

# House Resolution No. 3102

## 96TH GENERAL ASSEMBLY

1163L.02I

### ARTICLES OF IMPEACHMENT

1           **WHEREAS**, John A. Ross is a circuit judge in the Twenty-First Judicial Circuit of  
2 Missouri, wholly situated in the County of St. Louis, Missouri; and

3           **WHEREAS**, Judge Ross had presided over the case of **Buchek v. Washington, et.al.**,  
4 Cause No. 09SL-CC04530, pending in the Circuit Court of St. Louis County, for well over a  
5 period of one year; and

6           **WHEREAS**, Article VII, Section 1, Missouri Constitution provides:

7           "All elective executive officials of the state, and judges of the supreme court,  
8 courts of appeals and circuit courts shall be liable to impeachment for crimes,  
9 misconduct, habitual drunkenness, willful neglect of duty, corruption in office,  
10 incompetency, or any offense involving moral turpitude or oppression in office.";  
11 and

12           **WHEREAS**, a court decision which is clearly in opposition to the plain meaning of the  
13 constitution and statutes of this state and made in favor of personal opinion or in deference to  
14 political allies is "corruption in office"; and

15           **WHEREAS**, a decision like that is also in violation of the judge's oath to defend the  
16 constitution and strikes at the seminal principles of "separation of powers"; and

17           **WHEREAS**, even if the judge's motives are not malicious, but he simply misunderstands  
18 the clear dictates of the constitution, statutes, and decided case law, then he is guilty of  
19 "incompetency"; and

20           **WHEREAS**, Supreme Court Rule 2.03 and Canon 3 provides that "A Judge Shall  
21 Perform the Duties of Judicial Office Impartially and Diligently"; and

22           **WHEREAS**, in presiding over said **Buchek** case, Judge Ross, in violation of Article VII,  
23 Section 1 of the Missouri Constitution and of Supreme Court Rule 2, engaged in misconduct,  
24 willful neglect of duty, incompetency, and oppression in office, partiality and dilatory tactics, the  
25 facts in support of which are more specifically set forth hereinafter; and

26           **WHEREAS**, Judge Ross unreasonably delayed and refused to expeditiously and speedily  
27 set the **Buchek** case for trial but instead willfully, deliberately, and purposefully refused to set  
28 the case for trial in order to unlawfully hold the Northeast Ambulance and Fire Protection  
29 District hostage to his judicial activism and racially and sexually discriminatory interlocutory  
30 orders and rulings; and

31           **WHEREAS**, Judge Ross in presiding over said case engaged in judicial activism such  
32 that he not only deprived the persons who had been either elected or appointed to serve as  
33 Directors of the Northeast Ambulance and Fire Protection District of their right to manage the  
34 district, but effectively disenfranchised the voters of the district by usurping the powers of the  
35 individuals that the voters elected to manage the district; and

36           **WHEREAS**, Judge Ross, by his judicial activism, unlawfully substituted his judgment  
37 for that of the duly elected and appointed officials of the district; and

38           **WHEREAS**, there is no constitutional, statutory, or case law precedence in the State of  
39 Missouri providing that a state court has the power to supervise duly elected public officials in  
40 the performance of their day-to-day statutory duties; and

41           **WHEREAS**, Judge Ross' judicial activism was directed against a duly elected board of  
42 directors of black elected officials, with a racially discriminatory effect; and

43           **WHEREAS**, with the only elected body in the State of Missouri that has been placed  
44 under the supervision of a state court judge being a board of black elected officials, Judge Ross  
45 effectively engaged in a racially discriminatory practice as well; and

46           **WHEREAS**, Judge Ross incompetently and oppressively granted a temporary restraining  
47 order and preliminary injunction to a resident of the district, despite the fact that said resident  
48 was without standing to sue; and

49           **WHEREAS**, the Plaintiff claimed that there was a need for a temporary restraining order  
50 and preliminary injunction to prevent the expenditure of funds by district officials pending the  
51 filling of a vacancy on the board of directors of the district; and

52           **WHEREAS**, Subsection 2 of section 321.200, RSMo, provides for the circuit court to  
53 fill that particular vacancy; and

54           **WHEREAS**, Judge Ross incompetently and oppressively usurped the power of the court  
55 en banc to fill the vacancy on the board of directors by personally making the appointment to the  
56 board himself in order to seek political favor and gain from the Firefighters Union Local 2665,  
57 and to seek their help, aid, and influence so that he might be appointed as a United States District  
58 Court Judge; and

59           **WHEREAS**, Judge Ross corruptly appointed Bridget Dailey Quinlisk to the fire district's  
60 board due to the fact that she was endorsed and supported by the firefighter's union, despite the  
61 fact that she had been ousted from the Normandy City Council and despite the fact that her  
62 brother had been ousted from the Board of the Northeast Ambulance and Fire Protection District;  
63 and

64           **WHEREAS**, the vacancy on the board of directors was filled on November 19, 2009;  
65 and

66           **WHEREAS**, once the vacancy was filled, the claim of the Plaintiff in the **Buchek** case  
67 was moot and thus Judge Ross should have immediately dismissed the case or issued a final  
68 judgment in the case; and

69           **WHEREAS**, instead of dismissing the case or conducting a speedy trial on the merits  
70 and entering a final judgment in the case, Judge Ross has actively continued to exercise  
71 jurisdiction over the board of directors and actively supervised the expenditure of funds by the  
72 district, totally contrary to the law of Missouri for well over a year after the filling of said  
73 vacancy; and

74           **WHEREAS**, the issuance of a temporary restraining order and preliminary injunction  
75 as interlocutory orders are not subject to being appealed to the appellate courts, but instead, the  
76 Defendants have to await a final judgment in the case before seeking appellate review; and

77           **WHEREAS**, Judge Ross used that procedural barrier to retain jurisdiction over the case  
78 for well over one year after the filling of the vacancy on the district's board of directors; and

79           **WHEREAS**, Judge Ross usurped the statutory powers granted to the board of directors  
80 of the fire district by directing the district directors as to whom they can hire, how much they can  
81 pay, and what they can buy; and

82           **WHEREAS**, Judge Ross effectively ordered the board to sexually discriminate against  
83 the district's female fire chief by ordering the duly constituted fire district board to reduce the pay  
84 of a female fire chief to an amount less than that paid to her male predecessor as fire chief in  
85 violation of the federal Equal Pay Act, and thereby Judge Ross has by his judicial activism  
86 effectively engaged in sexual discrimination against the female fire chief; and

87           **WHEREAS**, Judge Ross under the facts set forth above, without any statutory or  
88 constitutional authority at all, deprived duly elected and appointed executive and legislative  
89 officials from performing duties and exercising powers granted to those officials by Missouri  
90 law; and

91           **WHEREAS**, in the case of **Harkey v. Mobley**, 552 S.W.2d 79 (Mo. App. 1977), the  
92 court held:

93           "Sans express statutory authority and absent, as here, allegations of fraud, courts  
94 of equity have no jurisdiction to remove directors or officers of a private  
95 corporation on the ground of mismanagement of the affairs of the corporation,  
96 neglect or other causes. The only power of amotion is in the corporation itself.  
97           **Neither do courts have authority, absent statutory power, to grant**  
98           **injunctions restraining officers from performing their corporate duties since**  
99           **this would have the same effect as their removal. Griffin v. St. Louis Vine &**  
100           **Fruit Growers' Association**, 4 Mo.App. 595, 596(1) (1877); **Feldman v.**  
101           **Pennroad Corporation**, 60 F.Supp. 716, 719(9) (D.C.Del. 1945), aff'd, 155 F.2d  
102           773 (3rd Cir. 1946); 2 Fletcher Encyclopedia Coporations (Perm.Ed.) Section  
103           358, pp. 170-174; 10 C.J.S. corporations Section 738 b., pp. 74-75; 10  
104           Am.Jur.2d, Corporations, Section 1111, pp. 550-551; Annot., 124 A.L.R. 364-  
105           373." (Emphasis ours); and

106           **WHEREAS**, incompetently or corruptly Judge Ross failed to follow the precedence of  
107 the **Harkey** case; and

108           **WHEREAS**, the case of **Massey v. Howard, et.al.**, 240 S.W.2d 743, held:

109           **"In Depew v. Venice Drainage District**, 158 La. 1099, 105 So. 78, the trial  
110 court, upon petition of a holder of improvement bonds issued by the drainage  
111 district, appointed a receiver to hold, manage and dispose of all the property and  
112 income of the corporation and to receive the taxes levied by it, and to distribute  
113 it under the supervision of the court to the persons entitled to the same. On  
114 appeal the court held that neither the provisions of the constitution of that state  
115 authorizing drainage districts and declaring them to be political subdivisions of  
116 the state, nor the statutes giving district courts 'unlimited' jurisdiction in matters  
117 of receiverships of corporations, vested any power in such courts to appoint a  
118 receiver of a public corporation. The court said, 105 So. page 19: **'If this court  
119 should hold that the judiciary may take over and control the agencies of  
120 government and substitute its judgment for the discretion vested in legally  
121 constituted authorities, the legislative and executive branches of government  
122 might as well cease to function. The contemplation of such a monstrosity is  
123 repugnant to common sense.'**

124           Whatever legal or other remedies may be available to appellant, if any, it  
125 appears to us certain that the remedy he seeks in the present proceedings, namely  
126 the appointment of a receiver to take over a part of the statutory functions of the  
127 members of the Board of Supervisors of the Drainage District, such as to  
128 determine the amount of a necessary levy, to make the same, and to take steps to  
129 collect and disburse it, is not authorized by law." (Emphasis ours); and

130           **WHEREAS**, oppressively, incompetently, or corruptly, Judge Ross has failed to follow  
131 the precedence of the **Harkey** case; and

132           **WHEREAS**, Judge Ross issued an order prohibiting the board of directors from paying  
133 two of the Defendants in the **Buchek** case, Joseph Washington, a black fire chief, and Robert  
134 Edwards, a black board member, attorneys' fees and out-of-pocket expenses out of district funds;  
135 and

136           **WHEREAS**, said order prevented Washington's and Edwards' attorneys from being able  
137 to fully litigate the matter, to defend Washington and Edwards, and to challenge Judge Ross'  
138 judicial activism, corruption, and incompetency, and thus deprived said Defendants of due  
139 process of law; and

140           **WHEREAS**, despite the fact that Judge Ross ordered the district to not pay the attorneys'  
141 fees of Washington and Edwards, whose attorneys were under contract with the district to  
142 provide legal services in defense of Washington and Edwards as district officials, Judge Ross,  
143 without any contractual nor statutory authority has incompetently, corruptly, and oppressively  
144 ordered the fire district to pay the attorneys' fees of various litigants and nonlitigants in the  
145 **Buchek** case, despite the fact that said litigants had neither statutory nor contractual basis for  
146 payment of their attorneys' fees and despite the clear precedence in Missouri law that no  
147 attorneys' fees may be awarded to anyone in a case except where it is authorized by contract or  
148 by statute; and

149           **WHEREAS**, Judge Ross corruptly, incompetently, oppressively, and willfully in order  
150 to evade the holding of the **Harkey** case appointed a Special Master to effectively act as a  
151 receiver over the fire district's directors and funds, and ordered the duly constituted board of  
152 directors to make no expenditure of district funds except upon approval of the Special Master  
153 and Judge Ross; and

154           **WHEREAS**, Judge Ross issued an order barring defendants Washington's and Edwards'  
155 attorneys from presenting evidence in support of their defense to said Special Master, while  
156 concurrently granting the white plaintiff's attorneys the power to present evidence in support of  
157 their claim to said Special Master, thus effectively racially discriminating against said  
158 Defendants and violating said Defendants rights to due process of law; and

159           **WHEREAS**, Judge Ross refused for over a year to hold a speedy trial on the merits of  
160 the case so that a final appealable judgment could be entered in the case, in violation of Supreme  
161 Court Administrative Rules, and in the end, dismissed the case without prejudice as the case was  
162 without merit and the dismissal prevented the case from being reviewed by an appellate court:

163           **NOW, THEREFORE, BE IT RESOLVED** that it is the Order and Judgment of the  
164 Missouri House of Representatives, Ninety-sixth General Assembly, that Judge John A. Ross  
165 shall stand trial before the Missouri Supreme Court for violation of Article VII, Section 1 of the

166 Missouri Constitution due to misconduct, willful neglect of duty, corruption in office,  
167 incompetency, and oppression in office; and

168           **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of  
169 Representatives be instructed to prepare properly inscribed copies of this resolution for Judge  
170 John A. Ross and the Chief Justice of the Missouri Supreme Court.

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