

BEFORE THE INVESTIGATIVE PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

INQUIRY CONCERNING A  
JUDGE, NO: 05-437

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SC06-2119

**PREHEARING STATEMENT**

Respondent, Judge Cliff Barnes, by and through undersigned counsel, in response to the Order Scheduling Hearing and Prehearing Conference, provides the following:

1. Length of Hearing: Respondent agrees with Mr. Schneider's estimate of trial time.

2. Factual Stipulations: Respondent accepts and agrees to the factual Stipulations contained in the JQC's Prehearing Statement.

3. The names and subject matter of the testimony of the Respondent's witnesses are:

a. Denis DeVlaming, 1101 Turner Street, Clearwater, Florida 33756. Mr. DeVlaming is a Florida Bar Board Certified Criminal Trial Attorney with over twenty-five years experience in state courts. He has lectured at the Florida Judicial College and is on the Faculty of the Florida Bar Prosecutor/Public Defender Trial Training Seminar. He is also a former President of the Florida Association of Criminal Defense Lawyers, a voluntary bar association with over 1500 members throughout the State of Florida. Mr. DeVlaming will testify as to the requirements of the Florida Rules of Criminal Procedure for conducting a proper first appearance. He will also testify as to the importance of first appearances in the criminal process.

b. Michael Minerva, 481 Jonathan Street, Macclenny, Florida 32063 Mr. Minerva is a former elected public defender. He will testify as to the

importance of first appearance in the criminal process, the need for counsel for indigents at first appearances, and the role of counsel at first appearances.

c. Robert Watson, Esq., Watson & Steele, 3601 SE Ocean Boulevard, Suite 4, Stuart, Florida 34996. Will confirm that procedures employed by 19<sup>th</sup> Judicial Circuit for 1st Appearance Hearings were practically and legally inadequate and contributed to jail overcrowding.

d. Richard Kibbey, Esq, 416 Camden Avenue, Stuart, Florida 34994 Will confirm that procedures employed by 19<sup>th</sup> Judicial Circuit for 1<sup>st</sup> Appearance Hearings were practically and legally inadequate and that he informed Chief Judge Roby of that fact in writing on April 1, 2005, the same day that Roby removed Barnes from 1st Appearance duties and accused Barnes of numerous improprieties at Barnes' 1st Appearances.

e. Dr. Kalmanoff, Institute of Law & Policy Planning, 2613 Hillegass Avenue, Berkeley, California 94704. (by Videotaped deposition) Summarizes his St. Lucie County criminal justice study re the deficiencies in the system and causes of jail overpopulation, will confirm that Public Defender Litty was believed by legal community to be too cozy with State Attorney and Sheriff and did not timely visit her defendants in jail or adequately advocate for their rights by filing the proper motions to challenge the procedures employed by 19th Circuit for 1st Appearance Hearings or other policies that harmed her clients' legal interests. Will confirm that Litty took an extremely adversarial position with regard to his study and actually impeded its progress by her resistance.

f. Doug Anderson, St. Lucie County Administrator, 2300 Virginia Avenue, Ft. Pierce, Florida 34982. Will testify to the numerous ways the St. Lucie County Commission (including Barnes) over many years cooperated with all parties in the criminal justice system-including funding programs the judiciary requested such as Drug Court, Teen Court, Hearing Officers, and Magistrates, numerous capital improvements and programs for Sheriff's law enforcement and

corrections branches, a brand new office and an Assistant for the Public Defender's Office, in addition to those statutorily required. Also the interest of Barnes in particular in funding and improving the court system's physical facilities both as a commissioner and judge, and in addressing deficiencies in the criminal justice system procedures. Also the history behind the jail overcrowding controversy, including an incident where either the Sheriff and/or the State Attorney and/or the Public Defender employees concocted a story claiming that they had taken a group of inmates before Judge Steve Levin in an attempt to enable their pretrial release, and that Judge Levin declined to release any of them. Will Confirm Litty's adversarial position towards Dr. Kalmanoff and her expressed belief that he was hired in an effort to embarrass her personally.

g. Hon. Steve Levin, Circuit Court Judge, Martin County Courthouse, 100 S.E. Ocean Boulevard, Stuart, Florida 34994. Will testify that regarding the same occasion referenced above he, in fact, never held such a hearing and appeared at the following County Commission meeting to express his displeasure that his name had been used in the scheme.

h. Dan McIntyre, Esq., 3143 NE Ivy Lane, Jensen Beach, Florida 34957. Will testify to experience with Judge Barnes as Commissioner for 12 years, as it relates to criminal justice system and jail overcrowding.

i. Mark Godwin, Criminal Justice Coordinator, 2300 Virginia Avenue, Ft. Pierce, Florida 34982. Will testify to the numerous positive changes in St. Lucie County's criminal justice system since Dr. Kalmanoff's recommendations have been partially followed by the State Attorney, Public Defender, and judiciary.

j. Ed Mosher, Esq., 1717 20<sup>th</sup> Street, Suite 2, Vero Beach, Florida 32960. Will testify to his experiences while working as an Assistant Public Defender and Litty's training director, Public Defender Litty's aberrant behavior

during and after Dr. Kalmanoff's study and her obsession with finding something to embarrass and/or discredit Barnes, that Litty and State Attorney Colton are close personal friends and, in fact, vacation together with their families (including Judge Walsh).

k. Sandy Sticco, Sentencing Alternatives, 426 Avenue "A", Ft. Pierce, Florida 34950. Will testify as to her experiences in Judge Walsh's courtroom while she was director of the county's GPS program, including an occasion where he threatened her with a felony if she continued to participate as Chief Judge Roby had ordered her to, that she could tell that Assistant Public Defenders seemed to be intimidated by Walsh.

l. Lisa Savage, St. Lucie County Pretrial Services Director, St. Lucie County Courthouse, 218 South 2<sup>nd</sup> Street, Fort Pierce, Florida 34950. Will testify to experiences with Judge Barnes while she was Assistant Court Administrator and in current position, the fact that numerous defendants were placed and are still being placed on GPS by several county and circuit judges that did/do not meet the restrictions of Roby's administrative order.

m. Sue Pottinger, Deputy Clerk, St. Lucie County Courthouse, 218 South 2<sup>nd</sup> Street, Fort Pierce, Florida 34950. Will testify that she brought GPS Pretrial Release orders to Barnes to sign prior to the actual 1<sup>st</sup> Appearances because some of the judges conducting 1<sup>st</sup> Appearances wanted Barnes to sign them if he was the one that signed the warrants.

4. The documents that counsel may introduce as evidence have been previously furnished to the Florida Judicial Qualifications Commission, and include the following:

In addition to the exhibits listed by the JQC that are found to be admissible, the judge will introduce the following:

1. August 1, 1988 Certificate and 1993 renewal, from Florida Supreme Court granting Barnes status as Board Certified Criminal Trial Lawyer
2. June 8, 2004 DVD of County Commission meeting (Barnes objects to spending \$100k to transfer inmates to another county, suggests players meet to examine jail list and identify inmates for bond or early release, suggests that too many inmates are awaiting court, Chief Judge Angelos and Yacucci claim everything is being done that can be to reduce jail population, Angelos claims that Barnes' complaints are because he is a "defense lawyer")
3. June 29, 2004 audio of County Commission meeting (Barnes complains that the State Attorney, Public Defender and Sheriff were to review jail list and identify inmates for pretrial or early release and found none. Barnes complains that those parties concocted a story that they had taken 23 inmates before Judge Levin, Judge Levin complains of parties using his name in manner "so far from the truth", Litty's Chief states that Litty "not available" but she opposes study of criminal justice system, SA Colton disparages Dr. Kalmanoff and yells at Barnes, accusing him of "standing on a soapbox for political reasons", at Barnes' request CC approves hiring Dr. Kalmanoff to study St. Lucie County's criminal justice system)
4. January and March, 2005 Judicial College course materials re: First Appearance and Pretrial Release
5. Florida Supreme Court Certificate of Barnes' Successful Completion of Judicial College
6. March 15, 2005 Dr. Kalmanoff's completed comprehensive study of St. Lucie County's Criminal Justice System
7. March 17, 2005 Roby faxes State v. Norris, 768 So.2d 1070 (Fla. 2000) to local judges (2000 Florida Supreme Court opinion specifically, with no conditions, giving 1<sup>st</sup> Appearance judges power to set bond on all defendants, even those with warrants signed and bonds previously set by other judges)
8. March 18, 2005 Yacucci's 1<sup>st</sup> confidential letter to Roby re Barnes - not copied to Barnes ("Barnes jeopardizing safety" by actions at 1<sup>st</sup> Appearance, acknowledging Norris v. State decision but suggesting that "common sense" should limit its effect)
9. March 20, 2005 Palm Beach Post article "Report tells St. Lucie To Try New Ways To Ease Jail Crunch" (Litty calls Dr. K "idiot" because of his criticism of her office's representation of defendants)
10. March 21, 2005 Barnes memo to Roby regarding Vacation (and Yacucci not responding)

11. March 21, 2005 Barnes memo to jail (re: Inmate lists needed by Barnes to better handle docket)
12. March 23, 2005 Palm Beach Post article "Report on Courts, Jail Spurs Optimism" (quotes by Barnes re: system problems, Yacucci complaining publicly of Barnes' decisions, Litty suggesting the county should ask for money back that was spent on study)
13. March 24<sup>th</sup>, second confidential letter from Yacucci to Roby -not copied to Barnes ("concerns coming true")
14. March 30, 2005 Walsh letter to Roby- not copied to Barnes (indicating he had read Yacucci letters, was "outraged as citizen and jurist" by Barnes' actions)
15. April 1, 2005 Palm Beach Post news article "Barnes Under Fire..." (quoting both leaked Yacucci letters and existence of Walsh complaint against Barnes)
16. April 1, 2005 letter from Roby to Barnes (acknowledging State v. Norris but parroting Yacucci's letter and referring Barnes to JQC, also removing Barnes from 1<sup>st</sup> Appearance duties)
17. Undated 2004 letter from Roby to 19<sup>th</sup> Circuit judges (requesting support for position of Chief Judge, promising to deal with JQC complaints "at the local level without additional state involvement" and to "keep an eye on potential JQC problems so they don't become major problems").
18. April 1, 2005 letter from Attorney Richard Kibbey to Roby (reminding him of circuit's 1<sup>st</sup> Appearance improprieties)
19. April 6, 2005 Yacucci letter to Roby (regarding resolution of conflict with Barnes)
20. April 8, 2005 Palm Beach Post article (quoting Yacucci's letter and Barnes quote.)
21. April 10, 2005 Palm Beach Post article "Judges mull fixes for first hearings" (noting resolution of Yacucci-Barnes conflict, quoting Kibbey, Colton re: his failure to attend, Litty claiming she has a APD "present", former Judge Turner from Gainesville regarding necessity of proper 1<sup>st</sup> Appearances)
22. April 13, 2005 Roby letter to Barnes (regarding Yacucci letter of 4/6 and restoring Barnes to 1<sup>st</sup> Appearance duty)

23. April 20, 2005 Barnes memo to jail (requesting copies of rap sheets for 1<sup>st</sup> Appearances to be provided to State Attorney)
24. June 7, 2005 Barnes fax to Circuit Judge Dan Vaughn (regarding ROR granted by Barnes at 1<sup>st</sup> Appearance to mentally retarded VOP offender from Indian River County)
25. June 9, 2005 Barnes letter to SA Colton (regarding Bakkedahl's complaints to media about Barnes' vacations, Barnes setting aside time on June 13 to meet with State Attorney regarding their complaints)
26. June 15, 2005 News Tribune article (regarding State's complaint about the mentally retarded defendants. Barnes released at 1<sup>st</sup> Appearances, Barnes' meeting with State, Barnes agreeing that probation violators not entitled to same pretrial release rights at 1<sup>st</sup> Appearances as other arrestees)
27. Opinion of Peraza v. Bradshaw, 966 So.2d 504 (Fla. 4<sup>th</sup> DCA 2007) (Case decided by 4<sup>th</sup> DCA in October of 2007 rules that probation violators not entitled to same pretrial release rights at 1<sup>st</sup> Appearances as other arrestees, but ruling that 1<sup>st</sup> Appearance judge MAY grant pretrial release "pending review by sentencing judge")
28. July 13, 2005 letter from Roby to Barnes (incorrectly complaining that Barnes had "no jurisdiction" to grant bond to out of county defendants arrested in St. Lucie County)
29. Florida Statutes 901.07 and 901.08 REQUIRING 1<sup>st</sup> Appearance judges to set bond for out of county defendants arrested in county unless charged with crime punishable by death or life imprisonment.
30. July 15, 2005 Barnes letter to Roby (promising to research issue, reminding him of serious problems w/ criminal justice system, asking for meeting rather than nasty letters when issues arise)
31. July 15, 2005 letter from Roby to Barnes (letter complaining of Barnes' actions regarding the mentally retarded VOP offender, complete with false factual allegations--e.g. that there was a bondless warrant when it was actually a probable cause arrest)
32. July 18, 2005 letter from Barnes to Roby (defending actions regarding the retarded VOP offender, correcting Roby's false factual allegations)
33. July 19, 2005 Barnes Memo to Lisa Savage, Dep. Ct. Admin. (complaining of "woefully insufficient" inmate data from jail)

34. July 20, 2005 Barnes letter to Roby (complaining of warrants being issued for defendants' failure to appear (FTA) when defendants are in St. Lucie County Jail)

35. July 21, 2005 Court Admin. Tom Willis' memo to Barnes (advising that the Sheriff's expensive new computer system was not capable of providing the inmate data produced by the old computer system)

36. July 22, 2005 Barnes letter to Roby (re: failure of jail to give court dates to defendants released ROR at 1<sup>st</sup> App when they give court dates to bonded arrestees)

37. July 22, 2005 Barnes memo to Clerk Ed Fry (asking for analysis of Barnes docket to assess progress in docket control)

38. July 25, 2005 letter from Roby to Barnes (again incorrectly alleging that Barnes acted "without jurisdiction" at 1<sup>st</sup> Appearance and removing Barnes from 1<sup>st</sup> Appearance duty "until you provide me the law that lets you act on out of county warrants")

39. July 29, 2005 Barnes letter to PD Litty, SA Colton, Sheriff Mascara, Clerk Fry (expressing frustration with inability of parties to set timely arraignments for jailed defendants)

40. August 2, 2005 letter from PD Litty to Barnes (accusing Barnes of claiming to "single handedly reduce jail overcrowding", asking for jail arraignments every week)

41. August 3, 2005 letter from Barnes to Roby (providing 901.07 and .08 to justify actions on out of county warrants, asking for 1<sup>st</sup> app duties back)

42. August 5, 2005 Barnes memo to Colton and Fry (complaining of inability of State and Clerk to cancel arraignments where cases have already been dropped by State which results in numerous bench warrants being issued after jurisdiction has ended, suggesting a solution to problem)

43. August 5, 2005 Barnes letter to Litty (again asking who prepares the jail arraignments, urging her to meet with her clients timely)

44. August 8, 2005 ASA Bakkedahl letter to Barnes (admitting the problem with Clerk processing State's documents dropping cases but defending the issuance of bench warrants)

45. August 11, 2005 Memo to Barnes with attached court records by JA Michelle Hornsby (regarding defendant who called who was arrested and served 2 days in jail on arrest warrant Barnes previously dismissed in open court)

46. September 30, 2005 Roby email to Barnes (removing substantial part of Barnes' criminal docket and assigning Barnes to small claims)
47. September 30, 2005 Barnes email to Roby (pointing out that Roby was quoted in paper as saying he would confer with each judge regarding assignments, asking if Barnes was only judge not consulted)
48. October 21, 2005 Barnes memo to Roby, Mascara, Fry, and Godwin (regarding need for speaker system placed outside some courtrooms)
49. November 9, 2005 Barnes email to Roby (regarding JQC hearing, again asking for better jail inmate records)
50. November 10, 2005 letter from Litty's attorney Robert Watson to County Attorney Dan McIntyre (acknowledging that circuit's judges do not conduct 1<sup>st</sup> App's properly and threatening to sue County for jail overcrowding)
51. November 28, 29, 2005 Barnes email to Roby and response (offering to help with "rocket docket", Roby declines)
52. December 9, 2005 Barnes email to Roby (suggesting extra court money be used to help with alternative court programs)
53. December 15, 2005 Barnes memo to Computer Tech Steve Shaw (regarding need for inmate info)
54. January 3, 2006 Barnes' email to Roby (praising Roby's efforts to improve criminal justice system, offering to help lobby St. Lucie County for courtroom space)
55. January 10, 2006 Barnes' email to Roby (praising mediators, suggesting recognition for them)
56. January 13, 2006 Barnes' email to Roby (agreeing to change docket for convenience of Public Defender's Office)
57. January 18, 2006 Roby GPS Administrative Order
58. February 2, 2006 Barnes' email to Roby (regarding agreeing to help with proposal to plan a criminal justice complex on jail site)
59. February 14, 2006 Barnes' email to Roby (praising his planning for future but warning if Litty sues St. Lucie County that County Commission Co-Operation would be jeopardized)

60. February 23, 2006 Barnes' email to Roby (suggesting that if the Sheriff would issue Notices to Appear as allowed by law, and Colton and Litty attended 1<sup>st</sup> appearances, that would reduce overcrowding at jail)
61. February 27, 2006 Barnes' email to Roby (suggesting imposition of court costs on VOP offenders)
62. February 27, 2006 Barnes' letter to County Administrator Anderson (suggesting that Sheriff use Notices to Appear where appropriate, State Attorney and Public Defender should attend 1<sup>st</sup> App hearings in order to reduce jail population.)
63. February 27, 2006 Barnes' letter to Anderson (regarding Sheriff Mascara's false claims to Commissioners regarding Barnes' vacations)
64. February 28, 2006 Barnes' email to Roby (volunteering to do the "rocket docket" instead of Roby using Indian River County Judges)
65. March 1, 2006 Palm Beach Post article "St. Lucie officials, sheriff padlocked..." (Litty claims Barnes "orchestrated" jail controversy)
66. March 6, 2006 Barnes' email to Roby (volunteering for extra duty)
67. (Undated) final draft of Barnes' guest column submitted to Tribune
68. March 7, 2006 Roby Administrative Order limiting Leave by judges
69. March 13, 14, 2006 Barnes' email to Roby (regarding notice to defendants' families of relocation of 1<sup>st</sup> Appearance hearings to Port St. Lucie, Roby's response)
70. March 14, 2006 News Tribune Anthony Westbury column "Close quarters..." (Litty, after claiming for months that she sees her clients timely, now claims that she can't "take case" for 21 days until State files formal charges)
71. March 14, 15, 2006 Barnes email to Walsh, response (asking for vacation coverage, Walsh: "no")
72. March 16, 2006 Guest column published in Tribune (with slight alterations)
73. March 23, 2006 Ft. Pierce City Commissioner Christine Coke memo to Barnes (praising guest column and encouraging Barnes "keep up the public cry")

74. April 3, 2006 Barnes letter to County Admin. Anderson (regarding Defendant not released despite 2 faxes of Barnes' order to jail, Barnes asking for investigation, some solution)

75. April 7, 2006 email from Barnes to Roby (complaining of judges not allowing other judges to change their bonds, asking for solution)

76. April 12, 13 2006 Barnes' memo to Roby regarding his failure to respond to 4/7 email, Roby's response, Barnes response (Roby asks Barnes to put together "specific list of procedures" to cure problems Barnes is "perceiving", Barnes response that in prior meetings all had already been informed of problems and solutions)

77. April 13, 2006 Roby memo to Barnes (Walsh "not happy" with Barnes small claims procedures, doesn't wish to "volunteer" to help any longer, assigning all small claims to Barnes)

78. May 2, 2006 Memo from Godwin to McIntyre and Anderson (suggesting solutions to problem outlined in Barnes 4/3 letter to County Admin. Anderson regarding jail not timely complying with Court orders)

79. Memo from Clerk Fry to all players regarding Godwin's memo (ignoring suggestions, complaining of not being contacted regarding same before memo)

80. May 12, 2006 Palm Beach Post article "Attorneys link St. Lucie Jail crowding to high bail" (quotes from experts and cites to the law illustrating defects in St. Lucie County's 1<sup>st</sup> Appearance procedures)

81. May 15, 2006 email from Barnes' to Roby (regarding 5/12 Palm Beach Post article, complaining of Judge Walsh's failure to use GPS program and Walsh threatening the director with a felony if she participated as required by the admin. order, and this fact being televised throughout the county as it was elicited at a televised CC meeting, complaining judges continuing to choose which laws they follow)

82. May 25, 2006 Palm Beach editorial "Ease St. Lucie jail crunch..." (opining that Litty and Colton "have resisted participating in first-appearance hearings, which could reduce jail crowding...and "judges and law enforcement officials have been slow to make paperwork changes" that could do same)

83. June 21, 2006 email from Barnes to Roby, response (Barnes complains of "really bizarre and concocted" new JQC complaints, indicates all future contact will be in writing, Roby responds that Barnes' "heart in right place" but disagrees)

84. June 22, 2006 emails from Barnes to Roby, responses (how Roby has encouraged the chaos involving Barnes and his accusers, alleging Roby could have solved with "tiny amount of leadership")
85. June 23, 2006 Barnes' email to Roby (regarding Sheriff's, Walsh's, Litty's failures which resulted in 18 year old indigent high school student with virtually no prior record spending 22 days in jail on minor criminal traffic offenses before Barnes' arraignment)
86. June 23, 2006 Barnes' email to Roby (detailing the problems with the above referenced case, advising that Barnes would file "lawsuit" with the 4<sup>th</sup> Dist Court if Roby did not order 1<sup>st</sup> Appearance judges to follow law, Roby responds "respectfully denied")
87. June 28, 2006 Barnes' memo to all players (recitation of many serious and continuing problems with system)
88. July 25, 2006 Barnes' email to Roby (regarding sick leave for week of Sept 11 because of daughter's spinal surgery)
89. July 27, 2006 Barnes' Memo to all players (Regarding Defendant denied bond because of clerical errors, failure of PD to advocate for defendant)
90. November 7, 2006 letter from Barnes to Roby (detailing and documenting Walsh's abuses of procedures and defendants at 1<sup>st</sup> Appearance)
91. November 21, 2006 emails from Barnes to Roby (regarding Walsh continuing to do 1<sup>st</sup> Appearances while Roby "counsels" him, advising of Judicial Ethics Opinion #2001-5 that forbids Walsh from conducting 1<sup>st</sup> Appearances in manner presently doing)
92. November 22, 2006 email from Barnes to Roby (regarding Walsh refusal to cover and deletion of email request without response)
93. November 28, 2006 email from Roby to Barnes, response (justifying Walsh's refusal and alleging Barnes has bad "reputation" with other judges)
94. November 28, 2006 Roby email to Barnes, response (Roby misstating facts justifying Walsh conducting 1<sup>st</sup> Appearances despite ethics opinion, Barnes correcting misstatements)
95. November 28, 2006 Barnes' email to Roby (outlining problem, offering to settle controversy by all examining and discussing rules and cases)

96. November 28, 2006 Roby email to Barnes (promising to “seriously consider your suggestion”)
97. November 28, 2006 Barnes’ email to Roby (reminding him of his power to make State Attorney and Public Defender attend 1<sup>st</sup> Appearance hearings)
98. November 28, 2006 Barnes’ email to Roby (reminding him of the chronology of facts of controversy)
99. December 7, 2006 Barnes’ email to Roby (re: impropriety of Sheriff Mascara bringing political candidates into jury pool room to introduce them to potential jurors)
100. December 14, 2006 Barnes’ memo to all players (regarding the GPS Administrative Order and Pretrial Release program and the inapplicability to judges)
101. December 22, 2006 Barnes’ email to Roby (re: positive feedback from private lawyer on Walsh 1<sup>st</sup> Appearance for his client, offering to “put this all behind us”)
102. January 10, 2007 Barnes’ email to judges, Roby response (regarding Roby’s attempt to exclude Barnes from GPS discussion, regarding pretrial release, Roby’s denial)
103. January 12, 2007 Barnes’ email to Roby, response (asking if Roby intended to limit judges’ discretion in GPS order, Roby refuses to clarify)
104. January 21, 2007 News Tribune article “More jail beds not the answer”
105. January 24. 2007 Sentencing Alternatives 2006 Statistics
106. January 26, 2007 Barnes’ email to Roby and all judges, Roby response (noting the rules requirement that judges issue summons, not arrest affidavits for misdemeanors, asking help in getting summons forms from clerk, Roby refusing to “get involved” with clerk, Roby noting that Barnes’ 1<sup>st</sup> judge to bring this up, promising to “follow up with this at our next meeting”)
107. January 26, 2007 Barnes’ memo to all players (regarding courthouse safety and pretrial release)
108. January 28, 2007 Barnes’ email from Judge Conner, response (debating Barnes 1/26 memo)

109. January 31, 2007 Palm Beach Post article "Commissioners, judge clash..." (Regarding Roby being admonished by CC not to use Atlanta courthouse killing to justify new criminal courthouse)
110. February 15, 2007 Barnes email to Roby (complaining of 1<sup>st</sup> Appearance of Mr. Grimm reported in paper where Walsh refused to review another judge's bond)
111. March 27, 2007 Barnes email to all judges (offering to help with any duty)
112. March 30, 2007 Barnes email to Roby (reminding him of meeting re GPS order still needing to be set)
113. April 2, 2007 Roby email to Barnes, response (Roby claims "counsel" advised not to hold meeting regarding GPS order, Barnes urging meeting without Barnes present)
114. April 3, 2007 Barnes email to Roby (directing his attention to the new case Narducci v. State, 952 So.2d 622 where 4<sup>th</sup> DCA reiterated need to address rules and statutes regarding bonds when making bond determination: "The setting of an excessive bond is the functional equivalent of setting no bond at all")
115. April 3, 2007 Barnes email to Roby (proposing to consider at retreat a DWLS court similar to those in other counties)
116. April 13, 2007 Hollander v. Crowder, 952 So. 2d1289 4<sup>th</sup> DCA opinion issued (local judge reversed for failing to follow rules governing 1<sup>st</sup> Appearance hearings, court outlaws bond schedules for judges)
117. April 16, 2007 Yacucci email to judges, Barnes and Yacucci responses (regarding recent Hollander ruling)
118. April 26, 2007 Barnes' memo to all players (regarding outstanding problems with criminal justice system in St. Lucie County)
119. April 26, 2007 Audio recording of Public Safety Committee Meeting (Barnes presenting memo, ASA Bakkedahl yelling at him, Colton admitting problems with communication, promising to fix)
120. April 30, 2007 Roby letter to Barnes (regarding Barnes' 4/26 memo)
121. May 3, 2007 Barnes' response to Roby

122. May 10, 2007 Roby response to Barnes (describing Barnes' letter as "petulant")
123. May 14, 2007 Barnes letter to Roby (response)
124. May 16, 2007 Yacucci email to Roby, various responses (regarding Yacucci's complaint that Barnes mistakenly signed an order in HIS case)
125. June 1, 2007 Barnes email to Roby (re another Yacucci case received by accident from clerk)
126. June 5, 2007 Barnes memo to all players (regarding another defendant not timely released after court order)
127. June 12, 13, 25 2007 Barnes email to Roby, various responses (regarding Fry's response to 6/5 memo)
128. June 25, 2007 Barnes' email to Roby (regarding another Yacucci case mistakenly brought to Barnes by clerk)
129. June 25, 2007 Roby email to Barnes (regarding his actions regarding 6/5 Barnes memo)
130. July 19, 2007 Barnes email to Roby (thanking him for Mental Health Court)
131. July 23, 2007 Duffy v. Crowder, 960 So.2d 909, 4<sup>th</sup> DCA opinion released (local judge reversed for denying bond without the State filing Pretrial Detention motion as required by rules)
132. August 17, 2007 Barnes memo to all players (regarding Pretrial release for minor offenders)
133. August 29, 2007 Newton v. State, 963 So.2d 929 opinion released (4<sup>th</sup> DCA reverses local judge for failing to follow 1<sup>st</sup> Appearance statute)
134. October 24, 2007 Barnes' email to Roby (regarding extra bond hearings)
135. November 26, 2007 Palm Beach Post editorial "Needless St. Lucie lawsuit"
136. December 13, 2007 Barnes email to Judge Levin, Criminal Admin. Judge (regarding Summons in Misdemeanor Cases)

**Miscellaneous Exhibits:**

- a. Transcripts of various first appearance hearings conducted in St. Lucie County by Judge Walsh.
- b. Transcripts of various first appearance hearings conducted in St. Lucie County by Judge Yacucci
- c. The deposition transcript of Public Defender, Diamond Litty, taken July 17, 2007.
- d. The deposition transcript of Chief Assistant State Attorney, Tom Bakkedahl, taken July 19, 2007.
- e: Year 2006 Judges' First Appearance Schedule
- f. September 5, 2006 Barnes letter to JQC (with enclosure about Federal study of the issue of jail and prison inmate rape epidemic)
- g: January 29, 2007 Barnes' letter to JQC (with enclosures regarding Barnes' email about signing GPS orders in blank, identity of clerk who brought orders in blank to Barnes)

Respectfully Submitted,

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**DONNIE MURRELL, ESQUIRE**  
**FLORIDA BAR NO: 326641**  
400 Executive Center Drive  
Suite 201—Executive Center Plaza  
West Palm Beach, Florida 33401  
(561) 686-2700

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished to Michael L. Schneider, Associate General Counsel, Judicial Qualifications Commission, 111 Thomasville Road, Tallahassee, Florida 32303; The Honorable Thomas B. Freeman, Chair, Hearing Panel, Criminal Justice Center, 14250 49<sup>th</sup> Street, Clearwater, Florida 33762-2801; John R. Beranek, Esquire, Counsel, Hearing Panel,

Ausley & McMullen, P.O. Box 391, Tallahassee, Florida 32302, this 22nd day of  
January, 2008.

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**DONNIE MURRELL, ESQUIRE**