

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

CHIEF JUSTICE WORKMAN'S MOTION FOR CONTINUANCE

Respondent Chief Justice Margaret Workman, by counsel, respectfully moves the Presiding Officer to enter an order continuing the trial from its currently scheduled date until after the November 6, 2018 election. The scope and nature of the negative publicity which has attended every aspect of this case has created a prejudicial environment, especially in light of the upcoming election, which threatens Respondent's right to a fair and impartial impeachment trial.

It is a fundamental principle that "due process requires that the accused receive a trial by an impartial jury free from outside influences." *Sheppard v. Maxwell*, 384 U.S. 333, 362 (1966); *see* U.S. Const. amend. V; U.S. Const. amend. XIV; W. Va. Const. art. III, § 10. The United States Supreme Court has further explained that "[g]iven the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial courts must take *strong measures to ensure that the balance is never weighed against the accused.*" *Id.* (emphasis added). And "where there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the judge should continue the case until the threat abates." *Id.* at 363; *accord State ex rel. Tucker v. McBride*, No. 11-0593, 2012 WL 3194048, *10 (W. Va. Mar. 9, 2012) ("The alleviation of negative pretrial publicity constitutes one potential ground for the granting of a continuance.").

In light of the publicity surrounding this case, the timing of Chief Justice Workman's could hardly be more prejudicial. Chief Justice Workman is set to go to trial on October 15. Her trial would conclude shortly before the November 6 election, in which half the Senate will be on the ballot. Although the Senators, sitting as a Court of Impeachment, will undoubtedly make every effort to separate their consideration of the impeachment case from the effect it might have on their reelection, there is simply too great a risk that electoral considerations will influence them.

WHEREFORE, Respondent respectfully requests that the Presiding Officer continue Respondent's trial until after the November 6, 2018 election.

CHIEF JUSTICE MARGARET WORKMAN

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 2018, a true and correct copy of the foregoing **CHIEF JUSTICE WORKMAN'S MOTION FOR CONTINUANCE** 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:

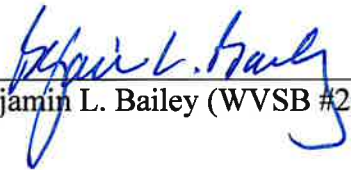
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