

VIA FAX (850) 488-9810

March 3, 2010

Ms. Debra Lewis
JNC Coordinator
Office of the General Counsel
Tallahassee, Florida

Dear Ms. Lewis,

Mr. Bajo and I met February 24, 2010 at 4:00pm in a conference room at his law firm, Akerman Senterfitt, 401 E. Jackson Street, Suite 1700, Tampa, Florida. The meeting lasted approximately one and a half hours until 5:30pm.

Mr. Bajo was pleasant, professional, and our meeting was cordial. Mr. Bajo has an impressive record of approximately seventeen years at Akerman Senterfitt. Mr. Bajo displayed candor that I felt was missing in our earlier email communication. We were able to reach a consensus on the public records aspect of my complaint.

During our meeting Mr. Bajo and I viewed two of Mr. Rodems' files, one for the vacancy of Judge Palomino and one for the vacancy of Judge Honeywell. The files contained the following documents of interest to me.

The first file contained a 3 page letter from Mr. Rodems with 66 pages of attachments. This letter was addressed to Mr. Bajo and begins "Following Neil Gillespie's recent communication regarding my application for nomination to the County Court, I am writing to provide additional details about my relationship with Mr. Gillespie, as requested." The letter was factually inaccurate and misleading. In addition there were 4 pages of emails from Shauna Burks supportive of Mr. Rodems. The second file contained 2 pages of emails from Jonathan Alpert. The documents totaled 75 pages.

Mr. Bajo initially set a cost of copies at \$1.00 based on charges by the Clerk of Court for court documents. He said the JNC is not subject to chapter 119 Florida Statutes. Mr. Bajo disclosed that he contacted the Florida Bar which told him "charge whatever you want".

Previously I objected to the \$1.00 per page charge on the belief that JNC records are subject to Rule 2.420, Florida Rules of Judicial Administration. Rule 2.420(f) procedure (3) Fees for copies of records in all entities in the judicial branch of government, except for copies of court records, shall be the same as those provided in section 119.07, Florida Statutes (2001), which 15 cents per page. Since the only redaction on Mr. Rodems' application was his social security number, there was minimal clerical or supervisory assistance required, and therefore no justification for a special service charge.

In addition, Ms. Jessica Kassees of the Office of Open Government stated in her email of December 29, 2009 that "The legal cost of duplication is 15 cents per page, plus postage" for the JNC records I requested from her.

Initially at the meeting I made notes about the file and planned to defer obtaining the records until the cost was determined by the hearing. In an effort to provide some records immediately, Mr. Bajo reduced his request to 15 cents a copy for 9 pages of records. (The remaining 66 pages were my documents attached to Mr. Rodems letter of Dec-28-09). That resulted in a charge of \$1.35, which Mr. Bajo further reduced to \$1.00. I accepted Mr. Bajo's offer and he provided 9 pages of records.

Subsequent to our meeting Mr. John Marc Tamayo, Chair of the 10th Circuit JNC, responded to a records request. While he said he did not have any records responsive to my request, his charge was 20 cents a copy. This is what he wrote: "20 cents a copy and statute allows the charge for reasonable costs of copying." He did not specify what statute, even after several requests. (Mr. Tamayo's email, February 26, 2010).

Mr. Bajo provided me a redacted copy of Mr. Rodems' application on December 30, 2009 in PDF by email at no charge. This is consistent with my experience with other records request in Florida that were provided by email in PDF format at no charge.

Mr. Bajo and I discussed the apparent delay in responding to my records request. I accept his explanation that any perceived delay was due to time constraints of the Christmas holiday. Mr. Bajo acknowledged my point that a records request should be acknowledged if the records cannot be promptly provided.

In addition Mr. Bajo and I discussed the JNC selection process. Among other things, I questioned the undue influence of lawyers on the JNC process and believe more public involvement is vital to an independent judiciary. Lawyers often want to dominate and control, which often works against the interests of ordinary citizens and minority groups. While lawyers may be comfortable in the suites of Akerman Senterfitt, less so for the general public, which I believe prefers more casual venues.

Near the end of the meeting I agreed to withdrawal the part of my complaint concerning records. Mr. Bajo wants to avoid a hearing on matters involving him. He also believes that your office should decide my complaint against Mr. Barker.

At this time I do not want to pursue a complaint against Mr. Bajo for the cost of records, since there is a wide range of opinion about the correct amount. However a uniform cost of JNC records should be established to maintain the integrity of the judicial selection process. Costs should be set for paper copies and for copies in PDF provided by email.

At this time I do not want to pursue a complaint against Mr. Bajo for any delay in responding to my records request. In my view it appears Mr. Barker's absence from the JNC left Mr. Bajo shorthanded, which became more of a burden with each new vacancy.

Mr. Barker has been unable to perform his JNC duties for over one year due to conflicts created by the applications of his law partner Mr. Rodems. So it goes back to Mr. Barker, his failure to disclose a foreseeable conflict on his application to serve on the JNC, the Questionnaire For Gubernatorial Appointments signed by Mr. Barker July 6, 2007.

Mr. Bajo and I did not discuss paragraphs 10, 11 and 12 of the complaint. Mr. Bajo's email of January 22, 2010 (after the complaint was filed) stated that he did not acknowledge that Mr. Barker had a conflict of interest. Mr. Bajo did acknowledge that Mr. Barker disclosed the fact that Mr. Rodems was his law partner and recused himself from participating in the process. Since I do not know if Mr. Bajo had a legal duty to act further, I will defer to whatever course of action you or Mr. Wheeler decide is appropriate, including withdrawing my complaint against him. Please advise.

I sought outside advice about the JNC process from Ms. Victoria Cecil Walker, author of *Merit Selection and Retention: The Great Compromise? Not Necessarily*, Court Review, Fall 2002. Ms. Walker explained that JNC law has changed since her article was written and she granted me permission to use relevant portions in this matter. For example on page 3 she described an example of the potential for political manipulation on JNCs, an incident that occurred in 1996 in Palm Beach. This example showed close personal ties between certain JNC members and nominees, and how insiders can "shepherd" a favorite candidate through the process. I think Mr. Barker has acted in a similar way.

Mr. Barker's application to serve on the JNC coincides with the timing of his friend and law partner's desire to become a judge. During 2008 Mr. Barker made such a favorable impression on the other JNC members as to be elected Vice Chair. When Mr. Rodems applied for every vacancy the following year he benefited from the good will created by Mr. Barker, and had access to inside information about how to "shepherd" through the JNC process.


Since JNC deliberations are closed we do not know the extent that Mr. Rodems may have further benefited from the relationship. But I believe the timing of Mr. Barker's interest in the JNC and his failure to disclose a foreseeable conflict on his application to serve on the JNC is a violation of the public trust, reflects discredit upon the judicial selection process, and suggests partiality in the consideration of applicants. Ms. Walker also referred me to the current Florida Bar Journal article *JNC's: Return to the Way We Were* by Mr. Jesse Diner. Mr. Diner urges a return to the prior JNC process that includes more non-lawyer commissioners and fewer mandatory attorney commissioners. I concur.

Also be advised that I am disabled and have retained Ms. Karin Huffer, MS, MFT as my Americans with Disabilities Act (ADA) accommodations designer and advocate for my lawsuit with Mr. Barker's firm, Gillespie v. Barker, Rodems & Cook, P.A., and William J. Cook, case no.: 05-CA-7205. A copy of my ADA notice to the court is enclosed. This information was filed February 19, 2010 and I am awaiting a response from the court. My initial ADA request was made in 2006 to no avail, so I retained Ms. Huffer. This is in response to harassment by Mr. Rodems who is representing his firm. I did not require

accommodation in federal court when I appeared pro se in Gillespie v. HSBC Bank, et al, case no. 5:05-cv-362-Oc-WTH-GRJ, US District Court, Middle District of Florida, Ocala Division, the Honorable William Terrell Hodges presiding.

When I made this JNC complaint I did not know that I would be required to appear at a hearing, and I assumed the matter would be decided by the JNC. I plan to appear pro se and have requested the hearing be transcribed or recorded. Thank you.

Sincerely,



Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481
(352) 854-7807
neilgillespie@mfi.net

cc: Mr. Pedro F. Bajo, Chair, 13th Circuit JNC

enclosures