

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING
A JUDGE NO. 02-487

Supreme Court Case
No.: SC03-1171

**RESPONDENT'S MOTION FOR AWARD
OF ATTORNEYS' FEES**

Respondent, Judge Gregory P. Holder, moves this Court to enter an order awarding Respondent the attorneys' fees incurred by him in the defense of this proceeding. The grounds on which this motion is based are set forth below.

1. Judge Holder was the subject of an investigation by an Investigative Panel of the Judicial Qualifications Commission, which resulted in the filing of a Notice of Formal Charges on July 16, 2003.

2. In order to defend himself against these charges, Judge Holder was forced to retain counsel and is obligated to pay them reasonable fees for their services.

3. After significant discovery regarding the charges, a trial was held before a Hearing Panel of the Judicial Qualifications Commission ("JQC") from June 6 to June 14, 2005.

4. On June 23, 2005, the Hearing Panel entered an Order of Dismissal through its Chairman, Hon. John P. Kuder, unanimously dismissing the charges against Respondent after a full hearing on the evidence.

5. The public policy of the State of Florida, as set forth in its common law and statutes, requires that Judge Holder be reimbursed for the attorneys' fees he has incurred in successfully defending himself against these charges. *Thornber v. City of Ft. Walton Beach*, 568 So.2d 914 (Fla. 1990); *Ellison v. Reid*, 397 So. 2d 352 (Fla. 1st DCA 1981); *see also*, Florida Equal Access to Justice Act, § 57.111(2), Fla. Stat. (2004).¹

6. Judge Holder's defense satisfies the requirements for an award of attorneys' fees as set forth in *Thornber*. 568 So. 2d at 917. These charges arose out of or in connection with the performance of Judge Holder's official duties and his defense served a public purpose by, among other things, a) resulting in a well qualified and respected Circuit Court Judge with a significant case load continuing his public service in the Thirteenth Judicial Circuit and avoiding the disruption, time, and expense to parties, their counsel, and successor judges that would have resulted from the reassignment of Judge Holder's docket, and b) upholding the confidence of the citizens of this State in the integrity of the judicial system and the Respondent. *See* Notice of Formal Charges at p. 3.

¹ While the Equal Access to Justice Act does not expressly apply to courts, the policy underlying the Act should apply to this matter and supports an award of Respondent's attorneys' fees.

7. The attorneys' fees set forth in the attached Appendix are reasonable and were necessarily incurred in Judge Holder's successful defense. Respondent will submit additional documentation of these fees and their necessity and reasonableness at or before a hearing on this motion or in accordance with an order establishing a procedure for the resolution of this matter and attendant deadlines.

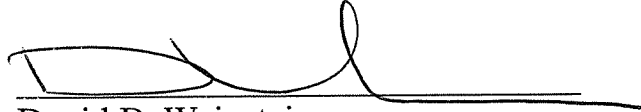
8. Respondent requests the appointment of a special master to consider evidence on the reasonableness and necessity of the requested fees and to determine the amount due.

WHEREFORE, Respondent, Judge Gregory P. Holder, respectfully requests this Court to enter an order (1) awarding Respondent attorneys' fees in the amount of \$1,779,691.81, or other appropriate amount as established by the proof, against the Judicial Qualifications Commission or an appropriate alternative party,² to bear interest at the legal rate, and (2) appointing a special master to determine the amount of fees due.

² Public officials are entitled to reimbursement for legal fees "at public expense," often by their employers. *Thornber*, 568 So. 2d at 916 (city council members' attorneys' fees taxed against city government). In this case, Judge Holder is not employed by the JQC. However, based on the law in this State, the JQC, Judge Holder's employer, or other appropriate alternative party, should reimburse Respondent for legal fees incurred in this proceeding. *Ellison*, 397 So. 2d at 353-354 (Palm Beach County property appraiser's attorneys' fees paid from budget approved by Department of Revenue).

Dated: July 25, 2005

Respectfully Submitted,



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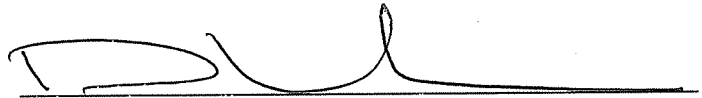
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Counsel for Judge Gregory P. Holder

CERTIFICATE OF SERVICE

I certify that on July 25th, 2005, a copy of the foregoing, Respondent's Motion for Award of Attorneys' Fees, has been served by regular U.S. Mail to: Ms. Brooke Kennerly, Hearing Panel Executive Director, 1110 Thomasville Road, Tallahassee, FL 32303; John Beranek, Counsel to the Hearing Panel, Ausley & McMullen, P.O. Box 391, Tallahassee, FL 32302; Thomas C. MacDonald, Jr., JQC General Counsel, 1904 Holly Lane, Tampa, FL 33629; and Charles P. Pillans, III, Esq., JQC Special Counsel, Bedell, Ditmar DeVault, Pillans & Coxe, P.A., The Bedell Building, 101 East Adams Street, Jacksonville, FL 32202. A courtesy copy has been provided by U.S. Mail to the Honorable John P. Kuder, Chairman of the Hearing Panel, Judicial Building, 190 Governmental Center, Pensacola, FL 32501.



Attorney

Holder adv JQC
FL. Supreme Court Case No. SC03-1171

FEE EXHIBIT

FIRM

AMOUNT

Bales Weinstein	\$ 1,194,947.50
Sidley Austin Brown & Wood	\$ 533,627.50
James, Hoyer, Newcomer & Smiljanich	\$ <u>51,116.81</u>

TOTAL \$ 1,779,691.81

EXHIBIT A