No. _____

In The
Supreme Court of the United States

THE HONORABLE LAURA M. WATSON

Petitioner
v.

FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

Respondents

On Petition for a Writ of Certiorari from the Supreme Court of Florida

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EMERGENCY APPLICATION TO STAY PENDING CERTIORARI

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Petitioner

September 2015

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To the Honorable Clarence Thomas, Associate Justice and Circuit Justice for the Eleventh Circuit:

Petitioner, The Honorable Laura M. Watson, respectfully applies for an emergency stay pending final action by this Court on a forthcoming petition for certiorari seeking review of the opinion of the Supreme Court of Florida (June 18, 2015, rehearing denied August 31, 2015), which ordered the removal of Judge Watson as Circuit Court Judge for the Seventeenth Judicial Circuit of Florida.

INTRODUCTION

This highly publicized case is about the unconstitutional removal of Petitioner, Judge Watson, as a Judge of the Seventeenth Judicial Circuit of Florida, *after her valid 2012 election*, without any violation of Florida's Judicial Code. The Florida Supreme Court's Removal Order ratifies the JQC's *erroneous* interpretation that the Florida Constitution provides it jurisdiction over Florida's judiciary to investigate any *alleged* misconduct after 1966, even without any violation of Florida's Judicial Code, which interpretation effectively adds *new* judicial eligibility qualifications, and violates the rights afforded to voters, campaign contributors, the judiciary, judicial candidates and/or Judge Watson by U.S. Const. amend. I, and XIV and Fla. Const. art. V, §8. Appx. A.

The removal of Judge Watson, *after her valid 2012 election*, without any violation of Florida's Judicial Code of Conduct, amounts to an impermissible post-election challenge that infringes upon the Federal and Florida Constitutional rights of voters, candidates, contributors, and Judge Watson, alike. Voters', campaign

contributors' rights, and judicial candidate's rights and/or eligibility are inextricably intertwined, governed by the U.S. and Florida Constitutions, and embody fundamental rights and freedoms. The Florida Supreme Court's Removal Order improperly impinges upon those rights and threatens to divest 691,025 voters of their votes, and campaign contributors of $267,680.31 and/or time, and Judge Watson of her property rights in her office as circuit judge.

By the Florida Supreme Court's improper ratification of the JQC's interpretation that it has jurisdiction to investigate any *alleged* misconduct after 1966, which does not violate any judicial canons, no judicial candidate could be on notice that he/she was eligible for office, and in turn no person would know if they voted for, and/or contributed to an eligible candidate. Under the JQC's new judicial jurisdiction ratified by the Florida Supreme Court, the same lack of notice and uncertainty of judicial eligibility applies to any sitting justice or judge. Such jurisdictional interpretation is unconstitutionally vague, and overbroad, and contravenes the will of the voters and the rights of the voters, campaign contributors, and judicial candidates, including Judge Watson.

The Removal Order, fueled by the ratification of the JQC's interpretation of its jurisdiction, and thereby imposition of *new* eligibility requirements, unconstitutionally threatens to take Judge Watson's constitutional property rights in her office as circuit judge[1] without the semblance of due process.

There is a reasonable likelihood that this Court will note probable

[1] A circuit court judge is a Florida constitutional officer pursuant to Fla. Const. art. V, §5.

jurisdiction and a fair prospect that this Court will reverse the Removal Order, which if left to stand will certainly erode Florida voters', campaign contributors', the judiciary's[2], and judicial candidates' constitutional rights protected by the U.S. and Florida Constitutions.

As a result of the JQC's actions and the Florida Supreme Court's ratification of those actions, Judge Watson has already suffered irreparable harm, but, as demonstrated *infra*, without a stay, Florida's voters, campaign contributors, judicial candidates, and Judge Watson will be irrevocably harmed and divested of their fundamental constitutional rights and freedoms. A stay is necessary to preserve the status quo and to protect the voting rights of those 691,025 voters, and campaign contributors; the rights of judicial candidates; and Judge Watson's vested constitutional property rights in her judicial office because if the order is not stayed, the circuit court position will become vacant and the governor will be required to fill the vacancy by appointment from persons nominated by the judicial nominating commission. *See* Fla. Const. art. V, §11. "Whenever a vacancy in a judicial office to which election for retention applies, the governor *shall* fill the vacancy by appointing…persons nominated by the appropriate judicial nominating commission." Fla. Const. art. V, §11 (a). "The nomination shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days." Fla. Const. art. V, §11 (c).

Based on the aforementioned, this Honorable Court should grant a stay.

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[2] The JQC has authority to investigate Florida's justices, judges, and judicial candidates.

STATEMENT

This case involves disputed ethical *allegations* relating to an attorneys' fees dispute between attorneys that occurred nearly a decade ago, from 2002-2004 ("*Attorney's Fees Dispute*")[3]. At the time of such dispute, Judge Watson was *not* a judge, *not* a candidate for judicial office, *nor* performing any judicial functions as contemplated by Florida's Judicial Code of Conduct or Constitution.

The issues regarding the *Attorney's Fees Dispute* were thoroughly vetted during Judge Watson's primary and general elections for circuit court. Civil litigation between the parties stemming from the *Attorney's Fees Dispute* was completed in 2008, and thereafter the *Attorney's Fees Dispute* was written about extensively in newspaper articles and political blogs. After Judge Watson's hotly contested election campaign, she won the election.

Almost immediately after half a million Broward voters had spoken and Judge Watson was elected to the Broward County Circuit Court bench in November 2012, the JQC began its investigation and prosecution of *allegations* of Judge Watson's pre-judicial ethical violations that *allegedly* occurred approximately eight to ten (8-10) years before she announced her candidacy to be a judge.

Prior to being elected, Judge Watson was a lawyer for twenty-seven (27) years, with no Florida Bar complaints filed by any clients or other discipline[4], who enjoyed an excellent reputation. At the time of Judge Watson's announcement of

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[3] Judge Watson was not found guilty of violating any of Florida's Judicial Codes of Conduct.
[4] It should also be noted that there are no *allegations* whatsoever that Judge Watson has ever committed any crime.

her candidacy, through the date of filing of the Removal Order, Watson met and continues to meet all of the circuit court judicial eligibility requirements set forth in Fla. Const. art. V, §8.

In January 2013, Governor Rick Scott authorized Judge Watson's commission as a circuit court judge, and for nearly the last three (3) years, she has honorably served the citizens of Broward County in the Family Law division. AFB[5] ***Tab 35.*** As to the 2002-2004 *Attorney's Fees Dispute*, which is the genesis of this case, the Florida Bar was aware of it as early as June 2004 when one of the attorneys involved in such dispute, Larry Stewart, admittedly called The Florida Bar to report the circumstances surrounding such dispute[6] (Trial Transcript p. 166). However, Stewart waited until 2008 to file a formal complaint with The Florida Bar as to such *Attorney's Fees Dispute*. The Florida Bar never filed a Formal Complaint against Judge Watson. After her commission to the circuit court bench, in an unprecedented, and unconstitutional action, The Florida Bar transferred its file to the JQC, and the JQC assumed the investigation for Judge Watson's *alleged* ethical misconduct in the 2002-2004 *Attorneys' Fees Dispute*.[7] The JQC filed its *Notice of Formal Charges* on July 24, 2013 formally charging Judge Watson for the 2004 *alleged* ethical misconduct. Appx. D.

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[5] Hereinafter Appendix to Watson's Principal Brief below will be referred to as "APB".
[6] Although Stewart did not file a formal complaint with the Florida Bar with respect to such dispute at that time, he did so in 2008.
[7] No authority has been asserted by the JQC for the proposition that somehow The Florida Bar can forward its file to the JQC, like a baton toss, and somehow the JQC acquires jurisdiction over it.

On April 15, 2014, the JQC filed its Findings, Conclusions and Recommendations. On June 18, 2015, the Florida Supreme Court entered its Removal Order, which rubber-stamped the JQC's findings, *erroneous* jurisdictional interpretation, and recommendation of Judge Watsons' removal.

The Removal Order improperly overturns a hotly contested election wherein Broward voters cast over half a million votes in favor of Judge Watson, *a valid candidate*, and decided she should serve as a circuit court judge. Appx. A. Judge Watson was not found guilty of violating any of Florida's Judicial Codes of Conduct, but rather violating the Rules Regulating the Florida Bar by her *alleged* pre-judicial conduct which occurred eight to ten years (8-10) years before her candidacy, for which the Florida Supreme Court imposed the most draconian punishment: removal. Appx. A.

On July 3, 2015, Petitioner moved for rehearing of the June 18, 2015 Removal Order. On August 31, 2015, the Florida Supreme Court denied Petitioner's motion for rehearing. Appx. B. On August 31, 2015, the Petitioner sought an emergency stay, which the Florida Supreme Court denied on September 4, 2015. Appx. C.

ARGUMENT

As explained by this Court, to obtain a stay pending certiorari, the applicant must show:

> (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of the stay.

> In close cases the Circuit Justice or the Court will balance the inequities and weigh the relative harm to the applicant and to the respondent.

Hollingsworth v. Perry, 588 U.S. 183, 190, 130 S. Ct. 705, 175 L.Ed. 2d 657 (2010) *citing* Lucas v. Townsend, 486 U.S. 1301, 1304, 108 S.Ct. 1763, 100 L.Ed. 2d 589 (1988) (Kennedy, J., in chambers); Rostker v. Goldberg, 448 U.S. 1306, 1308, 101 S.Ct. 65 L.Ed. 2d 1098 (1980) (Brennan, J., in chambers). The Petitioner has met such showing herein.

I. Due to the Exponential Violations of the Constitutional Rights of Florida's Past, Current, and Future Voters, Campaign Contributors, Judiciary, Judicial Candidates, and/or Judge Watson By the Florida Supreme Court's Removal Order, Judge Watson's Petition Has a "Reasonable Probability" of Review and a "Fair Prospect" of Reversal of the Decision Below

Due to the exponential violations of the constitutional rights of Florida's past, current, and future voters, candidates, campaign contributors, judiciary, judicial candidates, and or Judge Watson by the Florida Supreme Court's Removal Order, Petitioner's petition has both a "reasonable probability" of review and a "fair prospect" of reversal of the Removal Order. A stay is warranted because this case presents questions of federal law with profound Federal and Florida Constitutional implications, in addition to the imminent and irreparable harm detailed herein.

The Florida Supreme Court's Removal Order ratifies the JQC's *erroneous* interpretation that the Florida Constitution provides it jurisdiction over Florida's judiciary to investigate any *alleged* misconduct after 1966, even without any violation of Florida's Judicial Code, which interpretation effectively adds *new* judicial eligibility qualifications, and violates the rights afforded to Florida's voters,

campaign contributors, judiciary, judicial candidates and/or Judge Watson by U.S. Const. amend. I, and XIV and Fla. Const. art. V, §8. Appx. A.

Eligibility for Florida state office is governed by the Florida Constitution. These qualification requirements are absolute, and any statute, rule, or law, which restricts eligibility for judicial office beyond the requirements of the Florida Constitution is invalid. Fla. Const. art. V, §8. *See also* Norman v. Ambler, 46 So.3d 178, 182 (Fla. 1st DCA 2010) (Citations omitted) ("'[E]ligibility' for state office is determined solely by the constitutional requirements for holding the state office sought"). Any "doubts about the qualifications of a political candidate" are to be resolved in favor of the candidate. *See* Ruiz v. Farias, 43 So.3d 124, 127 (Fla. 3d DCA 2010) (Citations omitted).

The Florida Supreme Court's ratification of the JQC's interpretation that it has jurisdiction to investigate any justice or judge for any *alleged* or perceived pre-judicial misconduct from November 1, 1966 forward ("Look Back Period"), without any violation of judicial canons[8] creates a scenario wherein no judicial candidate could be on notice that he/she was eligible for office, and in turn no person would know if he/she voted for, and/or contributed to an eligible candidate. The JQC makes the logically flawed connection between some subjective notion of remote conduct and the "present unfitness for office", which is without foundation or legal

[8] It is the Code that "establishes standards for ethical conduct of judges" and "[t]he text of the Canons and Sections is intended to govern conduct of judges and to be binding on them." *Preamble*, Florida's Code of Judicial Conduct.

justification. The ruling by the JQC ratified by the Florida Supreme Court, that Judge Watson is unfit for office because the alleged misconduct would negatively affect the public's trust and confidence in the judiciary and diminish her standing in the community, ignores reality. Borrowed from the Family Lawyers' *Amicus Curiae* Brief [9] at p. 4, "[t]he issue of the effect of the past alleged misconduct on the public's trust and confidence in the judiciary as reflected in its impact on the judge's standing in the community has already been 'litigated,' so to speak, by virtue of the November 2012 election that brought Judge Watson into office. The voters were in possession of information about Judge Watson's *alleged* misconduct." "There is perhaps no better measure of a person's standing in the community than that person's election to office." Family Lawyers' *Amicus Curiae* Brief at p. 4. "The election proves that Judge Watson's standing in the community has not been adversely affected. An informed public has spoken. The will of the voters should be respected." Family Lawyers' *Amicus Curiae* Brief at p. 5.

Pursuant to the JQC's interpretation, a person who (a) has been convicted of a crime; (b) had his/her civil rights restored; and thereafter (c) becomes a Florida Bar member for the requisite number of years, meets the eligibility requirements, and qualifies to run for judicial office, is at risk of removal, even though his/her debt to society has long since been paid. In this case, Judge Watson, who was never *alleged* to have committed a crime, but rather an *alleged* debatable breach of an

[9] The Family Lawyers' *Amicus Curiae* Brief, with supporting affidavits, were filed on July 2, 2014.

ethical duty as a younger lawyer for which the JQC deems forever demonstrates her "present unfitness for office." Under such disciplinary scheme, no judicial candidate could ever be on fair notice of what pre-judicial conduct, which occurred during the Look Back Period, but does not violate any judicial canons, the JQC may determine to be within its jurisdiction to investigate, prosecute, discipline, and/or seek removal of a judicial candidate, *until after the* election. If the JQC can look beyond the text of the Code, which is intended to govern and bind the conduct of judges, then no one can reasonably predict what past conduct the JQC may deem to "be conduct unbecoming a member of the judiciary demonstrating a present unfitness to hold office…." Fla. Const. art. V, § 12(c)(1). Under the JQC's *new* judicial jurisdiction ratified by the Florida Supreme Court[10], the same lack of notice and uncertainty of judicial eligibility applies to any sitting justice or judge. Such jurisdictional interpretation is unconstitutionally vague, and overbroad, and contravenes the will of the voters and the rights of Florida's voters, campaign contributors, judiciary, judicial candidates, and/or Judge Watson.

Pursuant to Fla. Const. art. V, §8, in order to be eligible for the office of circuit judge, the person must 1) be an elector of the state, which has its own eligibility requirements, 2) reside in the territorial jurisdiction of the court, and 3) have been for the preceding five (5) years, a member of the bar of Florida. The constitutional clause "member of the bar of Florida" has been interpreted to mean a

[10] The JQC, as the constitutional body authorized to monitor the conduct of candidates and members of the judiciary, has never once brought charges against a current judge without some violation of Florida's Code of Judicial Conduct.

person who "is a member with the privilege to practice law" in the courts of this state. *See* In re Advisory Op. to Gov., 17 So.3d 265 (Fla. 2009). Judge Watson has always met these court eligibility requirements, but the JQC's jurisdictional interpretation unconstitutionally trumps these requirements, and violates the due process rights of Judge Watson and exponential numbers of Florida's judiciary and judicial candidates.

The JQC's attempt to impose jurisdiction over Judge Watson almost immediately after she was sworn in as a constitutional officer, amounts to an impermissible attack on the validity of the election, which burdens, and implicates rights protected by the First and Fourteenth Amendments to the U.S. Constitution. *See* Anderson v. Celebreeze, 460 U.S. 780, 786-787, 103 S. Ct. 1564, 75 L.Ed.2d 547 (1983); Ray v. Mortham, 742 So.2d 1276, 1285 (Fla. 1999). Voters' rights and judicial candidate eligibility are inextricably intertwined, governed by the U.S. Constitution and/or Florida's Constitution, and embody fundamental rights and freedoms. *See* U.S. Const. amend. I, and XIV, and Fla. Const. art. VI, §2. "The declaration of rights expressly states that 'all political power is inherent in the people'". Treiman v. Malmquist, 342 So.2d 972, 975 (Fla. 1977), *citing* Fla. Const. art. 1, §1.

After the voters spoke, and the Governor commissions a judge, it too late to attack the validity of an election by claiming that *alleged* misconduct from remote time, such as ten (10) years in Judge Watson's case, warrants removal from office. The Florida Supreme Court's ratification of the interpretation that the JQC has

jurisdiction over Florida's judiciary for any *alleged* misconduct after November 1, 1966, without violation of any judicial canon, eviscerates the political power inherent in the people and established by Fla. Const. art. I, §1, and violates the due process rights of Florida's voters, campaign contributors, judiciary, judicial candidates, and Judge Watson. Though the states have broad power to provide the manner in which judicial vacancies shall be filled, "the federal courts have not hesitated to interfere when state actions have jeopardized the integrity of the electoral process." *See* Duncan v. Poythress, 657 F.2d 691,702 (11th Cir. 1973) (The governor improperly filled the vacancy on the Georgia Supreme Court by appointment, since the Georgia Code mandated the calling of a special election and the appointment violated the constitutionally protected right to vote).

This Court has deemed the right to vote is "a fundamental political right because it is preservative of all rights," and that "any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." Harper v. Virginia Board of Elections, 383 U.S. 663, 667, 86 S. Ct. 1079, 16 L.Ed.2d 169 (1966) (Citations omitted.) When applying strict scrutiny, the restrictions must be "narrowly tailored to serve a compelling state interest," and "'actually necessary to the solution.'" Winter v. Wolnitzek, 56 Fed. Supp. 3d 884, 893 (E.D. Ky Oct. 29, 2014).

Since Florida currently has stringent judicial eligibility qualifications, including the circuit court judicial eligibility qualifications detailed *infra*, no legitimate state interest can be shown for giving the JQC jurisdiction to investigate

any justice or judge for any conduct from November 1, 1966 forward.

To be eligible to run for Florida circuit court judge, a person must meet the following requirements: *First*, the person must be an elector of the state. Pursuant to Fla. Stat. § 97.041(1)(a), to be a registered voter in Florida, a person must be: (1) at least 18 years of age; (2) a United States citizen; (3) a legal resident of Florida; (4) a legal resident in the county in which that person seeks to be registered; and (5) registered pursuant to the Florida Election Code[11]. *Second*, as detailed *supra*, that person must "have been for the preceding five years, a member of the bar of Florida". *See* Fla. Const. art. V, §8.

The Florida Constitution places exclusive jurisdiction on the Florida Supreme Court to regulate admission of persons to practice law and discipline of persons admitted pursuant to Fla. Const. art. V, §15. Conversely, the Florida Supreme Court *solely* derives jurisdiction to discipline a justice or judge from a review of the findings and recommendations of a JQC hearing panel as provided by Fla. Const. art. V, § 12(c)(1). No other constitutional provision provides the Florida Supreme Court with jurisdiction to remove or discipline a justice or judge.

The Supreme Court has designated certain entities as agencies for the purpose of assisting the Court in investigating and disciplining attorney misconduct. "The board of governors, grievance committees, and referees shall have

[11] However, pursuant to Fla. Stat. § 97.041(2)(a) and (b), the following persons, who otherwise qualify, are not entitled to register or vote: (1) persons who have been adjudicated mentally incapacitated with respect to voting, without having their voting rights restored; and/or (2) persons convicted of a felony without having their voting rights restored.

jurisdiction and powers as are necessary to conduct the proper and speedy disposition of any investigation or cause…" for the discipline of persons admitted to the practice of law. R. Regulating Fla. Bar 3-3.1.

Between Florida (a) bar admissions requirements, including background investigation, and bar examination; (b) bar membership, duties, rules, and obligations with continuing oversight by the Florida Bar and Florida Supreme Court, (c) elector requirements; and (d) judicial qualification requirements pursuant to Fla. Const. art. V, §8; there is a complete system of checks and balances that renders the JQC's interpretation that it has the jurisdiction to investigate any conduct, even if it does not violate the Florida Judicial Code of Conduct, during the nearly fifty (50) year Look Back Period, superfluous, suspect, and discriminatory and creates a partisan judicial selection tool. Turning a nonpartisan judicial election into a partisan appointment is an unconstitutional and unchecked[12] scenario capable of repetition, which should be equally repugnant to all of Florida's voters, campaign contributors, judiciary, judicial candidates, and political parties. Voters/Candidates' *Amici Curiae* Brief [13] pp. 3, 14-15, and 18-19.

The Florida Supreme Court's ratification of the JQC's interpretation of Fla. Const. art. V, §12(a)(1) fails to provide fair notice of prohibited judicial conduct, and would substantially impact other articles of the Florida Constitution. To say that

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[12] As detailed in the Florida Supreme Court's own website, the JQC is an "independent agency" "operates under rules it establishes for itself;" and Florida's governors and/or legislature have the only power to remove JQC members.

[13] The Voters/Candidates' *Amici Curiae* Brief of Dr. Phil Busey, Samuel D. Lopez, Esq., Jay Neal, and Peter Szymanski was filed on July 2, 2014.

such interpretation of Fla. Const. art. V, §12(a)(1) is in direct conflict with Fla. Const. art. V, §8 is a gross understatement. Interpreting Fla. Const. art. V §12(a)(1) to provide the JQC with the jurisdiction over Florida's judiciary for any *alleged misconduct after November 1, 1966*, without any violation of Florida's judicial canons, provides the JQC with a nearly fifty (50) year Look Back Period. Whereas Fla. Const. art. V, §8 only requires for judicial eligibility a preceding Florida Bar membership requirement of only ten (10) years for supreme court office, and only five (5) years for circuit court and county court offices. By any stretch of imagination, such an interpretation of Fla. Const. art. V §12(a)(1) creates a much more heightened scrutiny in scope and much more expansive look back in time than Fla. Const. art. V, §8. The Florida Supreme Court's ratification of the JQC's interpretation of Fla. Const. art. V, §12(a)(1), and the plain language of Fla. Const. art. V, §8 "are so dramatically different they cannot sit comfortably in the same" room, *let alone constitution*. Donaldson v. Clark, 819 F.2d 1551, 1562 (11th Cir. 1987) (Judge Hill's Concurrence).

All provisions of the state constitution "should be given [their] intended meaning and effect, and essential provisions of a Constitution are to be regarded as mandatory." Floridians Against Expanded Gambling v. Floridians for a Level Playing Field, 945 So.2d 553, 560 (Fla. 1st DCA 2006). The constitution is to be construed as a whole, with each section and provision to be considered in coordination with the other provisions. A construction that allows all provisions to stand is favored. Courts are "precluded from construing one constitutional

provision in a manner which would render another provision superfluous, meaningless, or inoperative." Chiles v. Phelps, 714 So.2d 453, 459 (Fla. 1998) (Internal citations omitted).

Not only would the JQC's interpretation of Fla. Const. art. V, §12 create conflicts with, and render other articles in the constitution meaningless or inoperative, as stated by the Florida Supreme Court in adopting the 1994 version of Florida's Code of Judicial Conduct: "the . . . Code shall govern the conduct of all justices and judges, and persons seeking those positions[.]" In re Code of Judicial Conduct, 643 So. 2d 1037, 1040 (Fla. 1994). Further, it is the canons and sections of the Code, which govern the activities of all members of the judiciary, even those seeking to become members. It "establishes standards for ethical conduct of judges," and "is designed to provide guidance to judges and candidates for judicial office *and to provide structure for regulating conduct through disciplinary agencies*…." (Emphasis supplied). Preamble, In re Code of Judicial Conduct, 643 So.2d 1037 (Fla. 1994). Thus, the concession that the facts and the record show Judge Watson did not violate Florida's Code of Judicial Conduct removes any possibility of subject-matter jurisdiction by the JQC.[14]

[14] In the case of In re Gridley, the Florida Supreme Court found that no penalty can be imposed against a judge unless the conduct violates Florida's Code of Judicial Conduct. *See* In re Gridley, 417 So.2d 950, 954 (Fla. 1982). In that case, Judge Gridley argued that various letters he wrote expressing his view against capital punishment did not violate Canons 2 or 5A and to penalize him for these letters would violate his first amendment right to free speech. The Florida Supreme Court agreed that Judge Gridley's actions did not violate Florida's Code of Judicial Conduct and imposed no penalty for these letters, and did not reach Judge Gridley's first amendment argument. Id. Even when the JQC and the judge enters into a stipulation, the Florida Supreme Court independently examines the

Ultimately with this dangerous, unprecedented, and unconstitutional precedence *now* in place by the Removal Order, akin to Judge Watson's case, the JQC could decide *sua sponte* to lodge an investigation and charge any judge with *alleged* past pre-judicial misconduct, without some violation of any judicial canons. The imprecise and/or unbounded manner in which the JQC interprets its jurisdiction pursuant to Fla. Const. art. V, §12(a)(1), ratified by the Removal Order, fails to give fair notice of misconduct, and would render the amendment unconstitutionally vague, and/or overbroad. *See* Southeastern Fisheries Association, Inc. v. Department of Natural Resources, 453 So.2d 1351, 1353 (1984). "While '[m]any controversies have raged about the cryptic and abstract words of the Due Process Clause…there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice…'"(Internal citations omitted). National Football League Management Council v. National Football League Players Association, 15 Civ. 5916 (RMB) (JCF),

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evidence to determine if it supports the alleged violations of Florida's Code of Judicial Conduct. *See* In re Gooding, 905 So.2d 121, 122 (Fla. 2005). In Gooding, the Florida Supreme Court found that the evidence did not support a violation of Canon 6B, and did not approve the findings and recommendation for that charge. Id. at 123. Likewise, the Florida Supreme Court accepted the stipulation in the case of In re Andrews, notwithstanding the fact that The Notice of Formal Charges failed to "specify which canons of the Code of Judicial Conduct Judge Andrews allegedly violated. However, canons 1, 2, and 3 were mentioned in the Notice of Investigation and the Findings and Recommendations of the Investigative Panel…and Judge Andrews did not object." In re Andrews, 875 So.2d 441, 442 [FN3] (Fla. 2004). So, the Florida Supreme Court accepted the stipulation. Id. *See also* In re Glickstein, 620 So.2d 1000,1002 (Fla. 1993) (A judges "strict compliance with the Code of Judicial Conduct" is required no matter how uninformed or well-intentioned; In re Graham, 620 So.2d 1273, 1275 (Fla. 1993) (A judge may not depart from the guidelines established by the Code of Judicial Conduct).

15 Civ. 5982 (RMB) (JCF) at 29-30 (S.D. N.Y., September 3, 2015) (New England Patriot's quarterback Tom Brady "had no notice that such conduct [inappropriate ball deflation activities] was prohibited, or any reasonable certainty of potential discipline stemming from such conduct" "[a]nd, it does not appear that the NFL has ever, prior to this case, sought to punish players for such an alleged offense." Id. at 27.

The Removal Order, fueled by the ratification of the JQC's interpretation of its jurisdiction, and thereby *new* eligibility requirements, unconstitutionally threatens Judge Watson's constitutional property rights in her office as circuit judge, as detailed *infra, without a scintilla of due process, which is the cornerstone of our Constitution and judicial system*:

> No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land."

Magna Carta, 39. The court's "highest calling is to safeguard the fundamental liberties guaranteed by the United States Constitution, including the basic requirement that individuals be granted notice and an opportunity to be heard prior to permanent destruction of their personal property by state action." All States Humane Game Fowl Organization, Inc. v. City of Jacksonville, Florida, 2008 U.S. Dist. LEXIS 60760 at *46 (M.D. Fla. 2008). Judge Watson did not even have a fair and impartial tribunal, which cannot be corrected on appeal, and is detailed in her

Motion for Rehearing pp. 19-28,[15] the Voters/Candidates *Amici Curiae* Brief pp. 3, 12-13, 18, and throughout the case and her motions below. Such due process violations are also the subject of Judge Watson's pending federal claims against the JQC individuals, which have been remanded to the Southern District of Florida by the Eleventh Circuit Court of Appeals for prosecution: "We reverse the district court's dismissal of Watson's claims against FJQC officials in their individual capacities for violations of § 1983, malicious prosecution, abuse of process, and punitive damages" and "the Eleventh Amendment does not immunize them from suit." Watson v. Florida Judicial Qualifications Commission, 2015 WL 3971127 at *3 (11th Cir. 2015).

As detailed in the Voters/Candidates' *Amici Curiae* Brief the JQC also divested the rights of Judge Watson's voters, contributors, and supporters to choose their candidate by denying Judge Watson her due process to defend the office into which they voted her, and those of her opponents and their voters. Voters/Candidates' Amici Curiae Brief pp. 3, 12-13, 15, and 18.

As detailed herein, there is a "reasonable probability" of review and "fair prospect" of reversal to rectify the divestment of the rights afforded by the U.S. and Florida's Constitutions to Florida's voters, campaign contributors, judiciary, judicial candidates, and Judge Watson.

II. The Equities Strongly Favor a Stay

[15] The Motion for Rehearing of the Removal Order, with appendix, was filed on July 3, 2015.

The equities strongly favor the Petitioner because 691,025 voters cast, countless campaign contributions of money and time, and Judge Watson's vested constitutional office may be irrevocably taken by a partisan political appointment. Furthermore, these irrevocable harms are not furthered by any risks to the Judiciary and the public interest if temporary relief is granted.

A. The Record Reflects that Without a Stay, Broward's Voters, Candidates, Campaign Contributors, and Judge Watson Will Suffer Imminent and Irreparable Harm

The record reflects that without a stay, Broward's voters, candidates, campaign contributors, and Judge Watson will suffer imminent and irreparable harm. "A fundamental principle of our democracy is, in Hamilton's words, 'that the people should choose whom they please to govern them,'" and in James Madison's words, that principle is "undermined by limiting whom the people can select". Powell v. McCormack, 395 U.S. 486, 547 (1969). The Florida Supreme Court's Decision to remove Judge Watson for "pre-candidate conduct that does not amount to a violation of the then-existing law," after she was sworn in as a constitutional officer, amounts to an impermissible attack on the validity of the election, which is protected by the First and Fourteenth Amendments to the U.S. Constitution. *See* Anderson. Echoing James Madison's warning, allowing the JQC to shape its own judicial qualifications and launch post-election challenges will lead to an improper, unchecked, and dangerous recipe of partisan removals and appointments that can be wielded by any party to stack the courts with members of its party. Powell at 547-548. In light of such constitutional deprivations, the Florida Supreme Court

should not have ratified the JQC's improper jurisdiction and/or actions.

A stay is necessary in this case to preserve the status quo and to protect the voting rights of Broward County's electorate that cast votes in the 2012 primary and general elections. Without such a stay, the will and votes cast of the voters will be irrevocably taken since Judge Watson's vacancy will result in a partisan appointment by the governor.

A stay is necessary to prevent the immediate and irreparable harm to Judge Watson, including the considerable loss of her vested property rights in her judicial office[16] and/or position as judge. Florida officeholders, which include judicial officers, have property rights in their office, which cannot be taken away without due process or violating their constitutional rights, but that is precisely what has and is happening to Judge Watson. As explained by the Florida Supreme Court:

> a public office is a public trust, and that the incumbent has a property rights therein...The right to possess and enjoy the emoluments or the profits of an office is one clearly subject to judicial protection. We have been committed to the doctrine that a public officer has a property right in his office and cannot be deprived thereof without due process of law.

---

[16] The right to hold office has been deemed a property right protected by the U.S. Constitution:

> The right to seek and hold public office and to engage in political activity is a property right. This right is protected by the Federal Constitution. While it is competent for the Legislature to prescribe qualifications for one who desires to become a candidate for office under the state's police powers, those qualifications must be reasonable and not in conflict with any constitutional provision.

McKinney v. Kaminsky, 340 F. Supp. 289, 294 (M.D. Ala. 1972) (Citations omitted.) (Found a residency provision of Alabama's state statute "repugnant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution," and thus granted a permanent injunction, and declared provision void.)

Du Bose v. Kelly, 132 Fla. 548, 562, 181 So. 11 (Fla. 1938) (Citations omitted.) *See also* Gilbert v. Morrow, 277 So. 2d 812, 813 (Fla. 1st DCA 1973) ("An officeholder has a property right in his office and thus may not be unlawfully taken away or illegally infringed upon."). The Florida Constitution provides that the justices and judges are elected officers. *See* Fla. Const. art. V, §8-12. If Judge Watson loses her vested constitutional property rights in and/or her judicial office, money damages would be inadequate to redress her harm because it would not re-instate her to the bench. Thus, a stay is necessary to preserve Judge Watson's vested constitutional property rights and prevent her irreparable harm. Judge Watson calls on this Court to preserve her "individual liberty interests [and property rights] endowed to each member of our great nation" by granting the stay relief requested herein. All States Humane at *46.

B. The Record Reflects that a Stay Poses No Risk of Substantial Harm to the Judiciary, and Would Be in the Public Interest

The record reflects that a stay poses no risk of substantial harm to the Judiciary, and would be in the public interest.

First, as detailed *supra*, Judge Watson met all the stringent constitutional and The Florida Bar's eligibility qualifications in place, and has been a member of The Florida Bar in good standing for thirty (30) years.

Second, the *allegations* regarding the 2002-2004 *Attorneys' Fees Dispute* were thoroughly vetted by the public, and the voters determined that Judge Watson was to be their circuit court judge.

Third, the family lawyers practicing before Judge Watson filed their *Amicus Curiae* Brief, and supporting affidavits of twenty-two (22) attorneys who have appeared before Judge Watson in her family division in Broward Circuit Court, on July 2, 2014, in support of her below. As detailed in such brief and affidavits, these family lawyers had only support and praise for Judge Watson' ethics and rulings since she took office in the family law division:

> Judge Watson has an excellent judicial temperament, is hard working, well prepared, able to handle complex cases, courteous to attorneys and litigants, and impartial. She is one of the most competent and responsive judges these attorneys have appeared before in their collective experience.

Family Lawyers' *Amicus Curiae* Brief at p. 2. The Family Lawyers also attached in their Appendix to their *Amicus Curiae* Brief monthly statistics reflecting that "Judge Watson was able to handle a full case load, and even managed to reduce the net volume of cases, during a time period when she was fully occupied with defending herself in the JQC matter." Family Lawyers' *Amicus Curiae* Brief at p. 13.

Judge Watson has been an exemplar lawyer and judge, and met and/or surpassed every constitutional requirement to be judge, and that is what the public voted for, wants, and deserves nothing less.

For all the aforementioned reasons, a stay is justly warranted.

CONCLUSION

As demonstrated *supra*, the Petitioner will present to this Court substantial legal questions of Federal and Florida Constitutional law, and the equities strongly

favor the resolution of them in the Petitioner's behalf. Therefore, this Honorable Court should stay the Florida Supreme Court's decision and disposition thereof.

Respectfully submitted,

LAURA M. WATSON
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(954) 304-3722
Petitioner

Appendix A

Supreme Court of Florida

No. SC13-1333

**INQUIRY CONCERNING A JUDGE, NO. 12-613
RE: LAURA MARIE WATSON.**

[June 18, 2015]

PER CURIAM.

This matter is before the Court to review the determination of the Florida Judicial Qualifications Commission ("JQC") that Laura Marie Watson has violated the Rules Regulating Professional Conduct and its recommendation that she be removed from office. We have jurisdiction. See art. V, § 12, Fla. Const. Article V, section 12(c)(1) of the Florida Constitution provides that we "may accept, reject, or modify in whole or in part the findings, conclusions, and recommendations of the commission . . . ." Further, section 12(c)(1) provides that "[m]alafides, scienter, or moral turpitude on the part of a justice or judge shall not be required for removal from office of a justice or judge whose conduct demonstrates a present unfitness to hold office." And, while we are mindful that removal is the ultimate sanction, "we will impose that sanction when we conclude

that the judge's conduct is fundamentally inconsistent with the responsibilities of judicial office." In re Hawkins, 151 So. 3d 1200, 1202 (Fla. 2014) (citing In re Shea, 759 So. 2d 631, 638 (Fla. 2000)). For the reasons we explain below, we conclude that the JQC's findings and conclusions are supported by clear and convincing evidence and agree with the JQC's recommendation that Judge Watson be removed from the bench.

FACTS AND PROCEDURAL HISTORY

At some point prior to 2002, the law office of Laura M. Watson, P.A. d/b/a Watson & Lentner entered into a joint business plan with Marks & Fleischer, P.A., and Kane & Kane, acting through the firm principals, Gary Marks, Amir Fleischer, Charles Kane, Harley Kane, Darin James Lentner, and Watson (collectively, "the PIP attorneys"), to represent healthcare provider clients in numerous lawsuits involving Personal Injury Protection ("PIP") claims against Progressive Insurance Company. The firms shared expenses for marketing and the procurement of clients. Each firm maintained and managed its own clients and files, but entered into joint representation contracts in which all of the firms agreed to represent the clients and assume joint responsibility for the claims. The PIP attorneys alleged that Progressive had systematically underpaid health care providers in a scheme known as a "silent PPO."

The PIP attorneys retained the services of Slawson Cunningham Whalen & Stewart, P.A., to initiate a bad-faith case against Progressive filed in the name of Drs. Fisher & Stashak, M.D., P.A. d/b/a Gold Coast Orthopedics and Gold Coast Orthopedics and Rehabilitation ("Gold Coast"). Todd Stewart was the attorney working the case. When Todd Stewart left Slawson Cunningham, and formed Todd S. Stewart, P.A., he elicited the help and expertise of his father, Larry Stewart of Stewart Tilghman Fox & Bianchi, P.A.

In or about February 2002, the PIP attorneys met with Larry Stewart to discuss the Gold Coast case and bad faith claims. Larry Stewart eventually asked William C. Hearon to assist with the prosecution of the bad faith claims. (Todd Stewart, William C. Hearon, and Larry Stewart are collectively referred to as the "bad faith attorneys.")

On or about April 24, 2002, the PIP attorneys and bad faith attorneys reached an agreement concerning how the work would be handled and the fees to be split. The clients were to receive sixty percent of the recovery and the attorneys' fees would amount to forty percent. Of the attorneys' fees, the bad faith attorneys were to receive sixty percent.

Initially, the Gold Coast case encompassed approximately 40 health care providers, and it was contemplated that the bad faith claims would ultimately be asserted on behalf of all the clients of the PIP attorneys once those claims became

perfected, which was approximately 441 clients. This list of 441 clients was used in settlement negotiations with Progressive.

The bad faith attorneys participated in extensive discovery in which they were successful in obtaining an order compelling Progressive to produce internal documents. During this time, the PIP attorneys continued to encourage the bad faith attorneys to pursue their claims by joining in the bad faith claims, or by settling the PIP claims while preserving the bad faith claims. Due to the pressure placed on Progressive by the bad faith attorneys over the following two years, Progressive commenced settlement negotiations with both sets of attorneys. On numerous occasions, the PIP attorneys referred settlement negotiations of the bad faith claims to the bad faith attorneys and gave full authority to the bad faith attorneys to negotiate a global settlement of all of the bad faith claims, including the ones filed through the PIP attorneys.

On January 21, 2004, the bad faith attorneys met with Progressive and demanded $20 million to settle all of the bad faith claims and reported this to the PIP attorneys. Progressive counter-offered with a $3.5 million settlement of all the bad faith claims, but the bad faith attorneys did not accept the offer and no settlement was reached. The bad faith attorneys continued to pressure Progressive to produce more documents.

On May 14, 2004, the PIP attorneys accepted an aggregate settlement offer from Progressive in an undifferentiated amount of $14.5 million to settle the PIP claims as well as all bad faith claims, perfected or potential, without notifying the bad faith attorneys. After the settlement was accepted, Progressive and the PIP attorneys drafted a memorandum of understanding ("MOU"), which made clear that the settlement applied to all PIP claims and bad faith claims irrespective of whether they were perfected.

The MOU did not allocate any recovery to the bad faith claims, but required the release of those claims. After learning of the MOU, the bad faith attorneys objected. The PIP attorneys amended the MOU to award $1.75 million to the bad faith claims.

The PIP attorneys then notified their clients, via letter, of the settlement but did not disclose the conflicts of interests, provide closing statements, or advise the clients of the material facts necessary to make an informed decision about their cases or execution of the releases.

On or about June 22, 2004, the PIP attorneys received funds from Progressive, which were placed in the attorneys' respective trust fund accounts. Watson's firm received $3,075,000, from which $361,470.30 was paid to clients. The clients still did not receive closing statements.

The bad faith attorneys notified the PIP attorneys that, in accordance with The Florida Bar rules governing claims of disputed property, all of the attorneys' fees should be held in a separate escrow account. The PIP attorneys did not hold the funds.

The bad faith attorneys subsequently sued the PIP attorneys for fraudulent inducement and in quantum meruit for the work they performed. During the bench trial, Judge David Crow carefully reviewed all of the facts and circumstances surrounding the joint business plan between the PIP attorneys and the bad faith attorneys.

In April 2008, the trial court found that the actions taken by the PIP attorneys, including the settlement of the bad faith claims without notifying the bad faith attorneys or notifying the clients with bad faith claims that their claims would be released and they would be receiving little to no compensation for those claims, violated several rules of professional conduct. The trial court also found that the PIP attorneys exaggerated the number of hours they spent working on these PIP and bad faith claims. Ultimately, the trial court awarded the bad faith attorneys additional attorneys' fees due to an unjust enrichment the PIP attorneys received and for the cost of the work performed by the bad faith attorneys during the two-year span. Additionally, Judge Crow sent a copy of his order to The Florida Bar.

The Florida Bar began grievance proceedings against the PIP attorneys. In her response, Watson requested that the prosecution be deferred until after she finished appealing Judge Crow's April 2008 final judgment. The Fourth District Court of Appeal affirmed the trial court's judgment on February 29, 2012, see Kane v. Stewart Tilghman Fox & Bianchi, P.A., 85 So. 3d 1112, 1113 (Fla. 4th DCA 2012), and the Bar proceeded with its investigation.

In June 2012, Watson was advised that her case was being referred to a grievance committee for probable cause review, and then in October 2012, she was advised that the grievance committee had found probable cause. In November 2012, Watson was elected to the Seventeenth Judicial Circuit; she assumed office in January 2013. Accordingly, The Florida Bar forwarded its file to the JQC; additionally, Larry Stewart filed a formal complaint.

On July 24, 2013, the JQC filed a Notice of Formal Charges against Judge Laura Marie Watson alleging that she violated Canons 1 and 2A of the Code of Judicial Conduct and violated Florida Rules of Professional Conduct 3-4.2, 3-4.3, 4-1.4(a), 4-1.4(b), 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.7(c), 4-1.8(g), 4-8.4(a), 4-8.4(c), and 5-1.1(f).

At the conclusion of its proceedings, the JQC determined that:

> Watson and the others hired Larry Stewart, who warned them in advance that the PIP claims and bad faith claims were adverse, requiring careful handling throughout settlement negotiations, with full client transparency. When Progressive dangled a pot of money,

> ethical restraints were swept aside. Watson and the PIP lawyers (at Progressive's insistence) excluded the only attorney sufficiently experienced and knowledgeable to see them through settlement negotiations, and reached a quick (and ethically flawed) settlement agreement.

"Watson never told her PIP clients that Progressive paid funds to settle the bad faith claims, and they weren't allowed to participate in that recovery, despite the fact they were required to release these claims." The JQC concluded that Watson unilaterally decided that those clients had no interest in the bad faith case and that they had no duty to pay or include unknown people who may or may not someday have a claim. Additionally, the JQC concluded that Watson "entered into an undisclosed side deal with Gold Coast, contrary to the interests of the other bad faith claimants," and further concluded that Watson failed to disclose material information to her clients, including the conflicts of interest and the methodology of allocating funds between the PIP and bad faith claims that substantially decreased the funds available for distribution to the clients. Under this methodology, the PIP attorneys took $10,960,000 in fees in addition to their portion of the Gold Coast attorneys' fees.

Based on these facts, the JQC concluded that

> attorney Watson violated R. Reg. Fla. Bar 3-4.2 (violating Rules of Professional Conduct); 3-4.3 (commission of acts contrary to honesty or justice); 4-1.4(a) (failing to keep clients informed about the status of a matter); 4-1.4(b) (failing to explain matter to the extent reasonably necessary to permit clients to make informed decision regarding the representation); 4-1.5(f)(1) (failing to provide written

> statement to bad faith clients stating the outcome of the matter, the remittance to the client, and the method of its determination); 4-1.5(f)(5) (failing to provide closing statements to bad faith clients reflecting an itemization of costs and expenses, together with the amount of fees received by participating lawyers or firms); 4-1.7(a) (representing clients with directly adverse interests); 4-1.7(b) (representing clients where representation was materially limited by lawyers' responsibilities to other clients, third persons, and the lawyers' own interests); 4-1.8(g) (making an aggregate settlement of the claims of two or more clients without requisite disclosure or consent); 4-8.4(a) (violation of the Rules of Professional Conduct by herself, and through the acts of others); 4-8.4(c) (engaging in conduct involving deceit); and 5-1.1(f) (failing to treat disputed funds as trust property).

Additionally, the JQC concluded that "[t]here was no clear and convincing evidence presented, and Judge Watson is not guilty of violating Rule 4-1.7(c) . . . ."

Based on these findings and conclusions, the JQC determined that Judge Watson "sold out her clients, her co-counsel, and ultimately herself. This conduct is 'fundamentally inconsistent with the responsibilities of judicial office,' and mandates removal."

ANALYSIS

In judicial disciplinary proceedings, this Court reviews the findings of the JQC to determine if they are supported by clear and convincing evidence, and reviews the recommendation of discipline to determine whether it should be approved. In re Andrews, 875 So. 2d 441 (Fla. 2004). Clear and convincing evidence is " 'a standard which requires more proof than a "preponderance of the evidence" but less than "beyond and to the exclusion of a reasonable doubt." ' " In

re Henson, 913 So. 2d 579, 589 (Fla. 2005) (quoting In re Graziano, 696 So. 2d 744, 753 (Fla. 1997)). In In re Davey, 645 So. 2d 398 (Fla. 1994), this Court fleshed out its standard of review in JQC inquiries:

> This intermediate level of proof entails both a qualitative and quantitative standard. The evidence must be credible; the memories of the witnesses must be clear and without confusion; and the sum total of the evidence must be of sufficient weight to convince the trier of fact without hesitancy.
>
> > [C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.
>
> Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

Id. at 404; see also In re Holloway, 832 So. 2d 716, 726 (Fla. 2002).

Additionally, this Court has noted that any conflicts in the evidence should be resolved in favor of the JQC's findings. In re Henson, 913 So. 2d 579, 591-92 (Fla. 2005) ("Resolving conflicts in the evidence in favor of the Hearing Panel's findings, we conclude that the accusation . . . is supported by clear and convincing evidence."). According to article V, section 12(c)(1) of the Florida Constitution, this Court has discretion to either accept, reject, or modify the commission's findings and recommendation of discipline. Although this Court gives the JQC's findings and recommendations great weight, the ultimate power and responsibility

in making a determination to discipline a judge rests with this Court. In re Angel, 867 So. 2d 379 (Fla. 2004).

We have emphasized that the object of these "proceedings is not for the purpose of inflicting punishment, but rather to gauge a judge's fitness to serve as an impartial judicial officer." In re McMillan, 797 So. 2d 560, 571 (Fla. 2001). "In making this determination, judges should be held to higher ethical standards than lawyers 'by virtue of their position in the judiciary and the impact of their conduct on public confidence in an impartial justice system.' " In re Hawkins, 151 So. 3d at 1212 (citing In re McMillan, 797 So. 2d at 571).

Additionally, at the outset, we note that despite Judge Watson's protestations to the contrary, the JQC and this Court have jurisdiction over her conduct. See In re Henson, 913 So. 2d at 588 ("Misconduct committed by an attorney who subsequently becomes a judge falls within the subject-matter jurisdiction of this Court and the JQC, no matter how remote. . . . JQC proceedings are constitutionally authorized for alleged misconduct by a judge during the time he or she was a lawyer."); see also In re Davey, 645 So. 2d at 403 ("[T]he Commission has constitutional authority to investigate pre-judicial acts and recommend to this Court the removal (for unfitness) or reprimand (for misconduct) of a sitting judge.").

We have reviewed the entire record of this proceeding and conclude that clear and convincing evidence supports the JQC's factual findings and conclusions that Judge Watson violated Florida Rules of Professional Conduct 3-4.2, 3-4.3, 4-1.4(a), 4-1.4(b), 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.8(g), 4-8.4(a), 4-8.4(c), and 5-1.1(f). The JQC heard testimony from Larry Stewart and Laura Watson; and as character witnesses, Thomas Lynch, IV, Terrence O'Connor, and Lawrence Kopelman. Larry Stewart, in particular, testified at length regarding the details of the agreement between the PIP attorneys and the bad faith attorneys. Larry Stewart stated that he could only say that Watson was present for each of the meetings he held with the PIP attorneys; he could not testify as to exactly what she said. Nevertheless, Larry Stewart testified that Watson never objected or corrected any of the agreements or understandings reached at those meetings. Stewart's interpretation of the meetings is bolstered in particular by one e-mail from Watson wherein she congratulated Stewart on getting the favorable discovery ruling and stated, "We need to keep our foot on their throat and not let them lose [sic]."

Watson's argument that she was not involved in making the agreement with Stewart's firm, and in fact had no knowledge of any agreement with Larry Stewart to pursue bad faith claims on behalf of any of her clients, including Gold Coast, or that she was not aware that he was in settlement negotiations with Progressive is not a reasonable inference from this record. Accordingly, Watson's arguments

were justifiably disregarded by the JQC. Watson's primary contention that the PIP attorneys never contracted with Larry Stewart's firm is belied by her e-mail correspondence with him and her admission that he won favorable rulings in the Gold Coast case.

As it relates to them, the clients were provided with a form release letter to sign that only disclosed the amount they would receive. The settlement was structured so that the clients would receive the PIP payment they were due from Progressive, and little or nothing towards the bad faith recovery. In exchange the bad faith claims were released. The clients were never informed of the entire amount of the offers of settlement received from Progressive, or even that there had been multiple offers. The clients were also not informed of the amount of the settlement that would be retained by the attorneys. In response to this allegation, Watson only offers that she complied with the contracts she had with her clients, which only provided for the PIP claim recovery. Additionally, the clients were never fully informed that the bad faith claims were not compatible with the PIP recovery claims. It is undisputed that Watson failed to provide closing statements to any of the clients. In fact, Watson stated that it is common practice for these types of cases not to have closing statements. Furthermore, it is undisputed that no client was aware of the aggregate settlement. Likewise, Watson did not obtain written consent for aggregate settlement.

Finally, after the bad faith attorneys disputed the settlement agreement, the PIP attorneys placed $710,000 in escrow in connection with the settlement of the Gold Coast case. The escrow account was created for the purpose of setting aside the forty percent attorneys' fees in that case. On or about May 31, 2006, Watson transferred $515,000 to the law firm of Stewart Tilghman Fox & Bianchi, P.A., leaving the remainder in dispute. Watson therefore agreed to disburse the balance subject to court control. On June 1, 2006, Judge Crow ordered that no further distributions from the account be made without further order of his court. On June 5, 2006, the bad faith attorneys executed a settlement agreement with all the PIP attorney firms except Watson & Lentner. Because the dispute between Watson and Stewart was not resolved until either Judge Crow entered his order in April 2008, or the appeal from his order become final in 2012, the JQC's finding is supported by clear and convincing evidence.

CONCLUSION

As stated by Judge David Crow of the Fifteenth Judicial Circuit in and for Palm Beach County, the complex facts of the underlying case "could be a case study for a course on professional conduct involving multi-party joint representation agreements. . . ." We have previously found that a pattern of deceit and deception "casts serious doubt on [a judge's] ability to be perceived as truthful by those who may appear before her in her courtroom." In re Ford-Kaus, 730 So.

2d 269, 277 (Fla. 1999). Further, "[s]uch conduct diminishes the public's confidence in the integrity of the judicial system." Id. at 277. Under these circumstances, "removal from judicial office is the appropriate sanction," because Judge Watson's "conduct is fundamentally inconsistent with the responsibilities of judicial office." Id. at 276. Additionally, this Court has previously removed a judge from office for conduct that occurred, in part, while she was still a practicing attorney. See In re Hapner, 718 So. 2d 785 (Fla. 1998).

Based on the foregoing, we find that Judge Watson's actions while a practicing attorney, and her demeanor during these proceedings "cast[ ] serious doubts" on her "ability to be perceived as truthful by those who may appear before her in her courtroom." Accordingly, we find that removal is the appropriate sanction.

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

Original Proceeding – Judicial Qualifications Commission

Ricardo Morales, III, Chair, and Michael Louis Schneider, General Counsel, Tallahassee, Florida; Judge Kerry I. Evander, Hearing Panel Chair, Daytona Beach, Florida; Lauri Waldman Ross of Ross & Girten, Hearing Panel Counsel, Miami, Florida; Marvin E. Barkin and Lansing Charles Scriven of Trenam, Kemker, Scharf, Barkin, Frye, O'Neil & Mullis, P.A., Special Counsel, Tampa, Florida,

for Judicial Qualifications Commission, Petitioner

Robert A. Sweetapple and Alexander Demetrios Varkas, Jr., of Sweetapple, Broeker & Varkas, PL, Boca Raton, Florida; and Colleen Kathryn O'Loughlin of Colleen Kathryn O'Loughlin, P.A., Fort Lauderdale, Florida,

for Judge Laura Marie Watson, Respondent

Appendix B

Filing # 31511651 E-Filed 08/31/2015 02:16:50 PM

Supreme Court of Florida

MONDAY, AUGUST 31, 2015

CASE NO.: SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613 RE: LAURA MARIE WATSON

Judge Watson's Motion for Rehearing is hereby denied.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

cd
Served:

MARVIN E. BARKIN
LANSING CHARLES SCRIVEN
LAURI WALDMAN ROSS
MICHAEL LOUIS SCHNEIDER
ALEXANDER DEMETRIOS VARKAS, JR.
COLLEEN KATHRYN O'LOUGHLIN
ROBERT A. SWEETAPPLE
HON. LAURA M. WATSON, JUDGE
HON. KERRY I. EVANDER, JUDGE
HON. PETER M. WEINSTEIN, CHIEF JUDGE
MELISSA WILLIAMSON NELSON
MILES AMBROSE MCGRANE, III
RUTLEDGE RICHARDSON LILES
DAVID BILL ROTHMAN
ALAN ANTHONY PASCAL
BROOKE S. KENNERLY
ADRIA E. QUINTELA
GARY D. FOX
HENRY MATSON COXE, III
DAVID WINTHROP BIANCHI

Appendix C

Filing # 31720611 E-Filed 09/04/2015 11:05:03 AM

Supreme Court of Florida

FRIDAY, SEPTEMBER 4, 2015

CASE NO.: SC13-1333

INQUIRY CONCERNING A JUDGE vs. RE: LAURA MARIE WATSON
NO. 12-613

"Judge Watson's Emergency Motion for Stay/Notice of Invocation of Automatic Stay, and Notice of Intent to Seek Review by the United States Supreme Court of this Court's Decision for Removal of Judge Watson" filed with this Court on August 31, 2015, is hereby denied.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

td
Served:

MARVIN E. BARKIN
LANSING CHARLES SCRIVEN
LAURI WALDMAN ROSS
MICHAEL LOUIS SCHNEIDER
ALEXANDER DEMETRIOS VARKAS, JR.
COLLEEN KATHRYN O'LOUGHLIN
ROBERT A. SWEETAPPLE
HON. LAURA M. WATSON, JUDGE

HON. KERRY I. EVANDER, JUDGE
HON. PETER M. WEINSTEIN, CHIEF JUDGE
BROOKE S. KENNERLY
GHENETE ELAINE WRIGHT MUIR
ADRIA E. QUINTELA
DAVID BILL ROTHMAN
ALAN ANTHONY PASCAL
MELISSA WILLIAMSON NELSON
JAY S. SPECHLER
HENRY MATSON COXE, III
MILES AMBROSE MCGRANE, III
GARY D. FOX
DAVID WINTHROP BIANCHI
RUTLEDGE RICHARDSON LILES

Appendix D

Electronically Filed 07/24/2013 09:36:02 AM ET

RECEIVED, 7/24/2013 10:38:34, Thomas D. Hall, Clerk, Supreme Court

BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE NO. 12-613
RE: LAURA MARIE WATSON

_____/

NOTICE OF FORMAL CHARGES

TO: The Honorable Laura Marie Watson
Circuit Judge, 17th Judicial Circuit
Room 1005B
201 S.E. 6th Street
Fort Lauderdale, FL 33301

YOU ARE HEREBY NOTIFIED that the Investigative Panel of the Florida Judicial Qualifications Commission, by the requisite vote, has determined, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, Section 12(b) of the Constitution of the State of Florida, that probable cause exists for formal proceedings to be, and the same are, hereby instituted against you to inquire into charges based on allegations that you violated, Canons 1 and 2A of the Code of Judicial Conduct and violated Florida Rules of Professional Conduct 3-4.2, 3-4.3, 4-1.4(a), 4-1.4(b), 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.7(c), 4-1.8(a), 4-1.8(g), 4-8.4(a), 4-8.4(c) and 5-1.1(f), to wit:

1. Prior to 2002, the firms of Marks & Fleischer, P.A., Kane & Kane, and Laura M. Watson, P.A. d/b/a Watson and Lentner, acting respectively by and through the firm principles, Gary Marks, Amir Fleischer, Charles Kane, Respondent Harley Kane, Laura Watson and Darin James Lentner, (hereinafter referred to collectively as the "PIP claim attorneys") represented healthcare provider clients in numerous lawsuits against various Progressive Insurance

Companies (hereafter referred to as "Progressive") regarding Personal Injury Protection claims (hereinafter referred to as "PIP claims").

2. You and the other PIP claim attorneys pooled your resources and solicited health care providers throughout Florida. By 2002, you, with the other PIP claim attorneys, collectively had approximately 440 health care provider clients who had some 2,500 PIP claims for unpaid bills and associated attorneys' fees against Progressive.

3. In 2002, you, together with the PIP claim attorneys, decided to pursue bad faith claims against Progressive in addition to the PIP claims.

4. In 2002 you joined with the PIP claim attorneys in hiring Stewart Tilghman Fox & Bianchi, William C. Hearon, P.A. and Todd S. Stewart, P.A. (hereinafter referred to as the "bad faith claim attorneys") to handle the bad faith claims.

5. Such bad faith claims were filed in the case styled *Fishman & Stashack, M.D., P.A. d/b/a Goldcoast Orthopedics, et al., v. Progressive Bayside Insurance Company, et al.,* Case No. CA-01011649, in the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. (Hereinafter referred to as "Goldcoast").

6. The PIP claim attorneys, including yourself, entered into a contract with the bad faith claim attorneys wherein suit would be brought against Progressive alleging the bad faith claims on behalf of your mutual clients. It was contemplated that the clients would receive 60% of that recovery and the attorneys' fees would amount to 40%. It was further agreed by the parties that the bad faith claim attorneys would receive 60% of the attorneys' fee so recovered.

7. Initially the Goldcoast case encompassed a core group of approximately 40 healthcare providers. It was contemplated that bad faith claims would ultimately be asserted on behalf of all of the clients of the PIP claim attorneys.

8. In the course of said litigation, you and the PIP claim attorneys provided the bad faith claim attorneys with a list of 441 healthcare provider clients with either perfected or to be perfected bad faith claims and then approved a master claim list of said clients to be used in settlement negotiations with Progressive.

9. You, the PIP claim attorneys and the bad faith attorneys worked together for approximately two years.

10. The bad faith claim attorneys successfully obtained favorable rulings requiring disclosure of discovery by Progressive which strengthened the case. Specifically, the bad faith claim attorneys had obtained a ruling requiring Progressive to disclose damaging internal billing records. This ruling provided leverage for all bad faith and PIP claims.

11. In January 2004, the bad faith claim attorneys commenced settlement negotiations with Progressive which continued for the next several months.

12. You and the other PIP claim attorneys were periodically updated.

13. In May, 2004, certain PIP claim attorneys on their behalf and on your behalf secretly met with Progressive and settled all claims without notice to the bad faith claim attorneys.

14. The settlement was an aggregate settlement of $14.5 million dollars for all PIP claims and all existing or future bad faith claims of all 441 healthcare provider clients. It was agreed to by you and the PIP claim attorneys without prior notice to or obtaining a fully informed consent from the clients. The methodology used by you and the PIP claim attorneys was intended to maximize your attorneys' fees at the expense of the clients and the bad faith claim attorneys.

15. To memorialize the settlement, the PIP claim attorneys met with the Progressive attorneys and drafted a Memorandum of Understanding (hereinafter referred to as "MOU") which documented that all of the healthcare providers' PIP and bad faith claims, whether filed, perfected or just potential, were settled for the undifferentiated amount of $14.5 million dollars.

16. The secret settlement agreement between the PIP claim attorneys and Progressive failed to allocate any monies to the bad faith claims, although all the claimants were expected to release such claims.

17. After learning of the settlement and discovering that no monies had been allocated to the bad faith claims, the bad faith claim attorneys protested and objected to the MOU.

18. Thereafter, the MOU was amended, arbitrarily allocating $1.75 million dollars of the total settlement towards the settlement of the Goldcoast plaintiff's bad faith claims.

19. Again, no monies were allocated to the bad faith claims of approximately 400 clients who were not included in the Goldcoast case, although those claims were required to be released as part of the settlement.

20. To consummate the settlement you and the other PIP claim attorneys prepared letters addressed to the healthcare provider clients. The letters did not disclose the several conflicts of interest inherent in the settlement, did not provide the clients a closing statement and did not advise the clients of the material facts necessary to make an informed decision about the case or execution of the releases.

21. You and the other PIP claim attorneys received the settlement funds from Progressive on or about June 22, 2004, and these funds were placed within the respective attorneys' trust accounts. Upon information and belief the firm of Laura M. Watson, P.A. d/b/a Watson and Lentner, received the amount of $3,075,000.00. From which $361,470.30 in

benefits were paid to your clients. You failed to provide your clients with closing statements as required by Florida Bar rules.

22. When the bad faith claim attorneys learned the particulars of the secret settlement they also notified you and the other PIP claim attorneys that in accordance with Florida Bar rules governing claims of disputed ownership of property, all of the attorneys' fees should be held in escrow.

23. You did not hold the funds in trust and instead disbursed the settlement fees contrary to Florida Bar Rules regulating trust accounts.

24. By the conduct set forth above, you violated R. Regulating Fla. Bar **3-4.2** [Violation of the Rules of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline]; **3-4.3** [The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of an act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.]; **4-1.4(a)** [A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.]; **4-1.4(b)** [A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.]; **4-1.5(f)(1)** [As to contingent fees: (1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in

which a contingent fee is prohibited by subdivision (f)(3) or by law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.]; **4-1.5(f)(5)** [As to contingent fees: In the event there is a recovery, upon the conclusion of the representation, the lawyer shall prepare a closing statement reflecting an itemization of all costs and expenses, together with the amount of fee received by each participating lawyer or law firm. A copy of the closing statement shall be executed by all participating lawyers, as well as the client, and each shall receive a copy. Each participating lawyer shall retain a copy of the written fee contract and closing statement for 6 years after execution of the closing statement. Any contingent fee contract and closing statement shall be available for inspection at reasonable times by the client, by any other person upon judicial order, or by the appropriate disciplinary agency.]; **4-1.7(a)** [A lawyer shall not represent a client if the representation of that client will be directly adverse to the interests of another client, unless: (a) the lawyer reasonably believes the representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and (2) each client consents after consultation.]; **4-1.7(b)** [A lawyer shall not represent a client if the lawyer's exercise of independent professional judgment in the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person or by the lawyer's own interest, unless: (1) the lawyer reasonably believes the representation will not be adversely

affected; and (2) the client consents after consultation.] ; **4-1.7(c)** [When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.]; **4-1.8(g)** [A lawyer who represents 2 or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be a professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.]; and **5-1.1(f)** [Disputed Ownership of Trust Funds. When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be treated by the lawyer as trust property, but the portion belonging to the lawyer or law firm shall be withdrawn within a reasonable time after it becomes due unless the right of the lawyer or law firm to receive it is disputed, in which event the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.]

These acts, if they occurred as alleged, would impair the confidence of the citizens of this State in the integrity of the judicial system and in you as a judge; would constitute a violation of

the Preamble and Canons of the Code of Judicial Conduct; would constitute conduct unbecoming a member of the judiciary; would demonstrate your unfitness to hold the office of judge; and would warrant discipline, including, but not limited to, your removal from office and/or any other appropriate discipline recommended by the Florida Judicial Qualifications Commission.

You are hereby notified of your right to file a written answer to the above charges made against you within twenty (20) days of service of this notice upon you.

DATED this 24th day of July, 2013.

Respectfully submitted,

FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **NOTICE OF FORMAL CHARGES** has been furnished by E-mail and U.S. mail to PETER R. GOLDMAN, ESQ., Broad and Cassel, pgoldman@broadandcassel.com, One Financial Plaza, 100 S.E. Third Avenue, Suite 2700, Fort Lauderdale, FL 33394, attorney for The Honorable Laura Marie Watson, this 24th day of July, 2013.

Miles A. McGrane, III

Attorney