

BOYLE NOMINATION/SALON.COM ALLEGATIONS

Salon.com recently accused Judge Boyle of engaging in unethical judicial behavior by ruling in cases where he had a financial interest. These accusations are baseless.

FACT: Judge Boyle has heard more than 10,000 cases in his 22 years as a district court judge.

FACT: During his 22 years on the bench, Judge Boyle never has received or kept a case assignment knowing he had a conflict, or the appearance of a conflict, in the case.

FACT: Judge Boyle never has received a complaint from a party about a financial conflict, nor has any party ever requested that Judge Boyle recuse himself from a case for the appearance of a financial conflict.

FACT: Case assignments to judges in the Eastern District of North Carolina are random.

FACT: The Eastern District of North Carolina does NOT have computer software in place to screen for conflicts of interest. The conflict of interest screening is conducted by the Clerk's Office only after a case is formally assigned to a judge.

FACT: Judge Boyle and his chambers undertake vigorous efforts to screen each case that comes before him for conflicts of interest. Any failure to screen out a case in which Judge Boyle had a financial interest was inadvertent.

With respect to the cases specifically addressed in the Salon.com article:

In Bursell v. General Electric Company, a worker's comp case:

- Judge Boyle ruled in favor of the plaintiff, against GE, granting plaintiff short-term disability benefits
- Andy Whiteman, the self-proclaimed liberal Democrat attorney involved in the case, said in a May 3, 2006 News and Observer letter to the editor: "According to the article, Boyle purchased GE stock two months before he issued his ruling in 2004. In fact he announced his expected ruling at the conclusion of the bench trial in 2003, before he purchased the GE stock. In any event, I do not believe that his ownership of less than \$15,000 of GE stock creates even the appearance of a conflict of interest. In 2004 GE had \$134 billion in revenue. The idea that a ruling over one employee's disability benefits could somehow benefit Boyle financially is ludicrous. I would not have asked him to step aside had I known of his minimal stake in this corporate behemoth."
- While he did not know that he held GE stock at the time he ruled in the GE case, Judge Boyle owned only 50 shares of GE stock valued at less than \$1500.

The article also referred to other infractions - one was over Quintiles stock.

- Judge Boyle sold any Quintiles stock he owned in 2000 before the case, Quintiles v. WebMD, was filed in 2001.

The article references the case, Virgil v. Montgomery, et al. In this case, Judge Boyle apparently had 10 shares of CSX stock in an IRA account at the time he made a preliminary jurisdictional ruling in the case. CSX was one of multiple defendants. The failure to screen out this case was an inadvertent oversight by the Clerk's Office and chambers.

An alleged conflict pertaining to America Online (“AOL”) was mentioned.

- In the case Tracy Woody v. Advanced Internet Marketing, Inc., et al., Ms. Woody was a pro se plaintiff. AOL was listed as one of multiple defendants on the original complaint, but not on the second and third amended complaints. Amendments to the complaint were granted by a magistrate judge. Before AOL was served as a party and before AOL was involved in the case in any way, Judge Boyle issued a order denying plaintiff's motion to disqualify him as trial judge. The motion was not based upon any alleged financial interest. Later, AOL was served and filed its corporate disclosure. The case promptly was reassigned to a different judge.
- In the case Jackson v. Time Warner Cable, Inc., the only defendant shown on the case heading at the time of filing, and at the time of the screening process, was Time Warner Cable. It appears that no corporate disclosure statement indicating that AOL was a party ever was filed. Consequently, the screening process could not identify a conflict. At the time the case was filed, Judge Boyle owned approximately 25 shares of AOL stock and had 25 shares in an IRA. The parties voluntarily dismissed the case, four months after Judge Boyle sold his AOL stock.

An alleged conflict pertaining to Midway Airlines was mentioned. At the time Judge Boyle heard any cases involving Midway, Midway was in bankruptcy and the stock was unlisted. Judge Boyle was a trustee of a child's trust, in which he had no financial interest. The trust had 50 shares of Midway stock valued at \$2.50. Judge Boyle was unaware that the Midway stock was listed in the trust at the time he was assigned to any Midway case.

The "follow-up" story published by Salon.com contained no new facts, just quotes and comments by senators repeating what Salon.com initially reported, including the inaccurate data.

Judge Boyle's key facts:

Judge Boyle was nominated to the 4th Circuit Court of Appeals by President GW Bush five years ago this first week of May.

He has been given the highest possible ranking by the American Bar Association, “unanimously well qualified.”

Judge Boyle has served for more than 22 years and has a below average reversal rate. A bipartisan investigation by the Senate Judiciary Committee staff demonstrates that Judge Boyle’s reversal rate is actually below the national average for district court judges. Using the standards of the Administrative Office of the U.S. Courts, the national rate is 8.6% and Judge Boyle has a reversal rate of only 7.5%. Judge Boyle was confirmed unanimously by the US Senate for his district court seat.

Judge Boyle enjoys widespread support from his local community - Republicans and Democrats and both North Carolina Senators, Richard Burr and Elizabeth Dole.