

IN THE SUPREME COURT OF FLORIDA

GREGG LERMAN,

Petitioner,

Case No. SC16-_____

v.

RICK SCOTT, as Governor of the State
of Florida and KEN DETZNER, as
Secretary of State of the State of Florida,

Respondents. _____ /

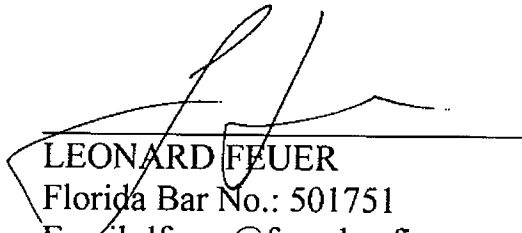
APPENDIX TO PETITION FOR WRIT OF QUO WARRANTO

- A. Judge Johnson's Letter of Resignation, pursuant to F.S. § 99.012
- B. Division of Elections Advisory Opinion 90-27
- C. Secretary Detzner's Letter to PBC Supervisor of Elections, Susan Bucher
- D. Mr. Gregg Lerman's Florida Driver's License and Florida Bar Membership Card
- E. Mr. Gregg Lerman's Qualification Papers
- F. Screenshot of PBC Supervisor of Elections Website & Email from Supervisor's
Office Confirming Mr. Lerman Qualified in Group 11

RECEIVED, 05/09/2016 11:08:45 PM, Clerk, Supreme Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by email and U.S. Mail to Governor Rick Scott (rick.scott@eog.myflorida.com), Executive Office of the Governor, 400 S. Monroe Street, Room 209, Tallahassee, Florida 32399; Office of the General Counsel (william.spicola@eog.myflorida.com), Executive Office of the Governor, 400 S. Monroe Street, Room 209, Tallahassee, Florida 32399; Secretary Ken Detzner (SecretaryofState@DOS.MyFlorida.com), R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399; and Office of the General Counsel (dos.generalcounsel@dos.myflorida.com), Florida Department of State, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399, this 9th day of May 2016.



LEONARD FEUER
Florida Bar No.: 501751
Email: lfeuer@feuerlawfirm.com
LEONARD FEUER, P.A.
1601 Forum Place
Suite 610
West Palm Beach, FL 33401
Telephone: (561) 659-1360



THE COUNTY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
OF FLORIDA

SUPERVISOR OF ELECTIONS

2016 APR 18 PM 4:03

PALM BEACH COUNTY, FL

CHAMBERS OF
LAURA S. JOHNSON
COUNTY COURT JUDGE

April 18, 2016

PALM BEACH COUNTY COURTHOUSE
205 NORTH DIXIE HIGHWAY
WEST PALM BEACH, FLORIDA 33401
(561) 355-7702

VIA HAND DELIVERY

Ms. Susan Bucher, Supervisor of Elections
240 South Military Trail
West Palm Beach, Florida 33415

Re: Resignation as Palm Beach County Judge, Group 11

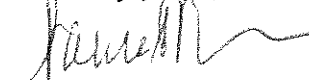
Dear Supervisor Bucher:

This letter is my irrevocable resignation from the office I presently hold as Palm Beach County Judge, Group 11.

Pursuant to the provisions of Section 99.012(3), Florida Statutes, this resignation shall take effect on the earlier of the following dates: (1) the date on which I will take office if elected as Circuit Judge, 15th Judicial Circuit Group 3, the office for which I am now running; or (2) the date my successor as Palm Beach County Judge, Group 11 will take office.

Since both Circuit Court Judges and County Court Judges assume their office on January 3, 2017, that is the date upon which I anticipate my resignation will take effect. However, to be clear, my resignation takes effect whenever the law requires in accordance with the statute.

Sincerely yours,



Judge Laura Johnson

cc: Governor Rick Scott
Secretary of State Ken Detzner

DE 90-27 - June 5, 1990

**Resign-to-Run
Section 99.012(2), F.S.**

To: Honorable Horace A. Andrews, Pinellas County Court Judge, 5100 - 144 Avenue, North, Clearwater, Florida 33520

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on the Resign-to- Run Law. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes.

You are a county court judge and plan to resign your position about July 1, 1990. However, your resignation will be effective January 7, 1991.

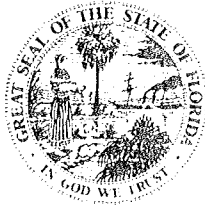
You ask, if you resign pursuant to the Resign-to-Run Law, will the vacancy created by your resignation be filled by election or by the Governor.

The Resign-to-Run Law requires an elected or appointed officer to irrevocably resign when seeking an elected office which runs concurrently, or any part runs concurrently, with the term of office he presently holds. Section 99.012(2), Fla. Stat. A county court judge is an officer for the purposes of the Resign-to-Run Law. Op. Att'y Gen. Fla. 72-183 (May 31, 1972).

Section 99.012(2), Florida Statutes, provides that when an officer resigns pursuant to the Resign-to-Run Law, the resignation creates a vacancy in office, "thereby permitting persons to qualify as candidates for nomination and election to that office in the same manner as if the term of such public office were otherwise scheduled to expire." Therefore, it is our interpretation, that if you resign pursuant to the Resign-to- Run Law, the vacancy in office will be filled by election.

SUMMARY

When a county court judge resigns to run for another office pursuant to the Resign-to-Run Law, there is a vacancy in the county court judgeship which will be filled as if the term of the county court judgeship were scheduled to expire.



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 2, 2016

The Honorable Susan Bucher
Supervisor of Elections, Palm Beach County
240 South Military Trail
West Palm Beach, Florida 33415

Dear Supervisor Bucher:

Recently, my Director of Elections, my General Counsel, and you spoke by telephone about a judicial vacancy resulting from the resignation of Palm Beach County Court Judge Laura Johnson. I write you for two reasons: (1) to meet your request that my agency reduce to writing the legal basis for why Judge Johnson's seat now will be filled by gubernatorial appointment, obviating the need for an election for that seat in 2016; and (2) to make a good faith attempt to confer with you about the performance of your duties in compliance with chapters 99, 100, 101, 102 and 105, Florida Statutes, with respect to qualifying candidates and printing ballots only for offices legally up for election.

Palm Beach County Court Judge Laura Johnson was reelected to her Group 11 seat in November 2014, and pursuant to article V, section 10(b)(3)(c.), of the Florida Constitution, she was commissioned for a six-year term to expire on January 4, 2021. On April 22, 2016, Governor Scott accepted Judge Johnson's irrevocable letter of resignation, effective January 3, 2017, and he convened the Fifteenth Circuit Judicial Nominating Commission to submit to him nominations for appointment to fill the vacancy in the office of Palm Beach County Court Judge, Group 11.

It is true, generally, that "[w]ith regard to an elective office," a resignation submitted pursuant to section 99.012(3), Florida Statutes (Florida's "resign-to-run" statute) "creates a vacancy in office to be filled by election," and "[p]ersons may qualify as candidates for nomination and election as if the public officer's term were otherwise scheduled to expire." § 99.012(3)(f)(1.), Fla. Stat. But, as discussed below, the Florida Constitution treats judicial vacancies in a different manner than it does other offices, including "elective offices," and constitutional imperatives must prevail over statutory ones.

The Florida Constitution specifically governs the length of term of a judicial office and how a judicial vacancy is to be filled. A vacancy in the office of county judge, like other offices, will occur upon “resignation of the incumbent.” *See* Art. X, § 3, Fla. Const. Because it is a judicial vacancy, though, the Governor necessarily fills that vacancy by appointment. *See* Art. V, § 11(b), Fla. Const. (providing that the Governor “shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors . . .”); *cf.* Art. V, § 11(a), Fla. Const. (providing also for gubernatorial appointment to fill a vacancy that occurs “in a judicial office to which election for retention applies”); *see also Trotti v. Detzner*, 147 So. 3d 641, 644 (Fla. 1st DCA 2014) (“The Florida Supreme Court has provided that when a vacancy is created prior to the commencement of the qualifying period, the vacancy *is required* to be filled by gubernatorial appointment.”) (emphasis supplied); *id.* (“A judicial vacancy occurs when a letter of resignation is received and accepted by the Governor, even if the resignation, as here, has a future effective date.”). Section 11(b) specifies how long the term of the appointed circuit or county judge will be, *see* Art. V, § 11(b), Fla. Const. (Governor’s appointment will be “for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment”); and it specifically prescribes when an election for that office will first occur after appointment, *see id.* (“An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.”).

In turn, an election cannot be held to fill the vacancy in Palm Beach County Court Judge, Group 11, created by Judge Johnson’s resignation. The Constitution provides that general elections are to be held for only two purposes: (1) “to choose a successor to each elective state and county officer whose term will expire before the next general election”; and (2) “*except as provided* [in the Florida Constitution], to fill each vacancy in elective office for the *unexpired portion of the term.*” Art. VI, § 5(a), Fla. Const. (emphasis supplied).

Neither situation is present here. First, the Florida Constitution *does* provide for how a judicial vacancy is filled and for how long. There is a vacancy in the Group 11 judicial seat that the Florida Constitution requires be filled by the Governor through appointment. And that appointment will be for a term that, here, would end on January 8, 2019. Second, the Florida Constitution provides that the next election to be held for the Group 11 office will be to pick the successor to that office for a term that *begins upon expiration of that appointed term*. There will not be a judicial officer holding the Group 11 seat whose term expires *before* the 2018 general election, so there is no need for an election to pick a successor prior to that 2018 election. There is no legally authorized election to be held for Palm Beach County Court Judge, Group 11, during the 2016 election cycle.

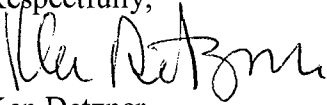
Additionally, section 99.012(3)(f), Florida Statutes, cannot be read to apply to judicial vacancies; otherwise, its operation would conflict with the article V process set out above. To the extent it treats the Judge Johnson’s term as expiring in January 2017, it conflicts with article V, section 10 of the Constitution, which provides that “[t]he terms of circuit judges and judges

Supervisor Bucher
May 2, 2016
Page 3

of county courts shall be for six years.” There is no constitutional basis for a statute to truncate or extend a term of judicial office.

Because the Governor now has initiated the judicial nominating commission process, there is no need to accept qualification papers from putative candidates for Palm Beach County Court Judge, Group 11. As you can see, the Florida Constitution requires that the vacancy in the Group 11 county court judge seat be filled by appointment of the Governor, and this constitutionally mandated process has commenced. The Florida Constitution also precludes an election for that seat before 2018, when a successor would be chosen for the seat for a six-year term beginning at the end of the appointed term in January 2019.

Respectfully,

A handwritten signature in black ink, appearing to read "Ken Detzner", written over the word "Respectfully,".

Ken Detzner
Secretary of State



JUDICIAL OFFICE
CANDIDATE OATH

SUPERVISOR OF ELECTIONS

2016 MAY -3 PM 3:14

PALM BEACH COUNTY, FL

OFFICE USE ONLY

OATH OF CANDIDATE (Section 105.031, Florida Statutes)

I, Gregg Lerman

(PLEASE PRINT NAME AS YOU WISH IT TO APPEAR ON THE BALLOT * -- NAME MAY NOT BE CHANGED AFTER THE END OF QUALIFYING)

am a candidate for the judicial office of County Court Judge, 15,
(office) (district #) (circuit #)
11; my legal residence is Palm Beach County, Florida; I am a qualified elector
(group #)

of the state and of the territorial jurisdiction of the court to which I seek election; I am qualified under the Constitution and the Laws of Florida to hold the judicial office to which I desire to be elected or in which I desire to be retained; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

Section 876.05, Florida Statutes, oath (only applicable if elected and when term of office begins): I, a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the court system and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

X

Signature of Candidate

(561) 832-5770

Telephone Number

Gregg@GreggLermanLaw.com

Email Address

330 Clematis St, Suite 209 West Palm Beach FL 33401
Address City State ZIP Code

Candidate's Florida Voter Registration Number (located on your voter information card): 112262519

* Please print name phonetically on the line below as you wish it to be pronounced on the audio ballot for persons with disabilities (see instructions on page 2 of this form):

GREGG LUHR MEN

STATE OF FLORIDA

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me this 2nd day of May, 2016.

Personally Known: X or

Produced Identification: _____

Type of Identification Produced: _____

Kim M. LeeBove

Signature of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public



KIM M. LEEBOVE
Commission # EE 863254
Expires January 8, 2017
Bonded Thru Troy Fain Insurance 800-385-7019

FORM 6

FULL AND PUBLIC DISCLOSURE
OF FINANCIAL INTERESTS

2015

Please print or type your name, mailing
address, agency name, and position below:

LAST NAME — FIRST NAME — MIDDLE NAME:

Lerman, Gregg S.

MAILING ADDRESS:

330 Clematis Street

Suite 209

CITY:

West Palm Beach

ZIP:

33401

COUNTY:

Palm Beach

NAME OF AGENCY:

NAME OF OFFICE OR POSITION HELD OR SOUGHT:

County Court Judge, 15th Judicial Circuit, Group 11

CHECK IF THIS IS A FILING BY A CANDIDATE ☒

SUPERVISOR OF ELECTIONS

FOR OFFICE USE ONLY:

2016 MAY -3 PM 3:14

PALM BEACH COUNTY, FL

PART A -- NET WORTH

Please enter the value of your net worth as of December 31, 2015 or a more current date. [Note: Net worth is not calculated by subtracting your reported liabilities from your reported assets, so please see the instructions on page 3.]

My net worth as of April 28, 2016 was \$ 910,667.00

PART B -- ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effects (described above) is \$ 70,000.00

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required - see instructions p.4)	VALUE OF ASSET
Home, 2 Carlisle Ct, Palm Beach Gardens, FL 33418	800,000.00
Office, 330 Clematis Street, Suite 209, WPB, FL 33401	175,000.00
Stock/Brokerage Acct, Raymond James, Abacoa, Jupiter, FL	205,506.00
Bank Acct, Wells Fargo, 303 Banyan Blvd, WPB, FL 33401	80,000.00

PART C -- LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
City Mortgage (Home) P.O. Box 6243, Sioux Falls, SD 57117	300,740.00
Wells Fargo (Office Mortgage) 303 Banyan Blvd WPB FL 33401	49,000.00
Lincoln Automotive Financial P.O. Box 650575, Dallas TX 75265	30,091.00
CHASE Auto Finance, P.O. Box 9001801, Louisville KY 40290-001	3,935.00

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
BANK OF AMERICA, P.O. Box 851001, Dallas TX 75265	1,773.00
CHASE Card Services, P.O. Box 15123, Wilmington, DE 19850	1300.00
IRS, Treasury Department	13,000.00

PART D -- INCOME

Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2015 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2015 federal income tax return and all W2's, schedules, and attachments.
[If you check this box and attach a copy of your 2015 tax return, you need not complete the remainder of Part D.]

PRIMARY SOURCES OF INCOME (See instructions on page 5):

ALM BEACH COUNTY, FL

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
Gregg Lerman P.A.	330 Clematis Street, Ste 209, W. Boca	165,000.00

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person--see instructions on page 5]:

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E -- INTERESTS IN SPECIFIED BUSINESSES [Instructions on page 6]

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

PART F - TRAINING

For officers required to complete annual ethics training pursuant to section 112.3142, F.S.

☐ I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA
COUNTY OF

Palm Beach

Sworn to (or affirmed) and subscribed before me this 2nd day of

May 20 16 by Gregg Lerman

Kim M. LeeBove

(Signature of Notary Public--State of Florida)

Kim M. LeeBove

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ☒ OR

OR



Type of Identification Produced

SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, _____, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

Signature

Date

Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ☐

Gregg Lerman Campaign Account
330 Clematis Street, Suite 209
West Palm Beach, FL 33401

036677

0100

63-751/631 10768

Date May 3, 2016

PAY to the
Order of

PBC Supervisor of Elections

\$ 5,520.80

Five thousand Five Hundred Twenty and 80/100

Dollars

Security
Features
Details on
Back.



Wells Fargo Bank, N.A.
Florida
wellsfargo.com

For Qualifying Fee

Kim M. LeBone

MP

DATE 5 / 3 2016

036677

RECEIVED OF Gregg Lerman Campaign Acct.

ADDRESS 330 Clematis St. Suite 209, WPB 33401

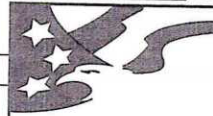
AMOUNT Five thousand Five Hundred Twenty 80/100 DOLLARS \$ 5,520.80

ACCT. NO.

☐ CASH ☒ CHECK # 0100

☐ MONEY ORDER ☐ DRAFT

FOR Qualifying Fee



PALM BEACH COUNTY
SUPERVISOR OF ELECTIONS
240 SOUTH MILITARY TRAIL
WEST PALM BEACH, FL 33415
TELEPHONE: (561) 656-6200
WEBSITE: www.pbcelections.org

by A-Sacks

Thank You

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

SUPERVISOR OF ELECTIONS

2016 APR 20 PM 3: 20

PALM BEACH COUNTY, FL

I, Gregg Lerman ,

candidate for the office of Palm Beach County Court Judge, 15th Judicial Circuit, Group 11 ;

have been provided access to read and understand the requirements of
Chapter 106, Florida Statutes.

X



Signature of Candidate

4/20/2016

Date

Each candidate must file a statement with the qualifying officer within 10 days after the Appointment of Campaign Treasurer and Designation of Campaign Depository is filed. Willful failure to file this form is a first degree misdemeanor and a civil violation of the Campaign Financing Act which may result in a fine of up to \$1,000, (ss. 106.19(1)(c), 106.265(1), Florida Statutes).

**STATEMENT OF
CANDIDATE
FOR JUDICIAL OFFICE**

(Section 105.031(5), F.S.)

(Please Type)

OFFICE USE ONLY


SUPERVISOR OF ELECTIONS

2016 APR 20 PM 3:21

PALM BEACH COUNTY, FL

I, Gregg Lerman

a judicial candidate, have received, read, and understand the requirements
of the Florida Code of Judicial Conduct.


(Signature of candidate)

4/20/16.
(Date)

Each candidate for judicial office, including an incumbent judge, shall file a statement with the qualifying officer, within 10 days after filing the Appointment of Campaign Treasurer and Designation of Campaign Depository.

Leonard Feuer

From: Amber Sacks <amber@pbcelections.org>
Sent: Tuesday, May 3, 2016 5:07 PM
To: Leonard Feuer
Subject: Re: Confirmation of Qualification

Yes he did qualify today.

On May 3, 2016 3:45 PM, "Leonard Feuer" <lfeuer@feuerlawfirm.com> wrote:

Dear Sir/Madam:

I would like to confirm that Mr. Gregg Lerman qualified this afternoon in County Court, Group 11.

Please advise.

Thank you.

Sincerely,

Leonard Feuer

Leonard Feuer, P.A.

1601 Forum Place

Suite 610

West Palm Beach, Fl 33401

Main: (561) 659-1360

Fax: (561) 249-4100

Email: lfeuer@feuerlawfirm.com