

STATE OF MINNESOTA  
IN SUPREME COURT  
A14-1871

*Inquiry into the Conduct of the  
Honorable Alan F. Pendleton*

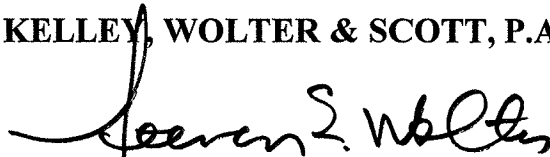
**NOTICE OF APPEAL**

TO: Clerk of the Appellate Courts  
Minnesota Judicial Center  
St. Paul, MN 55155

PLEASE TAKE NOTICE that Respondent Alan F. Pendleton hereby appeals to the Minnesota Supreme Court from the Findings of Fact, Conclusions and Recommendations of the Hearing Panel filed on May 22, 2015.

Dated: June 2, 2015

**KELLEY, WOLTER & SCOTT, P.A.**



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Attorneys for Alan F. Pendleton

STATE OF MINNESOTA  
IN SUPREME COURT  
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**STATEMENT OF THE CASE**

1. Court or agency of case origination and name of presiding judge or hearing officer.

This matter involves judicial disciplinary proceedings brought by the Minnesota Board of Judicial Standards (Board) against the Honorable Alan F. Pendleton, a district court judge for Minnesota's Tenth Judicial District. After the Board filed its formal statement of complaint and Judge Pendleton's answer with the Supreme Court, the Court appointed a three-member panel to hear the case and make findings of fact, conclusions of law and recommend appropriate discipline. The panel held a contested public hearing on January 22, 2015. The Honorable Edward Toussaint, retired Judge of the Minnesota Court of Appeals served as the presiding officer. On May 22, 2015, the panel filed its findings, conclusions and recommendation. Judge Pendleton appeals from the panel order.

2. Jurisdictional statement.

(C) Other appellate proceedings

Statute, rule or other authority authorizing appellate proceeding:

Rule 11(d) of the Rules of the Board on Judicial Standards allows respondent judges to appeal from a hearing panel's order. Under Board Rule 14(e), all such appeals are heard by the Supreme Court, which shall consider the recommended disposition and may accept, reject or modify the panel's recommendation, in whole or part.

Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, *e.g.*, mailing of decision, receipt of decision or receipt of other notice):

The panel decision in this case was filed on May 22, 2015. Board Rule 11(d) requires appeals to be filed within 60 days after a panel disposition.

(D) Finality of order or judgment

Does the judgment or order to be reviewed dispose of all claims by and against the parties, including attorney's fees? Yes (X) No ( )

If yes, provide date of order: May 22, 2015.

3. State type of litigation and designate any statutes at issue.

This matter involves judicial disciplinary proceedings. The case centers on the interpretation and application of judicial residency requirements established by Article VI, § 4 of the Minnesota Constitution and various provisions of the Minnesota Code of Judicial Conduct (Code).

4. Brief description of claims, defenses and issues litigated and result below.

Judge Pendleton serves the Tenth Judicial District. Since their 2007 marriage, he and his wife have resided separately in different judicial districts. After selling his Anoka condominium in November 2013 for financial reasons, Judge Pendleton temporarily stayed with his wife in Minnetonka while he actively searched for replacement housing within the Tenth District. On January 15, 2014, Judge Pendleton learned that his son had been caught with drugs at school. Judge Pendleton placed his housing search on hold while he sought treatment for his son and worked with his former wife to determine whether to transfer their son to another school. As soon as the transfer decision was made, and before the Board commenced its investigation, Judge Pendleton rented an apartment in the Tenth District nearby his children's school.

The hearing panel found that Judge Pendleton affirmatively abandoned his residence within the Tenth District during a portion of the time he temporarily stayed with his wife in Minnetonka and thereby violated Article VI, § 4 of the Minnesota Constitution and Rules 1.1, 1.2 and 2.1 of the Minnesota Code of Judicial Conduct. The Panel further found that Judge Pendleton violated Rules 1.1, 1.2 and 4.1(A)(9) of the Code by listing the Anoka condominium as his residence address on an affidavit of candidacy filed after the home had been sold. The Panel recommended disciplinary sanctions including censure, an unpaid suspension of 6 months or more, and other conditions or penalties.

5. List specific issues proposed to be raised on appeal.

- a. Whether the Board's actions during the investigation and prosecution deprived Judge Pendleton of due process.

- b. Whether the Board proved by clear and convincing evidence that Judge Pendleton failed to reside within the Tenth Judicial District from January 5, 2014 through June 2, 2014.
- c. Whether the Board proved by clear and convincing evidence that Judge Pendleton violated Rule 4.1(A)(9) by filing the affidavit of candidacy.
- d. Whether the Court should adopt the discipline recommended by the Panel.

6. Related appeals.

None known.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes (X) No ( )

If yes, full (X) or partial ( ) transcript?

Has the transcript already been delivered to the parties and filed with the trial court administrator? Yes (X) No ( )

8. Is oral argument requested? Yes (X) No ( )

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes ( ) No (X)

9. Identify the type of brief to be filed.

Formal briefs under Rule 128.02 are requested.

10. Names addresses, zip codes and telephone numbers of attorneys for appellant and respondent.

**ATTORNEYS FOR BOARD ON JUDICIAL STANDARDS**

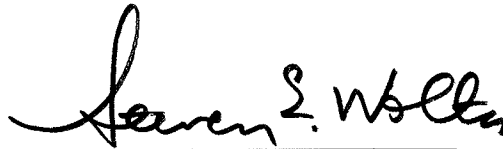
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Dated: June 2, 2015

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Attorneys for Judge Alan F. Pendleton

STATE OF MINNESOTA

IN SUPREME COURT

File No. A14-1871

Inquiry into the Conduct of the Honorable  
Alan F. Pendleton

**AFFIDAVIT OF SERVICE**

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF HENNEPIN    )

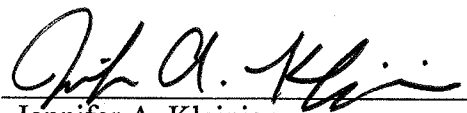
Jennifer A. Kleinjan, being first duly sworn upon oath, states that on the 2<sup>nd</sup> day of June, 2015, she caused the following documents to be served:

Notice of Appeal and Statement of the Case

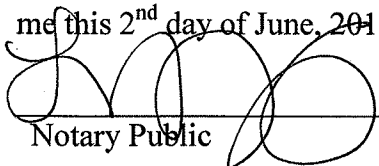
upon the following individuals, by first class mail, postage paid, to the following:

Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

William J. Egan  
Oppenheimer Wolff & Donnelly LLP  
Campbell Mithun Tower – Suite 2000  
222 South Ninth Street  
Minneapolis, MN 55402

  
\_\_\_\_\_  
Jennifer A. Kleinjan

Subscribed and sworn to before  
me this 2<sup>nd</sup> day of June, 2015.

  
\_\_\_\_\_  
Notary Public

