

BEFORE THE HEARING PANEL
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE

CASE NO. SC10-348

RE: JUDGE DALE C. COHEN

**STIPULATION OF FACTS AND DOCUMENTS FOR
FINAL HEARING**

The parties, by their undersigned counsel, hereby stipulate and agree to the following:

BACKGROUND OF DALE AND MARDI COHEN

1. **Time Line:**

(a) 1983 Dale Cohen graduates from University of Florida, BS in Finance

(b) 1983 Mardi Cohen graduates from University of Florida, BS in Psychology

(c) 1984 June 1: Mardi Cohen met Dale Cohen in Law school

(d) 1986 Dale Cohen graduates from University of Florida Law School

(e) 1986 Mardi Cohen graduates from University of Florida Law School

(f) 1986 Aug. 17: Dale and Mardi Cohen married

(g) 1986 Oct: Dale Cohen becomes member of the Bar

- (h) 1986 Oct.: Dale Cohen becomes an Assistant State Attorney
- (i) 1987 Sept: Mardi Cohen becomes member of the Bar
- (j) 1987 Oct: Mardi Cohen becomes an Assistant Attorney General
- (k) 1989 April: Mardi Cohen opens private appellate practice
- (l) 1990 Jan.: Dale Cohen leaves State Attorney and opens law firm
- (m) 1995 Aug: Mardi Cohen merges firm with Dale's firm
- (n) 2002 Mar. 1: Mardi becomes an Assistant State Attorney
- (o) 2003: Dale Cohen becomes board certified in criminal law

STIPULATED CHRONOLOGY

2006

2. April 2, 2006: Dale Cohen is appointed by Governor Bush to circuit court bench.

3. May 1, 2006: Dale Cohen begins his term as a circuit court judge.

4. May 1, 2006: Mardi opens Law Office of Mardi L. Cohen, P.A..

5. June, 2006: Mardi runs for circuit seat against Marina Garcia-Wood. Wood wins election.

6. In the Broward County judicial election of 2006, attorney Stephen Melnick actively supported and worked for the election of Mardi Cohen, a

candidate for a Broward County circuit judgeship and the wife of Judge Dale C. Cohen.

2008

7. May 1, 2008: Mardi Cohen filed for circuit court group 3 held by then Judge Pedro Dijols. Group was now Bernard Bober, Judge Dijols and Mardi Cohen.

8. May 2, 2008: Mardi Cohen qualified for circuit court group 3.

9. May, 2008: Dale Cohen qualifies and is elected without an opponent to the bench for a six year term.

10. In the Broward County judicial election campaign of 2008, attorney Stephen Melnick did not endorse or support Mardi Levey Cohen's candidacy for circuit judge because Mardi Levey Cohen ran against Judge Pedro Dijols, a friend of attorney Melnick. Mr. Melnick supported Judge Dijols even though he had supported Mardi Cohen in the 2006 campaign.

11. August 30-31, 2008: Recount vote for group 3 at Broward Supervisor of Elections site.

12. September 5, 2008: Pedro Dijols files a lawsuit against Mardi Cohen for using her maiden name on the ballot. A copy of the first amended complaint in a lawsuit filed against Mardi Levey in connection with her 2008 judicial race for

circuit judge in Broward County is attached as Exhibit A. Exhibit A1 is the original complaint and other pleadings from that court file.

13. September 17, 2008: Retired Dade circuit court judge removes Mardi from ballot and replaces her with Pedro Dijols. Election was to be Judge Dejols v. Bernard Bober.

14. September 24, 2008: The Fourth DCA returns Mardi's name to the ballot and Dijols is officially defeated and loses his seat. Mardi now in final election against Bernand Bober. Bober wins election.

2009

15. January 5, 2009: Mardi Anne Levey Cohen filed her Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates with the Broward County Supervisor of Elections. A copy is attached as Exhibit B.

16. August 6, 2009: Judge Dale C. Cohen was the presiding judge in State of Florida v. Steven Gibbs, Broward County Case No. 09-1421-CF-10A. Defense counsel for Steven Gibbs was attorney Stephen Melnick, who filed a sworn motion to recuse Judge Cohen.. A copy of the motion is attached as Exhibit C. On August 6, 2009, Judge Cohen held an evidentiary hearing regarding the Gibbs recusal motion. Before the hearing, Judge Cohen met with his wife, Mardi Levey Cohen, and they had lunch together. At the hearing on the Gibbs recusal

motion, Judge Cohen called his wife as a witness and Judge Cohen interrogated her as a witness. A copy of the transcript of the hearing is attached as Exhibit D. At the conclusion of the evidentiary hearing in Gibbs, Judge Cohen granted Mr. Gibbs' motion for recusal and the Clerk assigned the matter to Judge Gillespie.

17. August 22, 2009: Hearing held on Gibbs matter before Judge Cohen. At the hearing, Judge Cohen interrogated the defendant, Gibbs regarding his earlier motion to disqualify, which Judge Cohen had previously granted. A copy of the transcript of the hearing is attached as Exhibit. F.

18. August 28, 2009: Judge Cohen was the presiding judge in the case of State of Florida v. Leon Butler, Broward County Case No. 08-22581-CF-10A. On behalf of Mr. Butler, Mr. Melnick filed a motion to recuse, a copy of which is attached as Exhibit E. Judge Cohen held an evidentiary hearing on the Butler recusal motion. Judge Cohen called the defendant, Leon Butler, and personally interrogated the defendant. Mr. Melnick objected, asserted an attorney/client privilege, but Judge Cohen overruled all such objections. Because of mechanical failures of the court reporter's equipment, there is no transcript available of the Leon Butler recusal motion hearing. The JQC investigated the lack of transcript and concluded there was no evidence that Judge Cohen had anything to do with the unavailability of the transcript. The court reporter had a major electronic malfunction and it was impossible to transcribe said hearing. At the conclusion of

the evidentiary hearing in the Leon Butler matter, Judge Cohen granted the Butler motion for recusal.

19. September 29, 2009: The Florida Judicial Qualifications Commission (JQC) served a notice of investigation upon Judge Cohen inviting Judge Cohen to appear before the JQC on November 6, 2009. A copy of the notice of investigation is attached as Exhibit G.

20. November 6, 2009: Judge Cohen appeared before the JQC and a transcript of the proceedings is attached as Exhibit H. He was not represented by counsel at this hearing, but he voluntarily gave his testimony under oath.

21. December 1, 2009: The JQC served a second notice of investigation on Judge Cohen, and a copy is attached as Exhibit I.

2010

22. January 4, 2010: In response to the JQC's second notice of investigation, Judge Cohen filed a written response in lieu of personal appearance, a copy of which is attached as Exhibit J.

23. January 12, 2010: Cohen's wife, Mardi Cohen, photographed attorney Melnick in Judge Jeffrey Levenson's court room, and Judge Cohen submitted the photographs to the JQC as Exhibit J. The photographs are attached as Exhibit L.

24. January 15, 2010: Judge Cohen did not make a personal appearance at the January 15, 2010, JQC investigative panel hearing in Tampa. He relied upon his written submission in lieu of personal appearance.

25. February 24, 2010: The JQC filed a notice of formal charges against Judge Cohen, and a copy is attached as Exhibit K.

26. May 1, 2010: Mardi Cohen qualifies for county court group 26. Race is three way race.

27. August 24, 2010: Mardi Cohen wins primary vote and goes into runoff at general election.

28. November 2, 2010: Mardi Cohen wins general election.

2011

29. January 3, 2011: Mardi Cohen's six year term as a county court judge begins.

30. January 3, 2011: Judge Dale Cohen returns to work after 3 month absence for surgery.

31. January 18, 2011: Final Hearing before JQC Hearing Panel.

DOCUMENTARY EVIDENCE

The parties stipulate and agree that the following documents or photographs are authentic and are admitted into evidence in this cause.

A. First Amended Complaint filed against Mardi Levey.

- A-1. Original complaint and related documents.
- B. Copy of Mardi Anne Levey Cohen's Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates with the Broward County Supervisor of Elections dated January 5, 2009.
- C. Sworn motion to recuse Judge Cohen filed by attorney Stephen Melnick in the State of Florida v. Steven Gibbs, Broward County Case No. 09-1421-CF-10A.
- D. Hearing transcript of Gibbs recusal motion before Judge Cohen.
- E. Sworn motion to recuse filed by attorney Stephen Melnick in the State of Florida v. Leon Butler, Broward County Case No. 08-22681-CF-10A.
- F. Transcript of hearing in State of Florida v. Gibbs, Broward County Case No. 09-1421-CF-10A.
- G. Notice of Investigation served by the Florida Judicial Qualifications Commission for Judge Cohen to appear before the JQC on November 6, 2009.
- H. Transcript of Judge Cohen's appearance before the JQC on November 6, 2009.
- I. Second Notice of Investigation served on Judge Cohen by the JQC on December 1, 2009.
- J. Judge Cohen's written response in lieu of personal appearance before the JQC.

K. Notice of formal charges filed by the JQC on February 24, 2010, against Judge Cohen.

L. Photographs taken by Judge Cohen's wife, Mardi Levey Cohen of attorney Stephen Melnick in Judge Jeffrey Levenson's court room on January 12, 2010, and submitted to the JQC by Judge Cohen.

M. Florida Rule of Judicial Administration 2.330.

N. Affidavit of Florence Taylor Barner.

O. Materials taught at Judicial College regarding handling Motions to Recuse.

P. Motions to Recuse and Notices of Appearance on other cases filed by Steven Melnick before Judge Dale C. Cohen.

STIPULATED AND AGREED on the dates designated.

JUDICIAL QUALIFICATIONS
COMMISSION

MICHAEL A. CATALANO, P.A.

BY: _____
F. WALLACE POPE, JR.
SPECIAL COUNSEL
JOHNSON, POPE, BOKOR,
P.O. Box 1368
Clearwater, FL 33757
FBN: 124449
727-461-1818; 727-462-0365 fax

BY: _____
MICHAEL A. CATALANO
1531 N.W. 13th Court
Miami, FL 33125
FBN: 371221
305-325-9818; 305-325-8759 fax
Attorney for Judge Dale C. Cohen

Dated: _____

Dated: _____

and

MICHAEL L. SCHNEIDER

General Counsel

FLORIDA JUDICIAL QUALIFICATIONS

COMMISSION

FBN: 525049

1110 Thomasville Road

Tallahassee, FL 32303

(850) 488-1581

549571