

December 22, 2008

Robert S. Hackleman, Esq.
Chair, Supreme Court Judicial
Nominating Commission
Gunster Yoakley & Stewart, P.A.
450 East Los Olas Boulevard
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Ft. Lauderdale, Florida 33301

Dear Mr. Hackleman:

We write to you in your capacity as chair of the Florida Supreme Court Judicial Nominating Commission. As you know, citizens, lawyers, and media outlets across the State have been deeply concerned about what has occurred in connection with the recent selection of nominees for the seat being vacated by Justice Harry Lee Anstead.

While many believe that some appropriate form of legal proceeding should be instituted, most believe that it would be more constructive and beneficial at this time to convene a meeting with designated delegates from our group and members of the Supreme Court Judicial Nominating Commission.

Judicial nominating commissions should not be "political" bodies. Rather, the commissions utilized to select Supreme Court justices, District Court of Appeal judges, and Circuit and County Court judges should be free from politics as originally intended when the commissions were engrafted into Florida's Constitution. In fact, recent actions may very well run afoul of the letter and spirit of the constitutional provisions and statutes that govern judicial nominating commissions.

Much of the publicity over the last week concerned the Commission's activities related to its response to the request from Governor Crist to submit additional nominees to him which raised the following concerns:

Robert S. Hackleman, Esq.
December 22, 2008
Page 2

1. The manner in which the Commission met by phone and voted to suspend its own rules. Florida Constitution Article V, Section 11(d) requires the Commission to operate in accordance with "uniform" rules. Suspending the rules violates that provision. Additionally, the Commission's own rules require that all votes are to be cast in "written secret ballots". This did not occur. The guarantee that a ballot will be cast secretly is essential to ensuring that members will vote their conscience without regard to political or similar concerns.

2. We are greatly concerned that the list of nominees can be altered or amended after the Commission's work has been concluded.

The fact that during the "public" portion of the meeting, the Commission repeatedly voted on a 5-4 basis demonstrates that there clearly was no consensus in regard to the way the Commission was proceeding. In fact, the suggestion was made to adjourn to seek some advice and counsel from the Supreme Court. Ultimately that did not occur.

Based on the conduct of the Commission and much of the publicity which has been quite adverse, we are very concerned that the integrity of the process with respect to the nomination and selection of justices and judges may be tainted in the eyes of the public.

This process ran afoul of Florida law, and of equal import, has significantly - if not irreparably - tainted the integrity of the nominating process, and correlatively, the court itself. As you no doubt know, the JNCs were engrafted into our Constitution to reduce the role of politics in the judicial selection process.

It should be specifically understood that the signatories to this letter are committed to diversity among members of our Supreme Court. This correspondence is in no way designed to

Robert S. Hackleman, Esq.
December 22, 2008
Page 3

disparage any particular individual or group and the overriding concern of diversity within our courts. Our concern rests upon the politicizing of the selection process and its procedures. We firmly support committed efforts, using all available resources, to ensure that a widely diversified body of qualified applicants is available for consideration during the nominating process. We do not condone, however, post-decision efforts to insert additional candidates into the process, in an effort to alleviate political pressure and partisan concerns. This undermines the crucial impartiality of the process. The JNC is formulated to give judicious and informed consideration to a pool of candidates and, from that pool, to select the most qualified candidates.

We believe the most constructive path to resolve these issues and restore public confidence to our system of selecting judges would be to convene a meeting in which all issues are placed on the table for discussion and consideration.

In view of the fact that the Supreme Court Judicial Nominating Commission is going to have to consider yet another list of applicants to replace Justice Charles T. Wells, we urge you and the Commission to respond immediately so that a meeting may promptly be scheduled. While there are many individuals concerned with the process only a few have signed this letter. We believe a small delegation can be selected which will most effectively work towards resolution of this issue. Please feel free to call me at your earliest convenience so that we may move this process forward.

Sincerely,

/s/ Shannon McLin Carlyle

/s/ Christopher V. Carlyle

/s/ Walter DeLoach

Robert S. Hackleman, Esq.
December 22, 2008
Page 4

/s/ Barbara A Eagan

/s/ Gary Farmer

/s/ Gilbert S. Goshorn, Jr.
Former Judge, Fifth District Court
of Appeal

/s/ Wayne Hogan

/s/ Phil Freidin

/s/ Kelly Overstreet Johnson
Former President, The Florida Bar

/s/ Joel S. Perwin

/s/ Earle W. Peterson, Jr.
Former Judge, Fifth District Court
of Appeal

/s/ Neal Roth

/s/ Senator Alex Villalobos

/s/ Jose Villalobos

/s/ Roy D. Wasson

/s/ Elizabeth C. Wheeler

/s/ Edward Zebersky