

December 29, 2008

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Nominating Commission  
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Dear Mr. Hackleman:

We write to you in your capacity as chair of the Florida Supreme Court Judicial Nominating Commission (JNC). We understand that you received a letter dated December 22, 2008, from several of our fellow bar members critical of your JNC's recent decision to honor Governor Crist's request to consider supplementing your most recent list of nominees with additional existing applicants. The Governor made this request in light of his appointment of Judge Jorge Labarga - one of your JNC's original nominees for the vacancy created by Justice Harry Lee Anstead's retirement - to the 4th District Court of Appeal.

Unlike these several other Bar members, we believe that the JNC acted appropriately, honorably, and in the best interests of all Floridians in considering the Governor's request. We write in a spirit of encouragement and ask that you stay the course and continue to fulfill your responsibilities as members of the Supreme Court JNC.

The two "concerns" raised by these several bar members bear addressing, because their letter to you appears either to misunderstand your role as JNC members or to cast the JNC's actions in a false light. Their first concern was the JNC's meeting last week by phone and its temporary suspension of the rules to the extent any rule might have been construed as inconsistent with a telephonic meeting. The JNC met telephonically, first in a public meeting to discuss the general concept of nominating additional applicants, and then in a closed meeting as the Constitution expressly allows when deliberating over individual applicants. In a day and age when important court proceedings are often conducted telephonically, the decision to meet by phone -- given the approaching holidays, the differing obligations of the nine volunteer members of the JNC, and the early January vacancy date -- is hardly objectionable. Indeed, in its short history, this very roster of JNC members has held telephonic meetings without objection, as have many other JNCs in the past.

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The further suggestion that the temporary rule suspension deprived the ballot process of secrecy is demonstrably erroneous. We understand that all the JNC members cast their votes for nominees in secret, by electronically entering their votes in a validated yet anonymous process. To suggest that the members were unable to vote their consciences is grossly misleading.

To further suggest that this process somehow undercut the requirement of uniform rules contravenes both the law and common sense. The Supreme Court JNC's uniform rules apply only to the Supreme Court JNC. See *In re: Advisory Opinion To the Governor*, 276 So. 2d 25, 31 (Fla. 1973) ("The power and duty for promulgating rules for the commissions must rest with the members of the commissions. These rules, for the various commissions, are not required to be uniform throughout the state."). The Supreme Court JNC's rules clearly and uniformly allow for a modification of the rules by majority vote, which was exercised by a majority of the JNC. The requirement of uniformity does not mandate a static set of rules. Under our fellow bar members' interpretation, the only time the Supreme Court JNC would have had uniform rules was the moment the first set of rules was adopted by the very first Supreme Court JNC, and every subsequent amendment would have violated uniformity. This is not a workable interpretation of the uniformity requirement.

Their second concern is that the list of nominees can be supplemented after it has initially been sent to the Governor. As a legal matter, this concern is meritless. In a formal 1996 opinion, Attorney General Bob Butterworth affirmed the fact that the JNC can send more names if they are sent before the Governor has made his selection and do not cause the total number to exceed 6.

Our colleagues end by expressing concern that the JNC process may be "tainted in the eyes of the public." Any perceived taint, however, appears to have been encouraged unjustly by a few speaking ill of those who do well. These individuals cloak political sentiments in legal arguments. Their lawyerly cloak is a thinly-veiled attack on the underlying substance, namely the most recent nominee added to the list sent to the Governor for consideration. To our knowledge, past decisions by other JNCs to supplement nominee lists did not meet with the same "concerns." Sadly, our fellow bar members' letter appears to be nothing more than attempted usurpation of the role of the JNC, and results-oriented politics at its worst.

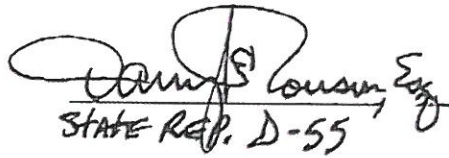
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We write this with a heavy heart for your good work receiving ill mention, but also out of a belief that it is our duty to speak up when a few of our fellow bar members appear to malign the integrity of the JNC process for ulterior ends.

Respectfully,



Roland Sanchez-Medina Jr.



Representative Darryl Rouson  
HD 55



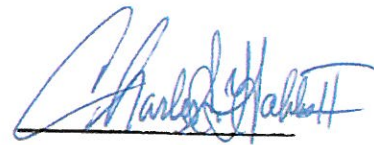
Marlene Quintana



Robert H. Fernandez



George Meros



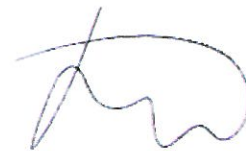
Charles "Chuck" Hobbs II  
Legal Advisor FL NAACP



Richard Watson



Jerome W. Hoffman

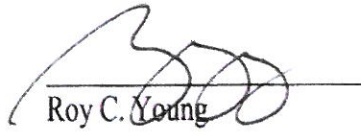


John "Mac" Stipanovich



Raquel A. Rodriguez (FBN# 511439)  
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Raquel A. Rodriguez



Roy C. Young

Roy C. Young



Fred Karlinsky

Fred Karlinsky



Adam Babington

Adam Babington



Edward Tancer

Edward Tancer



Wilber Brewton

Wilber Brewton



Jon Ferrando

Jon Ferrando



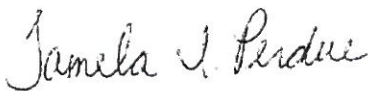
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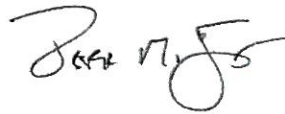
Timothy Cerio

Timothy Cerio



Tamela I. Perdue

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Jeff Scott

Jeff Scott

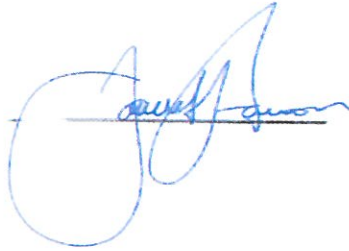


Scott Ashley

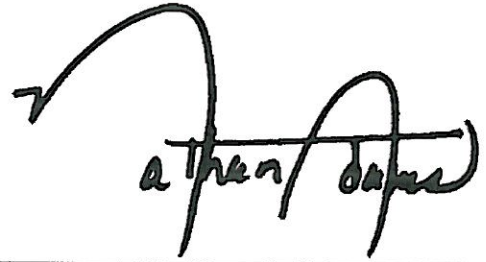
Scott Ashley

A handwritten signature in black ink, appearing to read "L. Charlie Hilton", written over a horizontal line.

L. Charlie Hilton

A handwritten signature in blue ink, appearing to read "James Hannon", written over a horizontal line.

James Hannon

A handwritten signature in black ink, appearing to read "Nathan Adams", written over a horizontal line.

Nathan Adams

A handwritten signature in black ink, appearing to read "Cynthia S. Tunncliff", written over a horizontal line.

Cynthia S. Tunncliff

A handwritten signature in black ink, appearing to read "Mark K. Delegal", written over a horizontal line.

Mark K. Delegal