

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE,
THE HONORABLE JOHN LAKIN
No. 15-524

SC16-____

NOTICE OF FORMAL CHARGES

TO: **The Honorable John Lakin**
Circuit Judge, 12th Judicial Circuit
1051 Manatee Avenue West
Bradenton, Florida 34206

The Investigative Panel of the Florida Judicial Qualifications Commission, at its meeting on January 29, 2016, by a vote of the majority of its members, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission and Article V, Section 12 (b) of the Constitution of the State of Florida, finds that probable cause exists for formal proceedings to be instituted against you. Probable cause exists on the following formal charges:

Among other restrictions, Canon 5A requires a judge to conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially...;
- (2) undermine the judge's independence, integrity, or impartiality; or
- (3) demean the judicial office.

In addition, Canon 5D requires that a judge *shall not accept...*a gift,

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bequest, favor or loan from anyone who is likely to come or whose interests have come or are likely to come before the judge. The commentary to Canon 5D(5)(h) specifically states that this rule “prohibits judges from accepting gifts, favors, bequests or loans from lawyers or their firms if they have come or are likely to come before the judge,” and similarly “prohibits gifts, favors, bequests or loans from clients of lawyers or their firms when the clients’ interests have come or are likely to come before the judge.”

Furthermore, Canon 2A affirmatively requires a judge to avoid even the appearance of impropriety, stating that a judge “...shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

The Code of Judicial Conduct violations alleged by this Notice of Formal Charges relate to the conduct set forth below:

1. You were presiding over the case of Wittke v. Walmart, (Manatee County case # 2012-CA-003458). The Plaintiff, Sandy Wittke, was represented by attorneys Melton Little and Scott Kallins of the law firm *Kallins Delgado & Little*. Ms. Wittke alleged that Walmart’s negligence caused her to fall and injure herself, resulting in personal injuries. A four-day trial was conducted before a jury, and on June 25, 2015, the jury found that Walmart was not liable for Ms. Wittke’s injuries.
2. On June 26, 2015, the day after the verdict, you instructed your Judicial Assistant to contact the law firm of *Kallins Delgado & Little* to request tickets for that evening’s game between the Tampa Bay Rays and The

Boston Red Sox. The firm sent over five tickets. You admit to using two of the tickets and throwing the remaining three away. Despite the fact that the Wittke case was not yet final, and you expected that there would be post trial motions requiring your adjudication, you failed to advise Walmart's counsel of your contact with the Plaintiff's law firm.

3. Six days later, counsel for the Plaintiff filed a motion to set aside the jury's verdict for Walmart, and conduct a new trial. The Plaintiff's motion is heard on August 21, 2015, after which you did not issue a ruling, but took the motion under advisement. On August 25, 2015, you requested and received five more tickets to the Tampa Bay Rays from the *Kallins Delgado & Little* law firm. The next day, on August 26, 2015, you issued an order setting aside the jury's verdict and granted a new trial, finding that "...no reasonable jury could have returned a verdict finding that the Defendant was not at least partially liable for the injuries sustained by the plaintiff based on the evidence presented at trial." Your extraordinary action allowed the Plaintiff a second opportunity to seek damages from Walmart. You have acknowledged that during your tenure on the bench you have never before overturned a jury verdict.
4. In total, you requested and received five tickets to four separate Major League Baseball games from the Plaintiff's attorneys in the Wittke case, all while the case was pending, and without ever disclosing this fact to the counsel for Walmart.
5. The tickets you received were excellent seats, being located seven to eight

rows back, between home plate and first base. They each had a face value of approximately \$100.

6. The Chief Judge of the Circuit, and the Administrative Chief Judge of your division counseled you that your conduct was inappropriate and that you needed to disclose your actions to the JQC, and to the parties involved in the Wittke matter. Your subsequent disclosure to the parties on October 9, 2015, stated only that, “I previously received Tampa Bay Rays baseball tickets from the Kallins & Little law firm.” Your disclosure did not include the dates that you accepted the tickets, nor did you even explain that you had accepted the tickets while the Wittke matter was pending.
7. The following is a timeline of events during the trial of the Wittke v. Walmart matter, and the dates that you requested and used tickets provided by the Plaintiff’s law firm.

1/16/15 First hearing with counsel

1/29/15 Order setting case for jury trial and pretrial conference

6/19/15 Pretrial motions heard

6/22/15 Jury seated

6/25/15 Jury verdict

6/26/15 Boston Red Sox

7/2/15 Motion for new trial

8/21/15 Hearing on Plaintiff’s Motion for New Trial

8/25/15 Minnesota Twins

8/26/15 Order Granting New Trial

9/12/15 Boston Red Sox

9/21/15 Notice of Appeal to 2nd DCA

9/24/15 Motion for Stay Pending Review by 2nd DCA

10/3/15 Toronto Blue Jays

10/9/15 Court discloses the conflict to the parties for the first time, and recuses itself from case.

8. In addition to the foregoing, there are at least two other instances where you have accepted tickets to major league sporting events from lawyers, or law firms that may appear before you.
- a. In May of 2015 you received two tickets to a Tampa Bay Rays game from attorney Ed Sobel.
 - b. In 2013 you received two tickets from the *Gallagher & Hagopian* law firm. You have admitted that attorney Gregory Hagopian appeared before your criminal court both before, and after you accepted tickets from him.

Your actions constitute inappropriate conduct demonstrating a present unfitness to serve, and violate Canons 1, 2A, 2B, 3B(5), 3B(8), 3E(1), 5A(1), 5A(2), 5A(3), and 5D(5)(h) of the Code of Judicial Conduct.

You are hereby notified of your right to file a written answer to these charges within twenty (20) days of service of this notice upon you. The original of your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court's requirements. Copies of your response should be served on the undersigned Counsel for the Judicial

Qualifications Commission, and the General Counsel of the Commission.

Dated: this 1st day of February, 2016.

**THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION**

By: /s/ Alexander John Williams
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Formal Charges has been furnished via electronic service on this the 1st day of February, 2016, to the following:

Hon. John Lakin
Circuit Judge, 12th Judicial Circuit
1051 Manatee Avenue West
Bradenton, Florida 34206

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