Allen Loughry, being at all times relevant a Justice of the Supreme
23 Court of Appeals of West Virginia, and at that relevant time individually Chief Justice of the

1 Supreme Court of Appeals of West Virginia, unmindful of the duties of his high offices, and
2 contrary to the oaths taken by him to support the Constitution of the State of West Virginia and
3 faithfully discharge the duties of his office as such Justices, while in the exercise of the functions
4 of the office of Justice, in violation of his oath of office, then and there, with regard to the discharge
5 of the duties of his office, did on or about May 19, 2017, did in his capacity as Chief Justice, draft
6 an Administrative Order of the Supreme Court of Appeals, bearing his signature, authorizing the
7 Supreme Court of Appeals to overpay certain Senior Status Judges in violation of the statutorily
8 limited maximum salary for such Judges, which overpayment is a violation of the provisions of
9 W.Va. Code §51-2-13 and W.Va. Code §51-9-10; his authorization of such overpayments was a
10 violation of the clear statutory law of the state of West Virginia, as set forth in those relevant Code
11 sections, and, was an act in potential violation of the provisions set forth in W.Va. Code §61-3-
12 22, relating to the crime of falsification of accounts with intent to enable or assist any person to
13 obtain money to which he was not entitled, and in potential violation of the provisions of W.Va.
14 Code §5-10-45, relating to the crime of fraud against the West Virginia Public Employees
15 Retirement System, and, in potential violation of the provisions set forth in W.Va. Code §61-3-24,
16 relating to the crime of obtaining money, property and services by false pretenses, and all of the
17 above are in violation of the provisions of Canon I and Canon II of the West Virginia Code of
18 Judicial Conduct.

Article VII

19 That the said Justice Allen Loughry, being a Justice of the Supreme Court of Appeals of
20 West Virginia, unmindful of the duties of his high office, and contrary to the oaths taken by him to
21 support the Constitution of the State of West Virginia and faithfully discharge the duties of his
22 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
23 his oath of office, then and there, with regard to the discharge of the duties of his office, did waste
24 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and

1 lavish spending in the renovation and remodeling of his personal office, to the sum of
2 approximately \$363,000, which sum included the purchase of a \$31,924 couch, a \$33,750 floor,
3 and other such wasteful expenditure not necessary for the administration of justice and the
4 execution of the duties of the Court, which represents a waste of state funds.

Article VIII

5 That the said Justice Elizabeth Walker, being a Justice of the Supreme Court of Appeals
6 of West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her
7 to support the Constitution of the State of West Virginia and faithfully discharge the duties of her
8 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
9 her oath of office, then and there, with regard to the discharge of the duties of her office, did waste
10 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and
11 lavish spending in the renovation and remodeling of her personal office, which had been largely
12 remodeled less than seven years prior, to the sum of approximately \$131,000, which sum
13 included, but is not limited to, the purchase of approximately \$27,000 in items listed as office
14 furnishings and wallpaper, and other such wasteful expenditure not necessary for the
15 administration of justice and the execution of the duties of the Court, which represents a waste of
16 state funds.

Article IX

17 That the said Justice Elizabeth Walker, being a Justice of the Supreme Court of Appeals
18 of West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her
19 to support the Constitution of the State of West Virginia and faithfully discharge the duties of her
20 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
21 her oath of office, then and there, with regard to the discharge of the duties of her office, did waste
22 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and

1 lavish spending in that she hired outside counsel to craft a legal opinion of the Court, in the case
2 styled *Quicken Loans, Inc. v. Walters*, 801 S.E.2d 509, 239 W. Va. 494 (2017), and for which
3 competent assistance in the form of personal clerks was provided to facilitate the execution of the
4 same; such action constitutes a wasteful expenditure not necessary for the administration of
5 justice and the execution of the duties of the Court, which represents a waste of state funds.

Article X

6 That the said Justice Robin Davis, being a Justice of the Supreme Court of Appeals of
7 West Virginia, unmindful of the duties of her high office, and contrary to the oaths taken by her to
8 support the Constitution of the State of West Virginia and faithfully discharge the duties of her
9 office as such Justice, while in the exercise of the functions of the office of Justice, in violation of
10 her oath of office, then and there, with regard to the discharge of the duties of her office, did waste
11 state funds with little or no concern for the costs to be borne by the tax payer for unnecessary and
12 lavish spending in the renovation and remodeling of her personal office, to the sum of
13 approximately \$500,000, which sum included, but is not limited to, the purchase of an oval rug
14 that cost approximately \$20,500, a desk chair that cost approximately \$8,000 and over \$23,000
15 in design services, and other such wasteful expenditure not necessary for the administration of
16 justice and the execution of the duties of the Court, which represents a waste of state funds.

Article XI

17 That the said Justice Robin Davis, being at all times relevant a Justice of the Supreme
18 Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice of the
19 Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
20 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
21 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
22 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge

1 of the duties of her office, did in the year 2014, did in her capacity as Chief Justice, sign certain
2 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
3 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
4 violation of the statutorily limited maximum salary for such Judges, which overpayment is a
5 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization
6 of such overpayments was a violation of the clear statutory law of the state of West Virginia, as
7 set forth in those relevant Code sections, and, was an act in potential violation of the provisions
8 set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to
9 enable or assist any person to obtain money to which he was not entitled, and in potential violation
10 of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia
11 Public Employees Retirement System, and, in potential violation of the provisions set forth in
12 W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false
13 pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the
14 West Virginia Code of Judicial Conduct.

Article XII

15 That the said Chief Justice Margaret Workman, being a Justice of the Supreme Court of
16 Appeals of West Virginia, unmindful of the duties of her high office, and contrary to the oaths
17 taken by her to support the Constitution of the State of West Virginia and faithfully discharge the
18 duties of her office as such Justice, while in the exercise of the functions of the office of Justice,
19 in violation of her oath of office, then and there, with regard to the discharge of the duties of her
20 office, did waste state funds with little or no concern for the costs to be borne by the tax payer for
21 unnecessary and lavish spending in the renovation and remodeling of her personal office, to the
22 sum of approximately \$111,000, which sum included, but is not limited to, the purchase of wide
23 plank cherry flooring, and other such wasteful expenditure not necessary for the administration of
24 justice and the execution of the duties of the Court, which represents a waste of state funds.

Article XIII

1 That the said Chief Justice Margaret Workman, being a Justice of the Supreme Court of
2 Appeals of West Virginia, unmindful of the duties of her high office, and contrary to the oaths
3 taken by her to support the Constitution of the State of West Virginia and faithfully discharge the
4 duties of her office as such Justice, while in the exercise of the functions of the office of Justice,
5 in violation of her oath of office, then and there, with regard to the discharge of the duties of her
6 office, did waste state funds with little or no concern for the costs to be borne by the tax payer by
7 requiring and encouraging the unnecessary hiring and retention of employees, and contracting of
8 services, some instances of which constituted the apparent repayment of political favors to former
9 campaign workers; which acts caused wasteful expenditure not necessary for the administration
10 of justice and the execution of the duties of the Court, which represents a waste of state funds
11 and a violation of the provisions of Canons I and II of the West Virginia Code of Judicial Conduct.

Article XIV

12 That the said Justice Margaret Workman, being at all times relevant a Justice of the
13 Supreme Court of Appeals of West Virginia, and at certain relevant times individually Chief Justice
14 of the Supreme Court of Appeals of West Virginia, unmindful of the duties of her high offices, and
15 contrary to the oaths taken by her to support the Constitution of the State of West Virginia and
16 faithfully discharge the duties of his office as such Justice, while in the exercise of the functions
17 of the office of Justice, in violation of her oath of office, then and there, with regard to the discharge
18 of the duties of her office, did in the year 2015, did in her capacity as Chief Justice, sign certain
19 Forms WV 48, to retain and compensate certain Senior Status Judges the execution of which
20 forms allowed the Supreme Court of Appeals to overpay those certain Senior Status Judges in
21 violation of the statutorily limited maximum salary for such Judges, which overpayment is a
22 violation of the provisions of W.Va. Code §51-2-13 and W.Va. Code §51-9-10; her authorization
23 of such overpayments was a violation of the clear statutory law of the state of West Virginia, as

1 set forth in those relevant Code sections, and, was an act in potential violation of the provisions
2 set forth in W.Va. Code §61-3-22, relating to the crime of falsification of accounts with intent to
3 enable or assist any person to obtain money to which he was not entitled, and in potential violation
4 of the provisions of W.Va. Code §5-10-45, relating to the crime of fraud against the West Virginia
5 Public Employees Retirement System, and, in potential violation of the provisions set forth in
6 W.Va. Code §61-3-24, relating to the crime of obtaining money, property and services by false
7 pretenses, and all of the above are in violation of the provisions of Canon I and Canon II of the
8 West Virginia Code of Judicial Conduct.

9 WHEREFORE, the said Chief Justice Margaret Workman, Justice Allen Loughry, Justice
10 Robin Davis, and Justice Elizabeth Walker, Justices of the Supreme Court of Appeals of West
11 Virginia, failed to discharge the duties of their offices, and were and are guilty of maladministration,
12 corruption, incompetency, neglect of duty, and certain high crimes and misdemeanors.

13 And the House of Delegates of West Virginia, saving to themselves the liberty and rights
14 of exhibiting at any time hereafter any further Articles of Impeachment against the said Chief
15 Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth
16 Walker, Justices of the Supreme Court of Appeals of West Virginia, individually and collectively,
17 as aforesaid, and also of replying to their answers which they may make unto the Articles herein
18 proffered against them, and of offering proof to any all of the Articles herein contained, and every
19 part thereof, and to all an every other Article, accusation, or impeachment, which shall be
20 exhibited by the said House of Delegates as the case may require, do demand that the said Chief
21 Justice Margaret Workman, Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth
22 Walker, Justices of the Supreme Court of Appeals of West Virginia, individually and collectively,
23 as aforesaid, may be put to answer the of maladministration, corruption, incompetency, neglect
24 of duty, and certain high crimes and misdemeanors herein charged against them, and that such

1 proceedings, examinations, trials, and judgments, may be thereupon had, given and taken, as
2 may be agreeable to the Constitution and the laws of the State of West Virginia, and as justice
3 may require.

4 We, John Overington, Speaker Pro Tempore of the House of Delegates of West Virginia,
5 and Stephen J. Harrison, Clerk thereof, do certify that the above and foregoing Articles of
6 Impeachment proffered by said House of Delegates against Chief Justice Margaret Workman,
7 Justice Allen Loughry, Justice Robin Davis, and Justice Elizabeth Walker, Justices of the
8 Supreme Court of Appeals of West Virginia, individually and collectively, as aforesaid, were
9 adopted by the House of Delegates on the ---- day of -----2018.

10 In Testimony Whereof, we have signed our names hereunto, this the ---- day of -----
11 2018.