Filing # 60592171 E-Filed 08/18/2017 10:52:31 AM

RECEIVED, 08/18/2017 10:53:34 AM, Clerk, Supreme Court

**IN THE SUPREME COURT**
**OF THE STATE OF FLORIDA**

**INQUIRY CONCERNING A** **SC16-2178**
**HON. PHILIP JAMES YACUCCI,**
**JQC NO. 16-496**

**JUDGE PHILIP JAMES YACUCCI REPLY TO THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION'S REPLY TO JUDGE YACUCCI'S RESPONSE TO THIS COURT'S ORDER TO SHOW CAUSE**

Judge Philip James Yacucci, through counsel, files this above described reply to address the legal precedent cited by the Commission relative to the recommendation of 30 days suspension without pay. Judge Yacucci does again fully accept the Commission's findings and recommendations based on their analysis of the evidence presented.

Judge Yacucci fully appreciates the Commission's determination that his personal circumstances with the Ticket Clinic and their employee prevented the appearance of impartiality in his decisions to deny motions to recuse. The Commission's reply suggesting that Judge Yacucci was "still fomenting" about unethical Judicial Campaign actions is a bit hyperbolic. He certainly understands his obligation for recusal going forward regardless of counterbalancing interests.

Several cases have been cited by the Commission. In *In re Contini*, 205 So.3d 1281(Fla. 2016) the Judge there conducted an ex parte communication which resulted in opposing counsel moving to recuse. Contini, in open court,

berated and threatened counsel that objected to the ex parte communication. His actions "froze" the Judicial process in an entire criminal division. No suspension without pay was imposed in that case. Here, Judge Yacucci's short term failure to recuse in a handful of cases did nothing to affect the administration of justice in those cases and while mitigating factors were considered in *Contini*, mitigating factors certainly existed in Judge Yacucci's case as well (*See*, *eg*, pp. 16-17, Findings of Fact, Conclusions of Law and Recommendations of the Hearing Panel, Florida Judicial Qualifications Commission; indeed the Commission concluded that "Judge Yacucci appears to be a hard working conscientious Judge in other respects, but had blinders on when it came to Mr. Smith and his employer." p. 24, Findings of Fact, Conclusions of Law and Recommendations of the Hearing Panel, Florida Judicial Qualifications Commission)

In *Inquiry Concerning Aleman,* 995 So.2d 395 (Fla. 2008), the Judge there attempted to force Assistant Public Defenders to prepare handwritten Motions to Recuse with impossible time constraints, then threatened them with contempt, while continuing ahead with the same defense attorneys as counsel in a death penalty case. Surely *Aleman* involves an abuse of power effecting the administration of justice far greater than the actions of Judge Yacucci. No suspension without pay was required in *Aleman*.

In *In re Cohen*, 99 So.3d 926 (Fla. 2012) the Judge there used his position as

a sitting Judge to berate and embarrass political opponents of his wife who was a Judicial Candidate. Even though Judge Cohen's actions arguably interfered with the democratic elective process (using his position to support his wife's judicial candidacy while attempting to harm the candidacy of her opponent) no suspension without pay was required of Judge Cohen.

## CONCLUSION

Based on the precedent established in this Court and the authority cited by the Judicial Qualifications Commission, this Court should accept all of the findings and recommendations of the Commission except the requirement of a 30 day suspension without pay.

I HEREBY CERTIFY that a copy of the foregoing has been sent via e-portal filing to Lauri Waldman Ross, Michael Schneider and Alexander Williams this 18th day of August, 2017.

*s/Robert J. Watson*
ROBERT J. WATSON
rjwpa@yahoo.com
Florida Bar No. 290092
ROBERT J. WATSON, P.A.
3601 S.E. Ocean Blvd., Suite 004
Stuart, Florida 34996
(7720 288-1880