

BEFORE THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION
STATE OF FLORIDA

CASE NO. 07-774

INQUIRY CONCERNING A
JUDGE NO. 06-249 RE: JUDGE
MICHAEL E. ALLEN

**JUDGE MICHAEL ALLEN'S
PRE-HEARING STATEMENT**

Pursuant to the Hearing Panel's Order, Judge Allen submits the following Statement. The Statement was delayed because the transcripts of the January 28, 2008 depositions of Judges Browning, Benton, Webster, Thomas, Wolf and Kahn and Marshal Brannon were not received until February 5, 2008, and the JQC's Pre-Hearing Statement was received on February 4, 2008, listing additional witnesses Sashi Persuad and Lisa Goodner. A witness request under the JQC Rules had been served on November 16, 2007 but not answered until last week.

WITNESSES

Judge Edwin B. Browning, Jr. will testify as to facts which confirm that Judge Allen's lack of confidence in Judge Kahn's integrity and general characteristics of character were merited.

Marshal Don Brannon will testify as to facts which confirm that Judge Allen's concern for Judge Kahn's integrity had a principled basis.

Judge Peter D. Webster will testify, *inter alia*, that he believed it to be "outrageous the JQC did nothing with Chuck [Judge Kahn] and proceeded against [Judge Allen]" and the reasons why he held that belief.

Judge James Wolf will testify, *inter alia*, about Judge Kahn's dishonesty to him and the telephone conversation that Judge Kahn had with Fred Levin on the day the opinion at issue was released by the Court.

Judge Charles Kahn will testify, *inter alia*, about his relationship with the Levin firm in Pensacola and his conversation(s) with Fred Levin and/or Martin Levin (the complainant in this case), including a telephone conversation initiated by him (Judge Kahn) on the day the opinion was released, and his seeking support from Senator Childers for his appointment to the Court.

Judge Bradford L. Thomas will testify, *inter alia*, that when he went to Judge Kahn's office to talk to him about the *Childers* opinion, Judge Kahn told him to "get the fuck out of my office." Judge Thomas will also testify that he has confidence in Judge Allen's integrity and that Judge Allen was concerned about the integrity of the court in writing his opinion.

Judges Philip Padovano, Marguerite Davis, William Van Nortwick and Edward Barfield will testify, *inter alia*, that Judge Allen's opinion was animated by a concern for the integrity of the court and not by personal animus.

Each of the Judges named above will testify that he/she is aware of the responsibility and duty imposed under Canon 3D(1) of the Code of Judicial Conduct but that he or she did not deem Judge Allen's opinion to be a reason for believing "that a substantial likelihood exists that another judge has committed a violation of [the] code."

Court Clerk Jon Wheeler will testify, *inter alia*, about conversations he has had with Judge Wolf, Judge Allen and other judges about Judge Kahn's conduct and relationships; conversations which are relevant to Judge Allen's concerns, as Judge Browning put it (Browning Depo. at 8) regarding Judge Kahn's "integrity and general characteristics of character to be the chief judge."

Willie Meggs, the State Attorney for the Second Judicial Circuit of Florida, will testify as a character witness on behalf of Judge Michael Allen.

Nancy Daniels, the Public Defender for the Second Judicial Circuit of Florida, will testify as a character witness on behalf of Judge Michael Allen.

James Harold Thompson, the former Speaker of the Florida House of Representatives, will testify as a character witness on behalf of Judge Michael

Allen. Judge Michael Allen will testify as to the reasons for his opinion.

Judge Allen reserves the right to call other witnesses and to subpoena further documents based upon the depositions received on February 5, 2008 and the February 4, 2008 witness list.

EXHIBITS

1. All exhibits listed by the JQC.
2. June 21, 2006 Hawkes/Allen e-mail.
3. June 7, 2006 Court Conference minutes.
4. October 30, 2006 Browning letter to JQC.
5. March 1, 2007 Browning e-mail re: JQC.
6. February 5 and 7, 2005 Van Nortwick/Allen e-mails re: Kahn's participation in the Childers case.
7. January 24, 2005 Barfield e-mail re: Kahn.
8. February 2, 2005 Kahn e-mail re: Childers opinion.
9. June 21, 2005 e-mail with Thomas *en banc* motion.
10. October 1, 2005 Allen e-mail to Van Nortwick re: Childers opinion.
11. October 26, 2005 Allen/Van Nortwick memo re: Childers opinion.
12. December 15, 2005 Van Nortwick (and others) memo re: Childers.
13. January 6, 2006 Kahn/Wolf e-mail re: "fraud."

14. January 9, 2006 Kahn e-mail re: “bizarre procedural twist.”
15. January 11, 2006 e-mail with Childers opinion.
16. April 18, 2006 Kahn e-mail with Childers opinion.
17. June 26, 2006 Padovono/Kahn e-mails.
18. Copy of the Court’s tracking file in the Childers case.

Judge Allen reserves the right to supplement this list.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to counsel listed below, by Facsimile and U.S. Mail this ____ day of February, 2008:

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