



For Immediate Release

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**WASHINGTON LEGAL FOUNDATION FILES
MISCONDUCT COMPLAINT AGAINST ALABAMA
JUDGE REGARDING \$60,000 IN CAMPAIGN CONTRIBUTIONS**

Today, the Washington Legal Foundation (WLF) filed a judicial misconduct complaint against Alabama Circuit Judge John Rochester with the Alabama Judicial Inquiry Commission in Montgomery regarding his receipt of \$60,000 in campaign contributions during his unsuccessful 2004 campaign for a seat on the Alabama Supreme Court. The Associated Press reported on April 23, 2005 that the source of those contributions was the Montgomery law firm of Beasley Allen, P.C., a major trial law firm which has a product liability lawsuit against Merck & Co. pending before Judge Rochester regarding the pain-reliever Vioxx. The \$60,000 in contributions were apparently routed to Judge Rochester from October 7-24, 2004, through the use of 12 political action committees which were established and controlled by the same person.

In its 22-page complaint with a dozen exhibits, WLF alleged that Judge Rochester violated the Alabama's Canons of Judicial Ethics for not disqualifying himself from hearing the Merck/Vioxx case and for other conduct related to his handling of campaign contributions. According to the AP story, Judge Rochester defended his receipt of the contributions, stating that the contributions do not, in fact, influence his decisions.

However, as WLF stated in its Complaint, Canon 3C(1) states that a judge should disqualify himself when his impartiality "might reasonably be questioned." WLF's complaint cites numerous Advisory Opinions by the Judicial Inquiry Commission as well as Alabama court decisions that reiterate that the standard for disqualification is based on *appearance* of bias, regardless of whether the judge can, in fact, remain impartial. The \$60,000 in contributions constituted approximately 11 percent of all of Judge Rochester's contributions, and approximately 22 percent of the contributions given to Judge Rochester during the final crucial month of the 2004 general election.

WLF alleged that because of the large amount involved; the percentage those contribution represent of Judge Rochester's campaign; Jere Beasley's statement in the AP story that he has been a friend of Judge Rochester for years and consistently supports his judicial campaigns; and the recent denial of Merck's motion to dismiss the Vioxx lawsuit, all clearly demonstrate that Judge Rochester's impartiality "might reasonably be questioned," even though Judge Rochester, in fact, may not be biased. WLF's complaint quotes Judge Rochester's public statements effectively acknowledging that his impartiality might reasonably be questioned: "The way we fund and elect judges in the state is not a good way to do business

because of *questions like this coming up.*" (AP story). Judge Rochester was also quoted as saying, "All this money is flying around, and people are getting a lot of it Are you going to do [something] for the person who's giving you money or not? I think it's a terrible system." *The Decatur Daily* (Oct. 14, 2004).

WLF's Complaint documents that 11 political action committees numerically named (e.g. One PAC, Two PAC, Three PAC, etc.) were all established in October 2004 and received the funds from Beasley Allen, P.C., and delivered to Judge Rochester through a series of suspiciously timed contributions. For example, the complaint notes Fourteen PAC was established on October 27, 2004, a week before the general election. On that same day, a contribution of \$10,000 from Beasley Allen was made payable to Fourteen PAC and deposited in Fourteen PAC's checking account, presumably opened that same day, because Fourteen PAC then wrote a check to Judge Rochester for \$10,000. This one-day transaction left Fourteen PAC with a zero balance.

In addition, WLF alleged that Judge Rochester's handling of his campaign contributions may have violated other Canons of Judicial Ethics. For example, despite Canon 7's requirement that a judge may not solicit campaign contributions, but may establish a committee to solicit and receive funds, Judge Rochester designated only himself as his principal campaign committee. During a pre-election interview at *The Decatur Daily*, "Judge [Rochester] stood up, buried his hand in his pocket and withdrew a wad of lint, rubber bands, business cards . . . and lots of cash and checks. `Let's see. I got this \$100 bill, not sure from whom. And this check came from, who was that, oh yes'" WLF alleged that this haphazard way of handling campaign contributions only reinforces the negative perception of the funding of judicial campaigns.

"WLF calls upon Judge Rochester to disqualify himself from the Merck/Vioxx case as required by ethical standards and to avoid the expenditure of resources by the Judicial Inquiry Commission," said Paul Kamenar, WLF's Senior Executive Counsel. "Judges should not be deciding cases where the attorneys for the parties have given substantial campaign contributions to the judge," Kamenar added.

WLF has filed numerous misconduct complaints against other state and federal judges over the years for conduct that raises questions of impartiality. In addition, WLF filed a petition in 1995 with Alabama bar authorities requesting that they adopt rules that limit campaign contributions to judges from trial lawyers. In July 1995, the Alabama Legislature passed a law requiring disqualification proceedings when a party or attorney in a case has given \$2,000 in campaign contributions to the judge.

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