



SUPREME COURT OF APPEALS OF WEST VIRGINIA  
ADMINISTRATIVE ORDER

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RULE ON RETIRED JUDGES ADMITTED TO  
SENIOR STATUS

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WHEREAS, The Supreme Court of Appeals has been authorized and empowered to create a panel of retired judges admitted to senior status from among former circuit judges and Supreme Court justices of this State, and to promulgate rules providing for such judges and justices to be assigned duties as needed and as feasible;

IT IS THEREFORE ORDERED that there is hereby established, effective June 9, 1991, a system of senior status for retired judges, pursuant to W.Va. Code § 51-9-10.

(a) Eligibility.

(1) Former Judge or Justice. To qualify for senior status, one must: (A) be receiving benefits under the Judicial Retirement System pursuant to W.Va. Code, Chapter 51, Article 9; or (B) meets one of the following criteria: (i) served in the judicial office with the eligibility equivalency for judicial retirement under W. Va. Code, Chapter 51, Article 9, but retires under Public Employees Retirement System pursuant to W. Va. Code, Chapter 5, Article 10; (ii) has served in the judicial office for one full term and retires at the end of that term under the Public Employees Retirement System; or (iii) has served in the judicial office for more than one full term and

subsequently receives benefits under the Judicial Retirement System or the Public Employees Retirement System.

(2) Residence. To qualify and to remain qualified for senior status, one must be a bona fide resident of the State of West Virginia.

(3) Practice of Law. (A) Engagement in a substantial law practice (e.g., association with a law firm or full-time law practice) shall disqualify a retired judge or justice from eligibility for senior status. (B) Engagement in a limited law practice (e.g., no association with a law firm or part-time practice) shall not disqualify a retired judge or justice from eligibility for senior status, but shall disqualify a retired judge admitted to senior status from assignment to duty in any circuit where he or she engages in practice.

(4) Ethics Code. A judge admitted to senior status shall be bound by the prevailing canons of judicial ethics and by the prevailing rules on complaints against judges and justices.

(5) Training. Senior status judges are required to attend the judicial training conferences and will be reimbursed for expenses as active judges.

(6) Compliance with Rule. To qualify, a retired judge or justice must agree in advance to comply with the provisions of this rule.

(7) Other Considerations. The Supreme Court of Appeals may take into account such other considerations as it deems pertinent (i.e., age, health, etc.).

(b) Application. Application for senior status shall be submitted to the Administrative Director of the Supreme Court of Appeals, on the form prescribed by the Administrative Director. The applicant shall provide all the information called for by the form; Provided, however, that the Supreme Court may require the applicant to submit additional information. Application may be made within one year before the applicant's anticipated date of eligibility or at anytime after the applicant's date of eligibility.

(c) Admission; Oath; Revocation. Admission to senior status shall be a privilege; admission may granted or denied by the Supreme Court, in its discretion, acting in administrative conference and recording such action in an administrative order duly entered; admission may be for indefinite duration or temporary duration of a specified period. Before commencing service, a judge admitted to senior status shall take an oath of office, and file such oath with the Administrative Director. The Supreme Court may, for failure to comply with provisions of this rule or for incapacity, revoke senior status, by acting in administrative conference and recording such action in an administrative order duly entered.

(d) Change of Circumstances; Withdrawal. A judge admitted to senior status shall forthwith inform the

Administrative Director of any change of circumstances bearing on his or her senior judicial status, and may at anytime by written notice withdraw from senior status.

(e) Assignment to Duty.

(1) The Chief Justice may, by order duly entered, assign a judge admitted to senior status to such judicial duties in such courts as the Chief Justice deems appropriate and as consistent with applicable provisions of law.

(2) No retired judge admitted to senior status who has been defeated in an election for a circuit judgeship shall be assigned to duty in the circuit where he or she was defeated.

(3) All judges admitted to senior status are hereby generally assigned and empowered to perform marriages and to administer oaths in any county of this State.

(4) Nothing in this rule shall preclude the recall or assignment to active judicial service of any retired judge or justice who has not been admitted to senior status but who agrees to serve, all subject to any applicable rules or provisions of law.

(f) Financial Allowances:

(1) Per Diem. (A) Compensation for service by a judge admitted to senior status will be at the rate of \$200 per day. (B) For service within the circuit of residence, service will be billable in half-day increments; for service outside the


circuit of residence, service will be billable in full-day increments. (C) Provided, however, that the per diem and retirement compensation of a retired judge, admitted to senior status shall not exceed the salary of a sitting judge.

(2) Expenses. Reimbursement for travel and/or other necessary expenses incurred during assigned service will be made according to the prevailing Supreme Court regulations.

(3) Allowances Form. Statements for per diem and expense allowances under subdivisions (1) and (2) of this subsection (g) must be submitted to and approved by the Administrative Director, on the form prescribed by the Administrative Director.

(4) Staff Support. Insofar as feasible, a judge admitted to senior status, while on assignment, must rely on the services of regular staff personnel of the court of assignment; Provided, however, that upon good cause shown and advance approval by the Administrative Director, a judge admitted to senior status may arrange, consistent with prevailing Supreme Court regulations, for temporary workers to provide secretarial and/or court-reporting services.

ENTER, this 15<sup>th</sup> day of November, 1991.

  
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Thomas B. Miller  
CHIEF JUSTICE

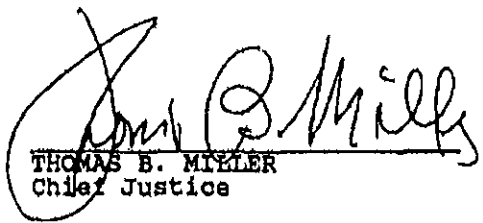
AMENDED ADMINISTRATIVE ORDER  
SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: PER DIEM AND REIMBURSEMENT OF EXPENSES UNDER SENIOR STATUS

WHEREAS, pursuant to W. Va. Code, 51-9-10, the Supreme Court, meeting in Administrative Conference on June 3, 1991, approved a per diem of Two Hundred Dollars (\$200.00) for retired Judges recalled by the Chief Justice under Article VIII, Sections 3 and 8 of the Constitution of West Virginia, and further approved reimbursement for travel expenses and other actual expenses necessary for lodging and meals.

This Amended Order is filed for the purpose of amending the administrative order entered June 14, 1991 authorizing a per diem allowance for Senior Judges recalled after retirement, and further shall serve as a temporary rule under the provisions of this statute until further action by this Court.

ENTER: JULY 22, 1991

  
THOMAS B. MYLER  
Chief Justice

SUPREME COURT OF APPEALS OF WEST VIRGINIA

ADMINISTRATIVE ORDER

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RULE ON RETIRED JUDGES ADMITTED TO  
SENIOR STATUS

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WHEREAS, The Supreme Court of Appeals has been authorized and empowered to create a panel of retired judges admitted to senior status from among former circuit judges and Supreme Court justices of this State, and to promulgate rules providing for such judges and justices to be assigned duties as needed and as feasible;

IT IS THEREFORE ORDERED that there is hereby established, effective June 9, 1991, and amended September 15, 1994, a system of senior status for retired judges, pursuant to W. Va. Code § 51-9-10.

(a) ELIGIBILITY.

(1) Former Judge or Justice. To qualify for senior status, one must:

(A) be receiving benefits under the Judicial Retirement System pursuant to W. Va. Code, Chapter 51, Article 9; or

(B) meet one of the following criteria:

(i) have served in the judicial office with the eligibility equivalency for judicial retirement under W. Va. Code, Chapter 51, Article 9, but retired under Public Employees Retirement System pursuant to W. Va. Code, Chapter 5, Article 10;

(ii) have served in the judicial office for one full term and retired under the Public Employees Retirement System; or

(iii) have served in the judicial office for more than one full term and subsequently received benefits under the Judicial Retirement System or the Public Employees Retirement System.

(2) Residence. To qualify and to remain qualified for senior status, one must be a bona fide resident of the State of West Virginia.

(3) Practice of Law.

(A) Engagement in a substantial law practice (e.g., association with a law firm or full-time law practice) shall disqualify a retired judge or justice from eligibility for senior status.

(B) Engagement in a limited law practice (e.g., no association with a law firm, except if employed as "of counsel" or "special counsel," or part-time law practice) shall not disqualify a retired judge or justice from eligibility for senior status. However, a retired justice or judge admitted to senior status shall be disqualified from assignment to duty in any circuit where he or she engages in practice, or from any matter in which the law firm in which he or she is employed as "of counsel" or "special counsel" is involved or has participated. For purposes of this rule, the terms "of counsel" or "special counsel" shall mean employment by a law firm that does not include (1) any partnership interest in the firm; (2) appearance before any tribunal representing any client of the firm; (3) work in the firm on a full-time basis; and (4) a salary equivalent to or greater than any partner in the firm.

(4) Ethics Code. A judge admitted to senior status shall be bound by the prevailing canons of judicial ethics and by the prevailing rules on complaints against judges and justices.

(5) Training. Senior status judges are required to attend the judicial training conferences and will be reimbursed for expenses as active judges.

(6) Compliance with Rule. To qualify, a retired judge or justice must agree in advance to comply with the provisions of this rule.

(7) Other Considerations. The Supreme Court of Appeals may take into account such other considerations as it deems pertinent (i.e., age, health, etc.).

(b) APPLICATION.

Application for senior status shall be submitted to the Administrative Director of the Supreme Court of Appeals, on the form prescribed by the Administrative Director. The applicant shall provide all the information called for by the form; Provided, however, that the Supreme Court may require the applicant to submit additional information. Application may be made within one year before the applicant's anticipated date of eligibility or at anytime after the applicant's date of eligibility.



(c) ADMISSION; OATH; REVOCATION.

Admission to senior status shall be a privilege; admission may granted or denied by the Supreme Court, in its discretion, acting in administrative conference and recording such action in an administrative order duly entered; admission may be for indefinite duration or temporary duration of a specified period. Before commencing service, a judge admitted to senior status shall take an oath of office, and file such oath with the Administrative Director. The Supreme Court may, for failure to comply with provisions of this rule or for incapacity, revoke senior status, by acting in administrative conference and recording such action in an administrative order duly entered.

(d) CHANGE OF CIRCUMSTANCES; WITHDRAWAL.

A judge admitted to senior status shall forthwith inform the Administrative Director of any change of circumstances bearing on his or her senior judicial status, and may at anytime by written notice withdraw from senior status.

(e) ASSIGNMENT TO DUTY.

(1) The Chief Justice may, by order duly entered, assign a judge admitted to senior status to such judicial duties in such courts as the Chief Justice deems appropriate and as consistent with applicable provisions of law.

(2) No retired judge admitted to senior status who has been defeated in an election for a circuit judgeship shall be assigned to duty in the circuit where he or she was defeated.

(3) All judges admitted to senior status are hereby generally assigned and empowered to perform marriages and to administer oaths in any county of this State.

(4) Nothing in this rule shall preclude the recall or assignment to active judicial service of any retired judge or justice who has not been admitted to senior status but who agrees to serve, all subject to any applicable rules or provisions of law.

*Added  
(e)(3) removed  
for future  
rule, see  
attached  
order*

(f) FINANCIAL ALLOWANCES.

(1) Per Diem.

(A) Compensation for service by a judge admitted to senior status will be at the rate of \$200 per day.

~~300~~  
350  
~~400~~  
435

(B) For service within the circuit of residence, service will be billable in half-day increments; for service outside the circuit of residence, service will be billable in full-day increments.

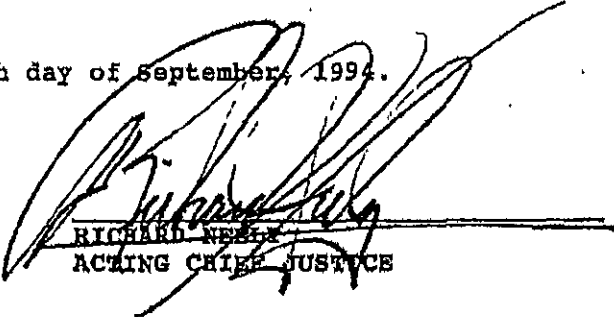
(C) Provided, however, that the per diem and retirement compensation of a retired judge, admitted to senior status shall not exceed the salary of a sitting judge.

(2) Expenses. Reimbursement for travel and/or other necessary expenses incurred during assigned service will be made according to the prevailing Supreme Court regulations.

(3) Allowances Form. Statements for per diem and expense allowances under subdivisions (1) and (2) of this subsection (g) must be submitted to and approved by the Administrative Director, on the form prescribed by the Administrative Director.

(4) Staff Support. Insofar as feasible, a judge admitted to senior status, while on assignment, must rely on the services of regular staff personnel of the court of assignment; Provided, however, that upon good cause shown and advance approval by the Administrative Director, a judge admitted to senior status may arrange, consistent with prevailing Supreme Court regulations, for temporary workers to provide secretarial and/or court-reporting services.

ENTER, this 15th day of September, 1994.

  
RICHARD NEELY  
ACTING CHIEF JUSTICE

ADMINISTRATIVE ORDER  
SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: AMENDMENT OF PER DIEM RATE PAID TO SENIOR STATUS JUDGES

WHEREAS, by previous administrative order dated June 9, 1991 and thereafter amended by administrative order entered September 15, 1991, a system of senior status for retired judges was established pursuant to the provisions of W. Va. Code, 51-9-10; and

WHEREAS, by administrative order dated June 14, 1991, a per diem rate of \$200.00 was approved by the Supreme Court for payment to retired judges serving under senior status and who were recalled into service by the Chief Justice; and

WHEREAS, by action of the Supreme Court in administrative conference on May 1, 1995, the per diem rate paid to senior status judges was increased to \$225.00 per day for service under senior status; and

WHEREAS, the Supreme Court, meeting in administrative conference on September 27, 2000, has increased the per diem rate paid to senior status judges to \$300.00 per day, effective October 1, 2000.

IT IS THEREFORE ORDERED that the per diem rate paid to judges serving under senior status be, and it hereby is, increased to \$300.00 per day effective October 1, 2000.

ENTER: OCTOBER 1, 2000



ELLIOTT E. MAYNARD  
CHIEF JUSTICE

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: AMENDMENT OF PER DIEM RATE PAID TO SENIOR STATUS JUDGES

WHEREAS, by previous administrative order dated June 9, 1991, and thereafter amended by administrative order entered September 15, 1991, a system of senior status for retired judges was established pursuant to the provisions of W. Va. Code, 51-9-10; and

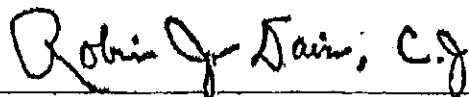
WHEREAS, by administrative order dated June 14, 1991, a per diem rate of \$200.00 was approved by the Supreme Court for payment to retired judges serving under senior status and who were recalled into service by the Chief Justice; and

WHEREAS, by action of the Supreme Court in administrative conference on May 1, 1995, the per diem rate paid to senior status judges was increased to \$225.00 per day and in administrative conference on September 27, 2000, the per diem rate paid to senior status judges was increased to \$300.00 for service under senior status; and

WHEREAS, the Supreme Court, meeting in administrative conference on November 29, 2006, has increased the per diem rate paid to senior status judges to \$350.00 per day, effective January 1, 2007.

IT IS THEREFORE ORDERED that the per diem rate paid to judges serving under senior status be, and it hereby is, increased to \$350.00 per day effective January 1, 2007.

ENTER: DECEMBER 5, 2006



ROBIN JEAN DAVIS  
CHIEF JUSTICE

SUPREME COURT OF APPEALS OF WEST VIRGINIA

ADMINISTRATIVE ORDER

RE: AMENDMENT TO RULE(S) ON RETIRED JUDGES ADMITTED TO SENIOR STATUS, RETIRED FAMILY COURT JUDGES ADMITTED TO SENIOR STATUS, AND RETIRED MAGISTRATES ADMITTED TO SENIOR STATUS

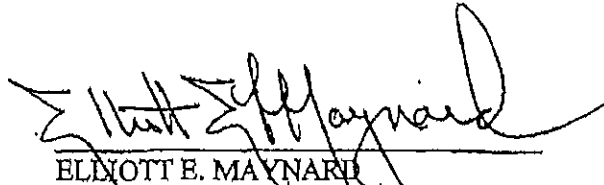
On this day came the Court, on its own motion and proceeded to consider an amendment to the Rules on Retired Circuit Judges Admitted to Senior Status, Retired Family Court Judges Admitted to Senior Status and Retired Magistrates Admitted to Senior Status.

Upon consideration whereof, the Court is of the opinion to, and doth hereby, amend the Rule on Retired Judges Admitted to Senior Status, the Rule on Retired Family Court Judges Admitted to Senior Status, and the Rule on Retired Magistrates Admitted to Senior Status, effective immediately, by rescinding and deleting the provisions of each order as indicated hereinbelow.

The provisions and the language deleted herein are contained in each order in sub-paragraph (e)(2), under the section (e) Assignment to Duty, and the language which is herewith deleted respectively from each order relates to and deletes only that provision of the order prohibiting the assignment of Circuit Judges, Family Court Judges and Magistrates to duty in the Circuit where he or she was defeated, and sub-paragraph (e)(2) shall now be reserved for future use and the number (e)(2) shall provide that it be reserved.

IT IS THEREFORE ORDERED that the provisions and language of sub-paragraph (e)(2) of each Administrative Order relating to the Rule for Retired Judges Admitted to Senior Status, the Rule for Retired Family Court Judges Admitted to Senior Status and the Rule for Retired Magistrates Admitted to Senior Status be, and they are hereby, rescinded and deleted.

ENTERED: DECEMBER 29, 2008

  
ELLIOTT E. MAYNARD  
Chief Justice

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: AMENDMENT OF PER DIEM RATE PAID TO SENIOR STATUS JUDGES

WHEREAS, by previous administrative order dated June 9, 1991, and thereafter amended by administrative order entered September 15, 1991, a system of senior status for retired judges was established pursuant to the provisions of W.Va. Code, 51-9-10; and

WHEREAS, by administrative order dated June 14, 1991, a per diem rate of \$200.00 was approved by the Supreme Court for payment to retired judges serving under senior status and who were recalled into service by the Chief Justice; and

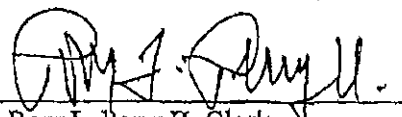
WHEREAS, by action of the Supreme Court in administrative conference on May 1, 1995, the per diem rate paid to senior status judges was increased to \$225.00 per day; in administrative conference on September 27, 2000, the per diem rate paid to senior status judges was increased to \$300.00 per day; and in administrative conference on November 29, 2006, the per diem rate paid to senior status judges was increased to \$350.00 per day for service under senior status; and

WHEREAS, the Supreme Court, meeting in administrative conference on October 13, 2010, has increased the per diem rate paid to senior status judges to \$400.00 per day, effective November 1, 2010.

IT IS THEREFORE ORDERED that the per diem rate paid to judges serving under senior status be, and it hereby is, increased to \$400.00 per day effective November 1, 2010.

ENTERED: October 18, 2010

  
ROBIN JEAN DAVIS  
CHIEF JUSTICE

Attest:   
Rory L. Perry II, Clerk  
Supreme Court of Appeals

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: AMENDMENT OF PER DIEM RATE PAID TO SENIOR STATUS JUDGES

WHEREAS, by previous administrative order dated June 9, 1991, and thereafter amended by administrative order entered September 15, 1991, a system of senior status for retired judges was established pursuant to the provisions of W. Va. Code, §1-9-10; and

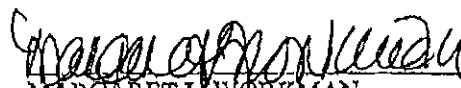
WHEREAS, by administrative order dated June 14, 1991, a per diem rate of \$200.00 was approved by the Supreme Court for payment to retired judges serving under senior status and who were recalled into service by the Chief Justice; and

WHEREAS, by action of the Supreme court in administrative conference on May 1, 1995, the per diem rate paid to senior status judges was increased to \$225.00 per day; in administrative conference on September 27, 2000, the per diem rate paid to senior status judges was increased to \$300.00 per day; in administrative conference on November 29, 2006, the per diem rate paid to senior status judges was increased to \$350.00 per day; and in administrative conference on October 13, 2010, the per diem rate paid to senior status judges was increased to \$400.00 per day for service under senior status; and

WHEREAS, the Supreme Court, meeting in administrative conference on June 13, 2011, has increased the per diem rate paid to senior status judges to \$435.00 per day, effective July 1, 2011.

IT IS THEREFORE ORDERED that the per diem rate paid to judges serving under senior status be, and it hereby is, increased to \$435.00 per day effective July 1, 2011.

ENTERED: OCTOBER 28, 2011

  
MARGARET L. WORKMAN  
CHIEF JUSTICE