

**BASTRESS FOR JUSTICE**  
**P.O. BOX 4**  
**MORGANTOWN, W. VA. 26507**

~~CONFIDENTIAL~~  
~~best@bastress.com~~

March 5, 2008

Steven D. Canterbury  
Administrative Director  
Administrative Office Of The Courts  
Capitol Complex  
Building 1, Room E-100  
Charleston, WV 25305-0830

Dear Mr. Canterbury:

I write to follow up on the request Justice Starcher made last month for the appointment of an independent commission to investigate the controversy involving Chief Justice Maynard and Don Blankenship, CEO of Massey Energy, which is a litigant with significant litigation pending before the Court.

A January 15, 2008, article reporting on the contacts and relationship between Chief Justice Maynard and Massey Energy's quoted a national legal ethics expert, N.Y.U. Professor Stephen Gillers, as saying that Federal judges in Manhattan "will not even have lunch with old friends while they have cases pending in their court." Professor Gilles also recalled that Justice Antonin Scalia of the United States Supreme Court has written that "friendship is a ground for recusal of a justice where the personal fortune or the personal freedom of the friend is at issue." As Gilles further noted, "the monetary effect on Blankenship [relating to the pending Massey Energy cases before the Court] is potentially enormous."

The Associated Press has quoted another nationally recognized scholar in legal ethics, Deborah Rhode, law professor and Director of Stanford University's Center for Ethics, who observed that "It doesn't matter whether [Maynard and Blankenship] planned it, or discovered by happy coincidence that they would be in the same place. . . . This kind of ex parte contact is clearly inappropriate." The commentary to Canon 3 of the Code of Judicial Conduct directs a judge to "disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification."

Restoration of the public's confidence in the Court requires an airing of information. In particular, the public needs answers to the following questions:

- (1) Has the Court taken any steps to initiate an independent investigation of Justice

Maynard's involvement with Mr. Blankenship, one conducted by persons outside the Court's influence? If not, does the Court intend to do so?

(2) Has there been an inquiry as to who paid for meals and entertainment on Justice Maynard's trip to Nice and Monaco? Who paid for transportation while he was there?

(3) Did Mr. Blankenship front or otherwise provide Justice Maynard or the woman who accompanied him with any money, whether in cash or in gambling chips, to use for gambling during the trip? If so, how much?

(4) Has Justice Maynard ever flown on Massey Corporate aircraft? If so, when and where?

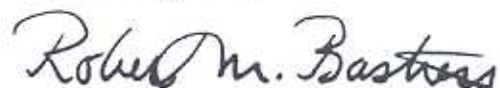
(5) Has Justice Maynard ever vacationed or traveled to any other destination and met with, by accident or design, Don Blankenship?

(6) Will Justice Maynard release a list of his contributors early so the public can see if he has received support from Mr. Blankenship or his associates?

(7) Will Justice Maynard release his e-mail and phone records, and those of any employee who traveled with him to France or Monte Carlo, for the month before and the month after the trip?

An independent investigation and answers to the above questions are necessary, in the words of Canon 1 of the Code of Judicial Conduct, "so that the integrity and independence of the judiciary will be preserved."

Sincerely yours,

A handwritten signature in black ink that reads "Robert M. Bastress". The signature is written in a cursive, flowing style.

Robert M. Bastress