

SUPREME COURT OF FLORIDA

ADVISORY OPINION TO THE
GOVERNOR,

Case No. SC10-1186

RE: JUDICIAL VACANCY
DUE TO RESIGNATION

**SUPPLEMENT TO BRIEF OF
JUDGE DAVID B. ACKERMAN**

JOSEPH L. HAMMONS
Florida Bar Number 218979
The Hammons Law Firm, P.A.
17 West Cervantes
Pensacola, Florida 32501
Telephone: (850) 434-1068
Facsimile: (850) 434-3597

Attorney for Judge David B. Ackerman

SUPPLEMENT TO BRIEF OF DAVID B. ACKERMAN

The brief of Judge David B. Ackerman, in the summary of the argument, acknowledged there are “equities” that may be argued by both those favoring appointment of someone to fill the judicial position and Judge Ackerman’s position that the election results should be honored. It was simply noted in the brief that “equities” notwithstanding, the Florida Constitution controls the disposition. There was insufficient time when the initial brief was prepared to address equities. To the extent equities may be of concern to this Court, Judge Ackerman submits through attachment to this supplement, a letter he intends to submit to the Pensacola News Journal, a daily newspaper that has addressed on more than one occasion the circumstances of Judge Ackerman’s resignation from the remainder of his term.

The information submitted is only with respect to background information and does not, in any way, suggest that it is the position of Judge Ackerman in this matter that equitable considerations/discretion, provide justification for the Governor to appoint a successor to fill an elected position by other than the person elected. Notwithstanding the circumstances that may involve a resignation or removal from a judicial term as voluntary or involuntary, the Florida Constitution does not delegate to the Governor the authority and discretion to determine when and under what circumstances an elected official, including a lawfully elected county or circuit Judge,

may be denied the term for which elected thereby disenfranchising both the elected and the electorate.

Respectfully submitted,

/s/ Joseph L. Hammons

JOSEPH L. HAMMONS
Florida Bar Number 218979
The Hammons Law Firm, P.A.
17 West Cervantes
Pensacola, Florida 32501
Telephone: (850) 434-1068
Facsimile: (850) 434-3597

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Honorable Charles Crist, Governor, THE CAPITOL, Tallahassee, FL 32399, and Charles F. Beall, Jr., Esquire, Moore, Hill & Westmoreland, P.A., 220 West Garden Street, 9th Floor, SunTrust Tower, Pensacola, FL 32591-3290, by U.S. Mail this 8th day of July, 2010.

/s/ Joseph L. Hammons

JOSEPH L. HAMMONS
Florida Bar Number 218979
The Hammons Law Firm, P.A.
17 West Cervantes
Pensacola, Florida 32501

Telephone: (850) 434-1068

Facsimile: (850) 434-3597

Attorney for Judge David B. Ackerman

CERTIFICATE OF COMPLIANCE

I CERTIFY that the foregoing brief was prepared using Times New Roman 14-point font and complies with the font requirements of Fla. R. App. P. 9.210(a)(2).

/s/ Joseph L. Hammons

Joseph L. Hammons

ATTACHMENT

“The Pensacola News Journal’s articles regarding my retirement are a rush to judgment and are integrated by improper assumptions.”

I spoke with Chief Judge Terry Terrell in mid to late April, at least four to five weeks before submitting my resignation to the Governor, and then again a week later about the need to solve my quandary regarding my person and profession circumstances and as these two issues related to my retirement; that I would be sending my letter of resignation to the Governor shortly unless there was an unforeseen positive change in my financial circumstances. Unfortunately, Chief Judge Terrell was out during the week of my public announcement; Judge Rasmussen, filling in, was unaware of these previous discussions. Your characterization of my “catching court officials flat footed” is simply a distortion of fact.

Neither the State of Florida nor Escambia County will be negatively impacted by my retirement. To the contrary, the State of Florida will save between \$40,000.00 to \$60,000.00 just this year as a result of my early retirement. Furthermore, the State of Florida will save more than \$150,000.00 for my upcoming six year term because it will not have to fund my retirement at \$25,000.00 per year. The State Retirement System

(SRS) will save \$26,000.00 per year for every year that the judge who replaces me is retired and receiving his or her pension. A ten year retirement for that judge equals \$260,000.00 savings to the SRS and similarly a twenty year retirement represents \$520,000.00, and so on. I mention these facts only because of the constant insinuation throughout your articles that somehow the Escambia County tax payers are being hurt financially by my actions. To suggest to the contrary is absurd. It give me absolutely no pleasure that the State would have to utilize retired judges or that I might temporarily increase other judges workloads. It is my understanding that the very capable Escambia County Court Administrator's office already covered the docket until I return.