

CIRCUIT COURT OF SOUTH DAKOTA SIXTH JUDICIAL CIRCUIT



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BOBBI J. RANK
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Circuit Judges:
Honorable Christina L. Klinger (Pierre)
Honorable M. Bridget Mayer (Pierre)

Circuit Administrator:
Heather E. Covey

Magistrate Judge:
Honorable Leo Disburg (Ft. Pierre)

DATE: June 14, 2019

TO: All 6th Circuit lawyers and their staff (via email)

RE: Judge Klinger Conflict Waiver Process

The Honorable Christina L. Klinger was a partner in the May Adam law firm in Pierre until her assumption of the bench on April 12, 2019. Over the next five years, there will be an ongoing payment by the firm for her interest in the firm and realty partnership. This payment is a structured buyout, and the amount was agreed upon in writing prior to Judge Klinger assuming the bench. The payments will not be affected by the outcome of any case. However, during the period of the buyout, Judge Klinger would obviously have an interest in the ongoing financial health of her former firm. Additionally, fees paid to the firm from clients could theoretically be used to pay for Judge Klinger's equity interest.

In light of this former association and ongoing buyout, Judge Klinger has a conflict involving May Adam cases under the Canons of the Code of Judicial Conduct. This conflict falls into two classes. *Pre-assumption is any case in which the May Adam firm served as counsel before April 12, 2019.* Judge Klinger must recuse in these cases under the Canons, and *there will be no waiver.*

Post-assumption is any case in which the May Adam firm first becomes involved after April 12, 2019. Judge Klinger must recuse in these cases until the end of the buyout period. However, unlike pre-assumption conflicts, post-assumption conflicts *are waivable.* In those cases, the parties have the discretion to allow Judge Klinger to preside over the case *if both parties agree.* The consideration of

whether to waive the conflict, however, must occur outside the presence of Judge Klinger and without her participation.

No Sixth Circuit judge or staff will encourage or solicit your client's waiver of the conflict in post-assumption cases. However, I also recognize that there may be reasons your clients would want to waive the conflict in any given case. Therefore, I am providing you with information on the process of assignment and voluntary waiver.

Judge Klinger is currently assigned Hughes County civil, and Stanley, Haakon, Hyde, and Jackson Counties. Until Justice DeVaney's replacement is on board, most Hughes and Stanley County May Adam civil cases will be assigned to me. I will remain stationed in Winner, but I have set aside calendar time in Pierre and Ft. Pierre for these cases. Scheduling should go through Sandra DeMers. All other May Adam cases in Judge Klinger's counties will be assigned on a case by case basis. Retired judges will also be assigned as necessary.

If your client wishes to waive the conflict in any post-assumption case after reviewing this disclosure, please have the client sign a waiver and consent in substantially the same form as the enclosed, add your approval signature, and file with the Clerk of Court. If all parties sign and file the waiver form, then I have the option of assigning Judge Klinger to the case. Obviously, if your clients wish to waive, it should be done early in the case.

Thank you for your professionalism and patience as we work through this time of transition in the Mighty Sixth, and thank you for your ongoing hard work and dedication to your clients and your profession. If you have any questions, please do not hesitate to contact me. This letter and the form will be available under 6th Circuit Forms and Policies on the South Dakota Unified Judicial System website.

Sincerely,



Bobbi J. Rank
Presiding Judge
Sixth Judicial Circuit

Enc.

cc: 6th Circuit Judges and Court Reporters
6th Circuit Clerks of Court
Heather E. Covey