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NORTH CAROLINA
WAKE COUNTY

1996 OCT 31

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

96-CVS-9324

RE: IN THE MATTER OF LINDA M. PITTS

The Court finds based upon the evidence, by the clear and convincing evidence in this case from all the testimony that on September the fifth, 1996, that Ms. Pitts was testifying as an expert witness in the case of Pearson versus White;

2. That Ms. Pitts at that time had been in practice since 1988 and was a licensed attorney at law in the State of North Carolina;

3. That on that date Ms. Pitts was knowledgeable of and fully aware of the rules which prohibit a lawyer from communicating with a juror;

4. That on the afternoon in question the Court, that is the judge and counsel were in chambers and Ms. Pitts came down from the witness box and sat on the bench in courtroom 10-B, the counsel bench in 10-B; that she lost a button from her right sleeve which rolled toward the jury box;

5. That the jury was present and in the jury box at that time; that Ms. Pitts retrieved her button and

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attempted to put the button back on the sleeve by means of a safety pin and was unable to do so herself;

6. That Ms. Pitts with a safety pin and the button approached juror number eight and sought her assistance in putting the button back on her blouse, which juror number eight did;

7. That there was no communication of any kind regarding the lawsuit or the case between Ms. Pitts and juror number eight or any other juror; that the communication between Ms. Pitts and juror number eight was solely over the replacement of her button and lasted no longer than 30 seconds;

8. That Ms. Pitts' role or presence in the courtroom on that afternoon was as an expert to testify on behalf of the plaintiff in the lawsuit.

9. That juror number eight was surprised when Ms. Pitts sought her help about the button and that juror number eight knew that she was not to have any communication with lawyers, witnesses or parties.

10. That juror number eight did not initiate the contact.

11. That Ms. Pitts resumed the witness stand after Judge Cashwell returned to the courtroom and completed her testimony as a witness in the case.

12. That the following Monday, which was

September the 9th, 1996, plaintiff's counsel moved for a mistrial which was granted;

13. That at no time was the plaintiff or the defendant prejudiced in any way by Ms. Pitts' conduct in communicating with juror number eight about her sleeve button.

14. That Ms. Pitts' conduct in communicating with juror number eight was inappropriate but not intended to curry favor with the jury.

Based upon this the Court finds and concludes that as a matter of law:

1. That Ms. Pitts, as an expert witness testifying on the standard of practice, was a lawyer connected with the case as envisioned by Rule 7.8(B)(1).

2. That Ms. Pitts' contact with juror number eight on September the 5th, 1996, constituted an unintentional violation of Rule 7.8(B)(1).

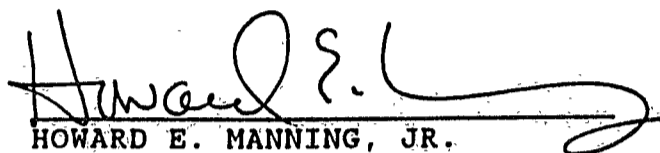
That based upon the foregoing findings of fact and conclusions of law the Court, in its discretion, determines that this conduct does not rise to conduct requiring the imposition of severe punishment or sanctions. The Court, in its discretion, admonishes Ms. Pitts in open court and warns her that her behavior was in violation of Rule 7.8(B)(1) and issues a warning to her and admonishes her not to engage in that behavior in the

future.

This order constitutes a written warning and admonition and does not rise to the level of a reprimand or a censure or any stronger term.

Entered this day in open court, October the 25th, 1996.

There will be no costs imposed in this case.


HOWARD E. MANNING, JR.
JUDGE PRESIDING 10-31-96