

IN THE SUPREME COURT OF FLORIDA

ADVISORY OPINION TO THE  
GOVERNOR RE: APPOINTMENT  
OR ELECTION OF JUDGES

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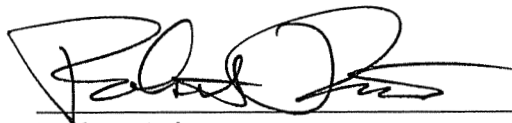
**Case No.: SC08-844**

**APPENDIX TO ION SANCHO'S BRIEF**

Tab No.:     Contains:

1.     Complaint, dated and filed May 5, 2008
2.     Summons and Return of Service on Governor Charlie Crist,  
dated and filed May 5, 2008
3.     Summons and Return of Service on the Second Judicial Circuit  
Nominating Commission, dated and filed May 5, 2008
4.     Motion to Intervene by candidates Richardson and Desmond,  
dated May 6, 2008 and filed May 7, 2008
5.     Notice of Filing Affidavit of Ion Sancho and Affidavit  
of Ion Sancho, dated and filed May 8, 2008
6.     April 28, 2008 e-mail on Judge Harley's decision  
not to seek reelection
7.     May 1, 2008 announcement of JNC's plans

Respectfully submitted,



Robert Rivas

Florida Bar No.: 896969

[rrivas@sslawfl.com](mailto:rrivas@sslawfl.com)

Jessica Slatten

Florida Bar No.: 27038

[jslatten@sslawfl.com](mailto:jslatten@sslawfl.com)

Sachs & Sax, P.A.

310 W. College Ave. 3rd Floor

Tallahassee, FL 32301

*Tel:* (850) 412-0306

*Fax:* (850) 412-0909

—and—



Richard M. Benham

Florida Bar No.: 0013249

Law Office of Richard Benham, P.A.

2804 Remington Green Cir.

Tallahassee, FL 32308

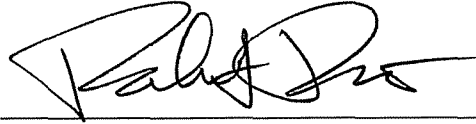
*Tel:* (850) 386-1871

*Fax:* 1-866-394-8358

[rbenham@benhamlawfirm.com](mailto:rbenham@benhamlawfirm.com)

Attorneys for Ion Sancho

I HEREBY CERTIFY that on May 12, 2008, I served a copy of this Appendix by U.S. Mail on counsel on the Service List, below.



Robert Rivas

### SERVICE LIST

Jason Gonzalez  
General Counsel  
Office of the Governor  
The Capitol  
Tallahassee, FL 32399  
fax 487-0801

Robert Augustus Harper III  
Counsel for Interested Party  
P.O. Box 10132  
Tallahassee, FL 32302-2132  
fax 224-9800

Ronald G. Meyer  
Counsel for Interested Party  
Meyer & Brooks, P.A.  
P.O. Box 1547  
Tallahassee, FL 32302-1547  
fax 656-6750

**Tab 1**

IN THE SECOND JUDICIAL CIRCUIT COURT  
LEON COUNTY, FLORIDA

ION SANCHO, in his official  
capacity as supervisor of elections  
of Leon County,

CASE NO. 2008 CA 1422  
Civil Division

Plaintiff,

v.

CHARLIE CRIST, in his official capacity  
as governor of Florida, and the SECOND  
CIRCUIT JUDICIAL NOMINATING  
COMMISSION,

Defendants.

FILED  
08 MAY -5 AM 11:24  
BOB INZER  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA

**COMPLAINT**

The Plaintiff, ION SANCHO ("Sancho"), in his official capacity as supervisor of elections of Leon County, sues the Defendants, CHARLIE CRIST ("Crist"), in his official capacity as governor of Florida, and the SECOND CIRCUIT JUDICIAL NOMINATING COMMISSION ("JNC"), and alleges:

1. This is an action for a declaratory judgment and supplemental relief to enforce the right of the citizens of Leon County to elect their judges, and to prohibit the governor from usurping that right by appointing a judge whose selection, according to law, should be by election.

**I. PARTIES, JURISDICTION AND VENUE**

2. Jurisdiction inheres in this Court pursuant to article 5, section 5 of the

Florida Constitution, Florida Statutes section 26.012(2) and section 86.011, *et seq.* (the declaratory judgments act), and Fla. R. Civ. P. 1.610.

3. Venue lies in Leon County because all the acts giving rise to this action took place in Leon County. Moreover, the Defendants have a home venue privilege in Leon County.

4. Sancho is duly elected as the supervisor of elections of Leon County pursuant to article 8, section 1(d) of the Florida Constitution. He sues only in his official capacity.

5. Crist is duly elected as the governor of Florida pursuant to article 4, section 1 of the Florida Constitution. He is sued only in his official capacity.

6. The JNC is an executive branch agency created by article 5, section 11(d) of the Florida Constitution.

## **II. THE FACTS**

7. Timothy D. Harley served with distinction as a Leon County judge since 2000, when he was appointed to fill a newly created judgeship. If he had sought to retain his seat this year, he would have been required to run for reelection to Seat 5 in the November 4, 2008 general election. The window of time to qualify for him to run for Leon County Judge, Seat 5, or for other candidates to seek election to Seat 5, opened on Monday, April 28, 2008 and closed at noon on Friday, May 2, 2008.

8. Judge Harley did not seek to qualify for Seat 5. By an order entered on Wednesday, April 30, 2008, during the qualifying period, the Supreme Court of Florida

accepted Judge Harley's "involuntary retirement due to a physical disability," effective at midnight the same day.

9. During the qualifying period, three candidates — Sean T. Desmond, Leonard Holton and Nina Ashenafi Richardson — filed papers to qualify to run for election to Seat 5. Pursuant to article 5, section 10(b)(2), these candidates were entitled to qualify for, and run for, election to Seat 5.

10. As the supervisor of elections, Sancho had a ministerial duty to accept the qualifying applications of Desmond, Holton and Richardson, and Sancho did so, pursuant to article 5, section 10(b)(2) and section 105.031(1) of Florida Statutes.

11. However, Crist's office simultaneously initiated procedures to appoint Judge Harley's replacement. Crist gave the JNC notice "of the existence of the vacancy" pursuant to section 2 of the Uniform Rules of Procedure for Circuit Judicial Nominating Commissions. Under the rules, therefore, the JNC began to "actively seek, receive and review" the qualifications of potential appointments to the vacancy. The JNC issued a notice seeking applicants for the judgeship.

### **III. THE LEGAL ISSUE**

12. By his conduct, Crist is asserting that he has a prerogative to appoint Judge Harley's replacement pursuant to article 5, section 11(b) of the Florida Constitution.

13. The JNC concurs with the governor's view and accordingly is proceeding to utilize the appointment process to replace Judge Harley.

14. To the contrary, Sancho had a legal duty to accept qualifying papers for

candidates to run for Seat 5 in the November 2008 general election, and the qualification of such candidates, as a matter of law, has precluded the governor from making an appointment to Seat 5 pursuant to article 5, section 11(b).

15. Sancho believes he has the power, right and legal duty to conduct an election for Seat 5. The position taken by the Crist and the JNC have cast doubt on the existence or nonexistence of his power, right and legal duty to conduct said election. Therefore, pursuant to section 86.011 of Florida Statutes, Sancho is entitled to a declaratory judgment that, as supervisor of elections of Leon County, he has the power, right and legal duty to conduct the pending election for Seat 5.

16. Sancho therefore prays for expedited consideration of this issue and demands such additional, alternative, coercive, subsequent, and supplemental relief in this action as is appropriate in light of the Court's declaratory judgment so as to enable him to conduct the election.

#### **IV. RELIEF DEMANDED**

WHEREFORE, Sancho prays:

- (a) That the Court take jurisdiction over the subject matter and the parties to this action, and expedite proceedings in this action;
- (b) That the Court render a declaratory judgment that the constitution and statutes of Florida require that an election be held for Seat 5 of the Leon County Court;
- (c) That the Court further declare that the governor has no constitutional




prerogative to appoint a replacement for Judge Harley under the instant circumstances;

- (d) That the Court grant temporary and permanent injunctive relief:
- (1) Prohibiting Crist from further attempting to utilize the appointment mechanism to replace Judge Harley;
  - (2) Prohibiting the JNC from any further proceedings to seek, receive and review the qualifications of potential appointments to Seat 5;
  - (3) Requiring Sancho to proceed with the election of a candidate ultimately to be seated in Seat 5 of Leon County Court; and
  - (4) Granting such other and further relief as the Court deems appropriate.

Dated this 5<sup>th</sup> day of May, 2008.

Respectfully submitted,

SACHS & SAX, P.A.  
Counsel for Plaintiff Sancho

By: 

Robert Rivas  
Florida Bar No. 896969  
310 W. College Ave. 3d Floor  
Tallahassee, FL 32301  
Phone: (850) 412-0306  
Fax: (850) 412-0909  
Email: [rrivas@sslawfl.com](mailto:rrivas@sslawfl.com)

— and —



Richard M. Benham  
Law Office of Richard Benham, P.A.  
Florida Bar No. 0013249  
2804 Remington Green Cir.  
Tallahassee, FL 32308  
*Phone:* (850) 386-1871  
*Fax:* 1-866-394-8358  
*Email:* [rbenham@benhamlawfirm.com](mailto:rbenham@benhamlawfirm.com)



**Return of Service**

In The Circuit Court 2<sup>nd</sup> Judicial Circuit  
Leon County, Florida Case NO.: 2008-CA-001422

Charlie Christ, Governor of Florida  
To Be Served

Summons & Complaint

The Capitol, PL-01  
Tallahassee, Florida  
Address

Court Date: N/A  
Court Time: N/A

Ion Sancho, in his official capacity as supervisor of  
elections of Leon County  
Plaintiff/Petitioner

Plaintiff/Attorney:  
Robert Rivas, Esquire  
Sachs & Sax  
310 W. College Ave., 3<sup>rd</sup> Floor  
Tallahassee, Florida 32301

-and-

Richard M. Benham, Esquire  
Law Office of Richard Benham, P.A.  
2804 Remington Green Circle  
Tallahassee, Florida 32308

BOB INZICH  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA

08 MAY -5 PM 4:42

FILED

Charlie Christ, in his official capacity as governor of  
Florida, and the Second Judicial Circuit Nominating  
Commission  
Defendant/Respondent

Received this writ on May 5, 2008 at 11:50 a.m. and served the same on May 5, 2008 at 2:18 p.m. in Tallahassee, Leon County, Florida as follows:

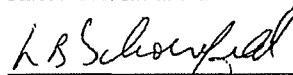
**METHOD OF SERVICE**

***SUBSTITUTE:***

By leaving a true copy of this writ, together with a copy of the initial pleading with the date and hour of service endorsed thereon by me with Jason Gonzalez, General Counsel at Room 209, Capitol Building, Tallahassee, Florida.

I CERTIFY that at the time of service, I placed on the face of that process my printed name, signature, identification number, a statement that I am a certified process server in the Second Judicial Circuit of Florida and I endorsed on that original process, and all copies served, the date and hour of service.

*Under penalties of perjury, I declare that I have read the foregoing Return of Service, and that the facts stated therein are true.*



L. B. SCHOENFELD  
Certified Process Server # 126  
Second Judicial Circuit of Florida  
Notary not required pursuant to Fla. St. 92.525

**L. B. SCHOENFELD**  
**A PROFESSIONAL PROCESS SERVICE**  
**P. O. Box 14563**  
**Tallahassee, Florida 32317**



IN THE SECOND JUDICIAL CIRCUIT COURT  
LEON COUNTY, FLORIDA

ION SANCHO, in his official  
capacity as supervisor of elections  
of Leon County,

CASE NO. 2008CA1422  
Civil Division

Plaintiff,

v.

CHARLIE CRIST, in his official capacity  
as governor of Florida, and the SECOND  
CIRCUIT JUDICIAL NOMINATING  
COMMISSION,

Defendants.

SUMMONS

**THE STATE OF FLORIDA:**  
**To Each Sheriff of the State:**

YOU ARE COMMANDED to serve this Summons and a copy of the Petition in  
this lawsuit on the defendant:

**Charlie Crist**  
**Governor of Florida**  
**PL-01 The Capitol**  
**Tallahassee, Florida**

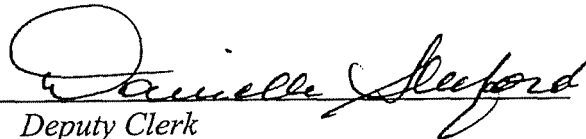
Each defendant is required to serve written defenses to the Petition on Robert Rivas, plaintiff's attorney, whose address is listed below, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the Petition.

Served this 5<sup>th</sup> day of May  
2008 at 7 A.M. 2:18 P.M.  
By L.B. Schoenfeld  
L.B. Schoenfeld  
Certified Process Server  
2nd Judicial Circuit, I.D.# 126

DATED on this 5<sup>th</sup> day May, 2008.

BOB INZER,  
As Clerk of the Circuit Court of the Second  
Judicial Circuit, Leon County, Florida

By:

  
Deputy Clerk



Robert Rivas  
SACHS & SAX  
310 W. College Ave., 3<sup>rd</sup> Floor  
Tallahassee, FL 32301  
Phone: (850) 412-0306  
Fax: (850) 412-0909  
Email: [rrivas@ssklawfirm.com](mailto:rrivas@ssklawfirm.com)

— and —

Richard M. Benham  
Law Office of Richard Benham, P.A.  
2804 Remington Green Cir.  
Tallahassee, FL 32308  
Phone: (850) 386-1871  
Fax: 1-866-394-8358  
Email: [rbenham@benhamlawfirm.com](mailto:rbenham@benhamlawfirm.com)

**Tab 3**

**Return of Service**

In The Circuit Court 2<sup>nd</sup> Judicial Circuit  
Leon County, Florida Case NO.: 2008-CA-001422

Second Judicial Circuit Nominating Commission  
By serving its chairman:  
Jose Blas Lorenzo, Jr.  
To Be Served

Summons & Complaint

Department of Education  
1940 North Monroe Street, Suite 70  
Tallahassee, Florida 32303-4759  
Address

Court Date: N/A  
Court Time: N/A

Ion Sancho, in his official capacity as supervisor of  
elections of Leon County  
Plaintiff/Petitioner

Plaintiff/Attorney:  
Robert Rivas, Esquire  
Sachs & Sax  
310 W. College Ave., 3<sup>rd</sup> Floor  
Tallahassee, Florida 32301

-and-

Richard M. Benham, Esquire  
Law Office of Richard Benham, P.A.  
2804 Remington Green Circle  
Tallahassee, Florida 32308

BOB IN LENA  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA

08 MAY -5 PM 4:42

FILED

Charlie Christ, in his official capacity as governor of  
Florida, and the Second Judicial Circuit Nominating  
Commission  
Defendant/Respondent

Received this writ on May 5, 2008 at 11:50 a.m. and served the same on May 5, 2008 at 12:05 p.m. in Tallahassee, Leon County, Florida as follows:

**METHOD OF SERVICE**

**SUBSTITUTE:** By leaving a true copy of this writ, together with a copy of the initial pleading with the date and hour of service endorsed thereon by me with Jose Blas Lorenzo, Jr.

I CERTIFY that at the time of service, I placed on the face of that process my printed name, signature, identification number, a statement that I am a certified process server in the Second Judicial Circuit of Florida and I endorsed on that original process, and all copies served, the date and hour of service.

*Under penalties of perjury, I declare that I have read the foregoing Return of Service, and that the facts stated therein are true.*

*L B Schoenfeld*

L. B. SCHOENFELD  
Certified Process Server # 126  
Second Judicial Circuit of Florida  
Notary not required pursuant to Fla. St. 92.525

**L. B. SCHOENFELD**  
**A PROFESSIONAL PROCESS SERVICE**  
**P. O. Box 14563**  
**Tallahassee, Florida 32317**



IN THE SECOND JUDICIAL CIRCUIT COURT  
LEON COUNTY, FLORIDA

ION SANCHO, in his official  
capacity as supervisor of elections  
of Leon County,

CASE NO. 2008 CA 1422  
Civil Division

Plaintiff,

v.

CHARLIE CRIST, in his official capacity  
as governor of Florida, and the SECOND  
CIRCUIT JUDICIAL NOMINATING  
COMMISSION,

Defendants.

Served this 5<sup>th</sup> day of May  
2008 at 12:05 A.M. 12:05 P.M.  
By L.B. Schoenfeld  
L.B. Schoenfeld  
Certified Process Server  
2nd Judicial Circuit, I.D.# 126

SUMMONS

**THE STATE OF FLORIDA:**  
**To Each Sheriff of the State:**

YOU ARE COMMANDED to serve this Summons and a copy of the Petition in  
this lawsuit on the defendant:

**SECOND JUDICIAL CIRCUIT NOMINATING COMMISSION**

**By serving its chairman:**

**Mr. Jose Blas Lorenzo, Jr.**  
**Department of Education**  
**1940 North Monroe Street, Suite 70**  
**Tallahassee, Florida 32303-4759**

**Phone: (850)410-6812**

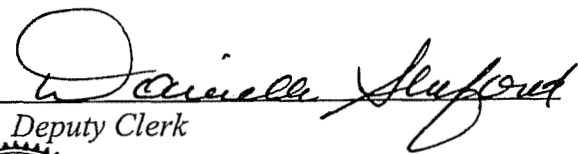
Each defendant is required to serve written defenses to the Petition on Robert  
Rivas, plaintiff's attorney, whose address is listed below, within 20 days after service of  
this summons on that defendant, exclusive of the day of service, and to file the original of

the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the Petition.

**DATED** on this 5<sup>th</sup> day May, 2008.

BOB INZER,  
As Clerk of the Circuit Court of the Second  
Judicial Circuit, Leon County, Florida

By:

  
Deputy Clerk



Robert Rivas  
SACHS & SAX  
310 W. College Ave., 3<sup>rd</sup> Floor  
Tallahassee, FL 32301  
Phone: (850) 412-0306  
Fax: (850) 412-0909  
Email: [rrivas@ssklawfirm.com](mailto:rrivas@ssklawfirm.com)

— and —

Richard M. Benham  
Law Office of Richard Benham, P.A.  
2804 Remington Green Cir.  
Tallahassee, FL 32308  
Phone: (850) 386-1871  
Fax: 1-866-394-8358  
Email: [rbenham@benhamlawfirm.com](mailto:rbenham@benhamlawfirm.com)



IN THE SECOND JUDICIAL CIRCUIT COURT  
LEON COUNTY, FLORIDA

**ION SANCHO, in his official capacity as  
Supervisor of Elections of Leon County,**

Plaintiff,

vs.

Case Number: 2008-CA-1422  
Civil Division

**CHARLIE CRIST, in his official capacity  
as Governor of Florida, and the SECOND  
CIRCUIT JUDICIAL NOMINATING  
COMMISSION,**

Defendants.

2008 MAY -7 P 2:12  
SOB INZER  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA

FILED

**MOTION TO INTERVENE**

Nina Ashenafi Richardson and Sean T. Desmond, move the Court, pursuant to Rule 1.230, Florida Rules of Civil Procedure, for the entry of an order permitting them to Intervene on the side of the Plaintiff in the above-styled matter.

In support of this motion, the Court is respectfully shown as follows:

1. Each of the Intervenor is a candidate for the Leon County Judge Seat 5, having qualified for such office during the qualifying period which began at noon on April 29, 2008, and closed at noon at Friday, May 2, 2008. Each Intervenor is a qualified candidate for election to the Office of County Judge Seat 5.

2. The Intervenor have a direct legal interest in the outcome of the case and their rights will necessarily be affected by any ruling of the Court. Morgareidge v. Howey, 78 So. 14, 15 (1918);

IN  
COMPUTER

National Wildlife Federation, Inc. v. Glisson, 531 So.2d 996 (Fla. 1<sup>st</sup> DCA 1988).

3. Counsel for the Plaintiff has represented to the undersigned that he agrees to the relief requested in this motion being granted. Because service has not yet been effected on the Defendants, the Intervenor has not been able to ascertain the position of the Defendants regarding intervention.

**WHEREFORE**, the Court is respectfully requested to enter an order granting the motion and permitting Nina Ashenafi Richardson and Sean T. Desmond to intervene on the side of the Plaintiff in the above-styled action.

**MEYER AND BROOKS, P.A.**

Post Office Box 1547  
2544 Blainstone Pines Drive (32301)  
Tallahassee, Florida 32302  
(850) 878-5212

By: 

RONALD G. MEYER  
Florida Bar Number: 0148248

ATTORNEYS FOR ASHENAFI RICHARDSON

and

**HARPER AND HARPER**

Post Office Box 10132  
325 West Park Avenue (32301)  
Tallahassee, Florida 32302  
(850) 878-5212

By: 

ROBERT AUGUSTUS HARPER, III  
Florida Bar Number: 881791

ATTORNEYS FOR SEAN DESMOND

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and exact copy of the foregoing has been furnished by U.S. Mail on this 6<sup>th</sup> day of May, 2008, to: Robert Rivas, Esquire, Sachs & Sax, P.A., 310 West College Avenue, 3<sup>rd</sup> Floor, Tallahassee, Florida 32301; Richard M. Benham, Esquire, Law Office of Richard Benham, P.A., 2804 Remington Green Circle, Tallahassee, Florida 32308; Jason Gonzalez, General Counsel, Governor's Legal Affairs Office, Room 209, The Capitol, Tallahassee, Florida 32399; and Leonard Holton, 2360 Tuscavilla Road, Tallahassee, Florida 32312.

  
\_\_\_\_\_  
ATTORNEY

**ORDER**

**THIS CAUSE**, having come before the Court pursuant to the Motion to Intervene filed by Nina Ashenafi Richardson and Sean T. Desmond and the Court having considered the motion and being otherwise advised in the premises, hereby

**ORDERS, ADJUDGES and DECREES** that Nina Ashenafi Richardson and Sean T. Desmond, be and the same are hereby **GRANTED** Intervenor status on the side of the Plaintiff in the above-styled matter.

\_\_\_\_\_  
WILLIAM L. GARY  
Circuit Court Judge

Copies Furnished To:  
Counsel of Record



**COPY**

IN THE SECOND JUDICIAL CIRCUIT COURT  
LEON COUNTY, FLORIDA

ION SANCHO, in his official  
capacity as supervisor of elections  
of Leon County,

CASE NO. 2008-CA-1422  
Civil Division

Plaintiff,

v.

CHARLIE CRIST, in his official capacity  
as governor of Florida, and the SECOND  
CIRCUIT JUDICIAL NOMINATING  
COMMISSION,

Defendants.

BOB INZEN  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA

08 MAY -8 AM 11:01

FILED


**NOTICE OF FILING AFFIDAVIT OF ION SANCHO**

The Plaintiff, ION SANCHO, hereby gives notice of the filing of his affidavit,  
attached hereto, in support of any motions in this action.

**I HEREBY CERTIFY** that on May 8, 2008, I served a copy of this notice of filing  
and the attached affidavit by fax and/or by e-mail and by U.S. Mail on counsel on the  
attached Service List.

Respectfully submitted,  
SACHS & SAX, P.A.  
Counsel for Plaintiff Sancho

By: \_\_\_\_\_



Robert Rivas  
Florida Bar No. 896969  
310 W. College Ave. 3d Floor  
Tallahassee, FL 32301  
Phone: (850) 412-0306  
Fax: (850) 412-0909  
Email: [rrivas@sslawfl.com](mailto:rrivas@sslawfl.com)



— and —



Richard M. Benham  
Law Office of Richard Benham, P.A.  
Florida Bar No. 0013249  
2804 Remington Green Cir.  
Tallahassee, FL 32308  
*Phone:* (850) 386-1871  
*Fax:* 1-866-394-8358  
*Email:* rbenham@benhamlawfirm.com

#### SERVICE LIST

Jason Gonzalez  
General Counsel  
Office of the Governor  
The Capitol  
Tallahassee, FL 32399  
fax 487-0801

Jose Blas Lorenzo, Jr.  
Chair  
Second Circuit JNC  
Department of Education  
1940 N. Monroe Street, Suite 70  
Tallahassee, Florida 32303-4759

Ronald G. Meyer  
Counsel for Intervenor  
Meyer & Brooks, P.A.  
P.O. Box 1547  
Tallahassee, FL 32302-1547  
fax 656-6750

Robert Augustus Harper III  
Counsel for Intervenor  
P.O. Box 10132  
Tallahassee, FL 32302-2132  
fax 224-9800

STATE OF FLORIDA

County of Leon

**AFFIDAVIT**

BEFORE ME, the undersigned authority, Ion V. Sancho, personally appeared who, being duly sworn, says:

1. I am the duly elected supervisor of elections for Leon County, Florida.
2. I am over the age of 18 and reside in Leon County, Florida.
3. As supervisor of elections, I have personal knowledge of the events and circumstances attendant to the election for Leon County Judge, Seat 5 ("Judicial Seat 5") scheduled for primary contest on August 26, 2008. I am the custodian of official records related to this scheduled election.
4. The qualifying period for candidates seeking election to Judicial Seat 5 began at noon on Monday, April 28, 2008 and ended at noon on Friday, May 2, 2008. During the qualifying period, three candidates qualified to run for the office. However, the election process was well underway prior to the three candidates' qualification to be elected to Judicial Seat 5.
  - a. To become "qualified" for election to a County Judicial Seat, potential candidates must file various statements and perform actions necessary to establish their campaigns. For Judicial Seat 5, the following candidates took the listed actions.
    - i. Candidate Nina Ashenafi Richardson ("Richardson") filed an "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" pursuant to 106.021(1) F.S. on February 20, 2008. This is the first step legally required to establish a campaign and qualify for placement on the ballot.
      1. Richardson filed a "Statement of Candidate" pursuant to 106.023 F.S. on February 20, 2008.
      2. Richardson filed a supplemental "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" appointing a deputy campaign treasurer on March 12, 2008.
      3. Richardson submitted 2,014 petitions pursuant to 99.095 F.S. signed by electors of Leon County to the supervisor of elections on March 31, 2008. On April 4, 2008, those

petitions were determined sufficient to support qualification of Richardson's candidacy without paying the filing fee.

4. Richardson electronically submitted form DS-DE 12, "Campaign Treasurer's Report" for the period January 1, 2008 through March 31, 2008 on April 8, 2008. This report reflects aggregate contributions of over \$24,000 from approximately 120 unique contributors.
  5. Richardson submitted the remaining forms and certifications required to qualify as a candidate on May 2, 2008. This submission included the "Judicial Offices Loyalty Oath," and the "Full and Public Disclosure of Financial Interests."
  6. Richardson had previously attempted to submit those forms and certifications to qualify for election to Seat 5. However, acting on advice from the office of the Governor's General Counsel, our office initially refused the submission. Upon independent legal review, we determined that there is no legal authority to refuse the qualifying papers and advised Richardson that they could be resubmitted before the qualifying deadline.
- ii. Incumbent Judge Timothy Harley ("Harley") filed an "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" pursuant to 106.021(1) F.S. on February 20, 2008.
1. Harley filed a "Statement of Candidate" pursuant to 106.023 F.S. on February 27, 2008.
  2. Harley submitted 1,954 petitions pursuant to 99.095 F.S. signed by electors of Leon County to the supervisor on March 28, 2008. On April 4, 2008, those petitions were determined sufficient to support qualification of Harley's candidacy without paying the filing fee.
  3. Harley electronically submitted form DS-DE 12, "Campaign Treasurer's Report" for the period January 1, 2008 through March 31, 2008 on April 10, 2008.
  4. Harley did not submit the forms and certifications required to qualify as a candidate during the qualifying period and did not qualify to run for the office.


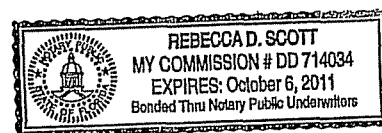
- iii. Candidate Leonard Holton ("Holton") filed an "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" pursuant to 106.021(1) F.S. on April 28, 2008.
  - 1. Holton filed a "Statement of Candidate" pursuant to 106.023 F.S. on April 28, 2008.
  - 2. Holton submitted the forms, certifications, and filing fee drawn from the campaign account required to qualify as a candidate on May 2, 2008. This submission included the "Judicial Offices Loyalty Oath," and the "Full and Public Disclosure of Financial Interests."
  - 3. Holton had previously attempted to submit those forms and certifications to qualify for election to Seat 5. However, acting on advice from the office of the Governor's General Counsel, our office initially refused the submission. Upon independent legal review, we determined that there is no legal authority to refuse the qualifying papers and advised Holton that they could be resubmitted before the qualifying deadline.
- iv. Candidate Sean Desmond ("Desmond") filed an "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" pursuant to 106.021(1) F.S. on April 29, 2008.
  - 1. Desmond filed a "Statement of Candidate" pursuant to 106.023 F.S. on April 29, 2008.
  - 2. Desmond submitted the forms, certifications, and filing fee drawn from the campaign account required to qualify as a candidate on May 2, 2008. This submission included the "Judicial Offices Loyalty Oath," and the "Full and Public Disclosure of Financial Interests."
  - 3. Desmond had previously attempted to submit those forms and certifications to qualify for election to Seat 5. However, acting on advice from the office of the Governor's General Counsel, our office initially refused the submission. Upon independent legal review, we determined that there is no legal authority to refuse the qualifying papers and advised Desmond that they could be resubmitted before the qualifying deadline.
- b. The Secretary of State of Florida, by publication in the Tallahassee Democrat Legal Notices, noticed the election for Judicial Seat 5 on April 5 and April 19, 2008.

- c. The supervisor's official website included notice of the election to be held for Judicial Seat 5 and the supervisor's informational notices to prospective candidates listed the seat as up for election.
- 2) As supervisor of elections I must contend with many upcoming deadlines in order to administer the election properly.
- a. There are both legally mandated and practical deadlines that must be met to conduct the primary election of 2008. The table attached as "Exhibit 1" sets out the critical dates and tasks.
  - b. Delay in resolving the issue of how Judicial Seat 5 will be filled beyond June 27, 2008 would result in a need to create two sets of primary ballots; one set with the Seat 5 race and an alternate set without. The cost of such duplicate ballot creation would likely exceed \$100,000.
  - c. Delay in resolving the issue beyond July 14 would reduce the time available for absentee voters, including overseas voters, to receive and cast their ballot.
  - d. Delay past July 22, 2008 would result in violation of 101.62(4) F.S., which requires overseas absentee ballots to be mailed "not less than 35 days before the primary election."



Ion v. Sancho  
Supervisor of Elections for  
Leon County, Florida

The foregoing document was acknowledged before me on this 8 day of May, 2008 by Ion V. Sancho, who is personally known to me or who produced \_\_\_\_\_ as identification.

  
Notary Public

“Exhibit 1” to Affidavit of Ion V. Sancho

*Essential dates relating to the Primary Election of August 26, 2008*

Date	Task
1/29/2008	Presidential Preference Primary and Referendum Election
Noon, 3/31/2008	Federal, Judicial, State Attorney & Public Defender candidate petitions due for verification.
5 p.m., 4/10/2008	Campaign Treasurer Reports due
4/18/2008	Judicial, State Attorney, Public Defender Resignations due pursuant to Resign-to-run law, 99.012 FS
Noon, 4/28/2008	Qualifying begins for Federal, State Attorney, Public Defender, and Judicial Candidates
4/29/2008	Qualifying continues as listed on 4/28/08
4/30/2008	Qualifying continues as listed on 4/28/08
5/1/2008	Qualifying continues as listed on 4/28/08
Noon, 5/2/2008	Qualifying ends for Federal, State Attorney, Public Defender and Judicial Candidates
After noon, 5/2/2008	Division of Elections requests certified list of Judicial Candidates from Leon County Supervisor of Elections
5/4/2008	Deadline for partisan candidates to change party affiliation 99.021 FS
Noon, 5/19/2008	Final submission of signed petitions for candidates remaining. 99.095 (3) FS
6/6/2008	Resignations due pursuant to Resign to run law for local office-holders. 99.012 FS
Noon, 6/16/2008	Qualifying period begins for candidates (excludes those races that qualified 4/28-5/2/2008). 99.061, 105.031 FS
6/17/2008	Qualifying continues
6/18/2008	Qualifying continues
6/19/2008	Qualifying continues
Noon, 6/20/2008	Conclusion of qualifying period.
After Noon, 6/20/2008	Programming of voting system for ballot creation begins.
5 p.m., 6/23/2008	Deadline for Supervisor of Elections to notify FL Division of Elections of all duly qualified candidates for 2008. (information is usually provided sooner than deadline)
6/27/2008	Deadline for FL Division of Elections to notify Supervisor of Elections of official list of qualified candidates through the State. (information usually comes sooner than deadline)
6/27/2008	Final preparation and proofing of 504 ballots at Leon County Supervisor of Elections Office
6/30/2008	Final proofs of 504 ballots sent to printer (out of state national printer)
6/30/2008	PDF images of races on Primary Ballot sent to graphic design vendor for creation of 2008 Primary Election Sample Ballot brochure.
7/2/2008	Anticipated review of digital proofs of 504 ballots from national printer.
7/3/2008	Absentee ballots are in national printer's cue for printing
7/4/2008	Voter registration drive at Tom Brown Park for Celebrate America!
7/7/2008	Early Voting and Precinct Ballot proofs (1,008 images) reviewed by

	staff
7/8/2008	National printer receives final approval for printing Early Voting then Precinct ballots for Leon County.
7/10/2008	Office Accounts quarterly reports due
7/10-11/2008	Receipt of Absentee ballot delivery
7/14/2008	Approve proof of Sample Ballot Brochure for printer
7/14/2008	Assembly of absentee ballots for overseas and military voters
7/15-17/2008	Assembly of absentee ballots for domestic mail
7/15-18/2008	Printing of 165,000 Sample Ballot Brochures
7/22/2008	Statutory deadline to have mailed absentee ballots to overseas voters (35 days prior to election). 101.62 (4) FS
7/24-25/2008	Receipt of Early Voting ballot order
7/25/2008	Campaign treasurer's reports due
Noon, 7/28/2008	Early Voting Poll watcher designations due. 101.131 FS
7/28/2008	Voter registration deadline for Primary Election
7/28-31/2008	Allocate Early Vote ballot supplies for four early voting sites.
7/31/2008	Termination reports due for judicial, federal, Public Defender and State Attorney offices who were unopposed or failed to qualify
7/31-8/1/2008	Receipt of precinct ballot order
8/4/2008	Early Voting Poll Watcher approval deadline. 101.131 FS
8/6-8/2008	Set up computer equipment at four early voting sites.
Noon, 8/7/2008	Pre-Election test for Primary Election with County Canvassing Board meeting to follow immediately upon completion. 101.5612(2). FS
8/7-8/2008	Sample Ballot Brochure mail out to every registered voter in Leon County.
8/8/2008	Campaign Treasurer's reports due.
8/9/2008	Deliver early voting secure cages of supplies to early voting sites.
8/11/2008	Early voting begins at four early voting locations
8/12/2008	Early voting continues
Noon, 8/12/2008	Precinct Poll Watcher designations due. 101.131 FS
8/13/2008	Early Voting Continues
8/14/2008	Early Voting Continues
8/15/2008	Early Voting Continues
8/16/2008	Pack Precinct Ballots and final prep of precinct cages.
8/17/2008	Early Voting Continues
8/18/2008	Early Voting Continues
8/19/2008	Early Voting Continues
8/19/2008	Precinct Poll Watcher approval deadline. 101.131 FS
8/20/2008	Canvassing Board meets for initial review of Absentee ballots received
8/20/2008	Deadline to request an absentee ballot for Primary Election
8/20/2008	Early Voting Continues
8/20/2008	Stage precinct cages in warehouse for first delivery trucks assigned.
8/21/2008	Most Basic Right brochure mailed to registered voters residing in Leon County who have not voted in Leon County before.
8/21/2008	Early Voting continues
8/21/2008	Voters may have absentee ballots picked up by designees.
MIDNIGHT, 8/21/2008	Last day for opposed candidates to accept contributions for Primary Election.
8/21/2008	Precinct equipment delivery begins in Leon County

8/22/2008	Early Voting continues
8/22/2008	Canvassing Board meets to review absentee ballots received.
8/22/2008	Precinct equipment delivery continues
8/22/2008	Campaign Treasurer Reports due.
8/23/2008	Final day of Early Voting in Leon County.
10 p.m., 8/23/2008	Printing and binding of precinct register books
1 a.m., 8/24/2008	Delivery of Precinct Register books to warehouse for distribution to precinct clerks on 8/25/2008
8/25/2008	Canvassing Board meets to review absentee ballots received.
8/25/2008	Final day of precinct equipment delivery (mostly churches)
10 a.m.-6 p.m., 8/25/2008	Clerk supplies pick up at warehouse.
8/26/2008	Election Day polls open 7 a.m. until 7 p.m. unless otherwise ordered by the Governor or Courts.



**Tab 6**

**From:** tallahasseebar-bounces@tallahasseebar.org [mailto:tallahasseebar-bounces@tallahasseebar.org] **On**  
**Behalf Of** Kathy Arrant  
**Sent:** Monday, April 28, 2008 3:23 PM  
**To:** tallahasseebar@tallahasseebar.org  
**Cc:** 'Jim Banks'; 'Joann Capece'  
**Subject:** [Tallahasseebar] FW: Election

Judge Harley has given me permission to share with all of you his decision not to seek reelection for Leon County Judge. I will pass along any further information he may wish to share in the future.

Kathy Arrant



## News and Events

### News Releases

#### **JUDICIAL NOMINATING COMMISSION FOR THE SECOND JUDICIAL CIRCUIT SEEKS APPLICANTS FOR A VACANCY**

FOR IMMEDIATE RELEASE

**May 1, 2008**

CONTACT: José Blas Lorenzo, Jr.,

**The Florida Bar**

TELEPHONE: (850) 410-6808

#### **JUDICIAL NOMINATING COMMISSION FOR THE SECOND JUDICIAL CIRCUIT SEEKS APPLICANTS FOR A VACANCY**

TALLAHASSEE-- Applicants are being sought to fill a vacancy on the Leon County Court. This appointment is to fill the vacancy resulting from the retirement of Leon County Court Judge Timothy D. Harley, effective as of midnight, Wednesday, April 30, 2008.

Applicants must have been members of The Florida Bar for the past five years, must be electors of the State of Florida, and must reside within Leon County at the time of the appointment. Application forms are available on The Florida Bar Web site, [www.flabar.org](http://www.flabar.org).

An original and nine copies of the completed application must be delivered no later than noon on Monday, May 12, 2008, to the attention of:

José Blas Lorenzo, Jr., Chair  
Second Judicial Circuit Nominating Commission  
Florida Department of Education  
1940 N. Monroe Street, Suite 70  
Tallahassee, FL 32312 (850) 410-6808

Commission members will evaluate all applicants and upon completion of the evaluation process, submit up to six names to the Governor. Interviews of the applicants will be conducted on dates and at a location to be announced.

The current members of the Second Judicial Circuit Judicial Nominating Commission are (alphabetically): Kim W. Bertron, Tammy de Soto Cicchetti, Richard Edward Doran, Mary Elaine Napier Duggar, Gary K. Hunter, Clark Jennings, Kelly Overstreet Johnson, José Blas Lorenzo, Jr., and Stephanie L. Williams.

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