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JUDICIAL QUALIFICATIONS COMMISSION
Tallahassee, Florida

INQUIRY CONCERNING A JUDGE

NO.: 13-633, 14-151, 14-187 /

TRANSCRIPT OF: PROCEEDINGS
BEFORE: Judicial Qualifications
Commission Investigative Panel
DATE: May 16, 2014
TIME: 10:17 a.m. to 11:45 p.m.
PLACE: Sheraton Suites Orlando Airport
7550 Augusta National Drive
Florida Room
Orlando, Florida
REPORTED BY: Rebekah M. Lockwood, RPR
Notary Public
State of Florida at Large



RICHARD LEE REPORTING

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APPEARANCES:

PANEL MEMBERS:

Rick Morales, The Chair
Judge Thomas Freeman
Judge Kerry Evander
Judge Krista Marx
Judge James Ruth
John "Jay" White, Esquire
Ms. Shirlee Bowne
Mayanne Downs, Esquire (via telephone)
Dr. Steven Maxwell (via telephone)

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ALEXANDER J. WILLIAMS, ESQUIRE
Judicial Qualifications Commission
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Appeared for Judicial Qualifications
Commission;

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Appeared for Respondent.

1 The transcript of proceedings, before the
2 Judicial Qualifications Commission Investigative
3 Panel, on the 16th day of May, 2014, at
4 Sheraton Suites Orlando Airport, 7550 Augusta
5 National Drive, Florida Room, Orlando, Florida,
6 beginning at 10:17 a.m., reported by Rebekah M.
7 Lockwood, RPR, and Notary Public, in and for the
8 State of Florida at Large.

9 * * * * *

10 PROCEEDINGS

11 THE CHAIR: Before we get started, would
12 you all please introduce yourselves.

13 MR. SCHWARTZREICH: Sure. Absolutely.
14 Good morning, everyone. My name is Eric
15 Schwartzreich. I'm a criminal defense attorney
16 from Fort Lauderdale, Florida. This is Frank
17 Maister --

18 MR. MAISTER: Morning.

19 MR. SCHWARTZREICH: -- who is a former
20 prosecutor and criminal defense attorney from
21 Fort Lauderdale, Florida, as well. And I'm
22 co-counsel for Mr. Bogenschutz, who could not
23 be here today. I believe he had federal court
24 or a trial, so he asked me to come up here
25 today.

1 THE CHAIR: Thank you, gentlemen.

2 MR. SCHWARTZREICH: Thank you.

3 THE CHAIR: My name is Rick Morales. I'm
4 chairman of the JQC. You're here on two
5 matters, a 6(b) notice of investigation on
6 Judge -- amended 6(b) notice of investigation
7 on Judge Pollack and also a notice of order to
8 show cause why she should not be suspended from
9 her duties at this time.

10 I would like to -- before we proceed, to
11 introduce you -- introduce the commission to
12 you. On my far right is Alex Williams,
13 assistant general counsel for the JQC. Shirley
14 Bowne, a gubernatorial appointee. Michael
15 Schneider, our general counsel. Judge Tom
16 Freeman, a county court judge. Judge Kerry
17 Evander, circuit -- or district court judge --
18 circuit -- district. Judge James Ruth, a
19 county court judge. Judge Krista Marx, a
20 circuit court judge. And Jay White, a member
21 of The Florida Bar. Also we have two members
22 attending via telephone today. We have Mayanne
23 Downs, a member of The Florida Bar, and
24 Dr. Steven Maxwell, a gubernatorial appointee,
25 are attending via phone today.

1 What we'd like to do is go ahead and give
2 you 20 minutes to make a presentation on both
3 of these matters --

4 MR. SCHWARTZREICH: Okay.

5 THE CHAIR: -- and so forth, and then we
6 will proceed from there with questions.

7 MR. SCHWARTZREICH: Excellent. I have
8 some affidavits and a plan in place for Judge
9 Pollack, if I may --

10 THE CHAIR: Please.

11 MR. SCHWARTZREICH: -- pass out the
12 affidavit. I sent Mr. Schneider a copy. I
13 don't know if everyone has it. If I can pass
14 that out now. From Dr. Teitelbaum, and then I
15 have one from a Dr. Seely as well.

16 THE CHAIR: We don't have both of them.

17 MR. SCHWARTZREICH: I made copies for
18 everyone. Hopefully, I have enough. I
19 apologize.

20 MR. WHITE: Thank you.

21 MR. SCHWARTZREICH: Do you have
22 Dr. Teitelbaum's?

23 JUDGE EVANDER: We got them
24 electronically.

25 JUDGE RUTH: Is this the same copy?

1 MR. SCHWARTZREICH: Yeah. Those are two
2 copies?

3 JUDGE RUTH: Here.

4 MR. SCHWARTZREICH: Michael, do you have
5 a copy, or do you need another?

6 MR. SCHNEIDER: No. I'm good. Rick
7 probably wants a hard copy.

8 THE CHAIR: Yeah. Thank you.

9 MR. SCHWARTZREICH: Sorry for being
10 behind you here.

11 MS. BOWNE: That's all right. Thank you.

12 MR. SCHWARTZREICH: You're welcome.

13 THE CHAIR: I would also like, at this
14 time, just to make sure to reflect on the
15 record that Judge Pollack is not in attendance
16 today.

17 MR. SCHWARTZREICH: There's an affidavit
18 through Dr. Seely that he doesn't believe she
19 is in the condition to be here.

20 THE CHAIR: We understand.

21 MR. SCHWARTZREICH: And I've spoken with
22 her. And she's in treatment. She's in a very
23 fragile state. But, yeah, she's not here.

24 Let me cut to the chase. And I know the
25 members of the committee are probably upset,

1 would use the word frustrated in probably
2 saying you gave Gisele Pollack -- or Judge
3 Pollack a chance, and she entered into a
4 agreement, and she had a relapse, picked up a
5 DUI, and someone was injured. Not seriously,
6 but someone was injured.

7 We're not here to play games. We're here
8 to be contrite and tell you, for lack of a
9 better term, she's had her come to Jesus
10 moment. I've known her for 19 years. I used
11 to be a public defender with her. And she's
12 very compassionate. She's a very fair judge,
13 which is what we want our judges to be, a very
14 impartial judge. She's had some struggles and
15 addiction issues. Never made a secret of it.
16 She campaigned on this and was a drug court
17 judge. If anyone understands addiction and
18 recovery, Judge Pollack does.

19 And I know the members of the committee
20 are not too pleased with what's going on. But
21 it is an addiction. It is a disease, some --
22 also that, you know, limited coverage by the
23 ADA, if someone has a disease and they need
24 help and they get treatment, she's willing to
25 do that, and she went voluntarily.

1 I had, after this happened, had some
2 people start the Marchman, and I considered
3 Baker Acting her. And we did file those
4 petitions. But she went voluntarily. And it
5 wasn't compulsory. She didn't fight it. I
6 think that -- after she spent the night in jail
7 and got the DUI and realized what happened to
8 her, she's embarrassed. She's humiliated.

9 She's had a relapse somewhat similar
10 to -- I don't know if I want to equate it to
11 cancer, but it's a disease. And relapse is
12 part of recovery, and there were some things
13 that happened in Judge Pollack's life.

14 She was very, very close with her mother,
15 was her confidant, her best friend, was
16 involved with her during her campaign, was
17 there by her side. And her mother passed away,
18 and that was a very stressful trigger for her.

19 She has a son. I believe he's 21 years
20 old. He had -- I think it was a hernia and
21 needed a surgery and the surgery got botched.
22 And now her 21-year-old son lives with her,
23 who's severely, severely disabled. And I think
24 those were very difficult stressors for Judge
25 Pollack.

1 And for 19 years, she was sober. For 19
2 years, she wasn't drinking. She didn't have
3 any issues. She's been on the bench. There
4 haven't been any problems. And these things
5 happened in her life, and she spiraled out of
6 control.

7 Now, I know we're not a here for the
8 first rodeo. There's allegations she's been
9 impaired twice on the bench. I'm not going to
10 minimize that. I'm not going to tell you that
11 didn't happen. I'm here to tell you that her
12 DUIs -- I'm her attorney. I'm representing
13 her. We're going to work them out. We're
14 going to fall on the sword. We're not playing
15 games. We're not fighting them. We're not
16 raising constitutional issues. She's contrite.
17 She's sorry. She knows. I've looked her in
18 the eye, and I've had these conversations with
19 her.

20 I just don't think before, when she was
21 here in front of her -- and I know the members
22 of the committee met her. And I hope that you
23 were impressed with her, because she is very
24 honest and open. I don't think at that point
25 she had hit rock bottom. It was sad, and it

1 was unfortunate. I don't think it happened. I
2 think, unfortunately, it took this experience
3 where she got this DUI where she hit rock
4 bottom and went into treatment.

5 And I have her -- right after that
6 happened, I took her to a place, and she went
7 voluntarily. It was called High Point. It's
8 in Fort Lauderdale. She was there three days.
9 And we worked with Dr. Seely, who we have
10 affidavits with. Dave Bogenschutz and I spoke
11 with him, John Lesko over at the Florida
12 Recovery Center, the Shands center, and they
13 were willing to take her back. And we went --
14 I drove her up there personally. I had no
15 issues, no problems with her. She didn't go
16 kicking and screaming. She went up there,
17 willing, ready, and wanting to accept
18 responsibility. Voluntarily went in there.

19 I discussed with her that if you step out
20 of line, I'm going to have you Marchmanned.

21 And she said, "You don't need to do that.
22 I want to do this."

23 I asked her if she wants to fight for her
24 job.

25 She said she does, but she's embarrassed

1 and humiliated. And she feels that not only
2 did she let herself down, she let the members
3 of her community and she let all of you down.

4 And I have a plan in place. I'd ask that
5 if you do suspend her, that we do it with pay,
6 because of the one things that she's got is a
7 financial difficulty. The cost of the recovery
8 program has been another stress for her. She
9 spent upwards -- and I know it's probably not a
10 concern of anyone -- of maybe \$40,000. I might
11 be wrong on the numbers on treatment and the
12 program she in -- she is in. Her insurance is
13 not covering anymore. It's very expensive.
14 And I might have to move her to a different
15 program.

16 But I do have a plan in place, if you
17 look at the affidavit that I gave you from
18 Dr. Teitelbaum. And there are other affidavits
19 attached to it. But on the end, I believe it's
20 Page 4, he's making a recommendation. I'd ask
21 the members of the committee to, please,
22 seriously consider allowing for this
23 recommendation to be in place. And the
24 recommendation is 45 to 90 days of intensive
25 in-residence treatment, followed by four to six

1 months of step-down care with structured living
2 on a monitored recovery campus.

3 B, a requirement that Judge Pollack
4 execute a long-term three-to-five-year
5 contract. And I know she's already been on the
6 Florida Lawyers Assistance Program, but we
7 execute a long-term contract and henceforth
8 abide by all recommendations of that agency.

9 C, a requirement that Judge Pollack
10 execute an abstinence -- an abstinence
11 agreement or active letter, if you guys wish, a
12 contract that sets forth professional
13 consequences for any failures in her recovery
14 effort in monitoring and reporting
15 responsibilities.

16 I ask that you consider doing nothing.
17 She's not going to go back to court. She's on
18 a leave. Even if our chief judge, Judge
19 Weinstein, will let her come back, she's not
20 going go back to court. I know she's at your
21 mercy or your recommendation of the Supreme
22 Court. Until the JQC makes a recommendation,
23 and if you would allow her, if you guys would
24 be so kind enough to allow her to go back, or
25 if you do want to suspend her, that you do it

1 temporarily, maybe three months, see how she's
2 doing, and monitor her, and try and get her the
3 treatment and help that she needs.

4 But if we cut her off without financial
5 assistance or if we turn our back on her, this
6 disease -- and this is not the Gisele Pollack I
7 know. For 19 years, I never saw this. It's
8 been really difficult for her. And, you know,
9 unfortunately, sometimes relapse is part of
10 recovery. And we're all human beings in this
11 room. I know judges and the canons are held to
12 higher standards. But I tell the members of
13 the committee, she's a human being, like
14 everyone in this room.

15 And Mr. Maister, who's here with me,
16 appeared against her as a prosecutor. I
17 appeared in front of her. I had cases with
18 her. I'm here because she's one of the most
19 compassionate judges. I wish more judges were
20 like her. And she's sick. And she's got a
21 disability. And she's got a disease.

22 And I ask that you don't give up on her.
23 And I ask that you go along with Dr.
24 Teitelbaum's recommendations. And that's my
25 presentation.

1 THE CHAIR: Anything else?

2 MR. SCHWARTZREICH: Frank, you want to
3 add anything about Judge Pollack? You can --

4 THE CHAIR: Absolutely.

5 MR. MAISTER: Thank you. I appeared as a
6 assistant state attorney against her when she
7 was helping people through the drug court
8 program that she helps out in Broward and as a
9 defense attorney now in front of her as a
10 judge. And she has an uncanny ability, a
11 tremendous knack to look at people and read
12 them. And she seemed to be able to tell, even
13 better than I, where somebody was in their
14 life, which is why this was -- just came
15 completely out of the blue. And was just such
16 an extraordinary thing that happened,
17 especially the way it's gone down with these
18 subsequent incidents.

19 When somebody -- we've all been in
20 courthouses. Courthouses are communities, and
21 people have lots of opinions. And often when
22 somebody gets into trouble in the courthouse,
23 there will be a few people that will support
24 that person, but other people say, "Well, so be
25 it."

1 Everybody in Broward, everybody in the
2 courthouse is rooting for Judge Pollack. And
3 we hope that she's not judged by her worst
4 moment, her worst day, which is where she is
5 now.

6 And I got to know her a little bit
7 personally once her son became ill. And he had
8 a hernia, an abdominal issue, and he ended up
9 having one of these procedures where they put
10 the mesh in. And he was a kid. He was 18, 19
11 years old. And it was her only son. She's
12 divorced. And it went bad. It went bad,
13 because it didn't cure the problem that he had.
14 And it went bad because he developed severe
15 infections. And he ended up having procedure
16 after procedure. And he then was prescribed
17 these same sort of medications that she sees
18 people abusing in the drug court in front of
19 her. So she was torn at that point
20 emotionally. And she ended up moving him into
21 her house with her, as she had her mother
22 living with her. So, now, she is paddling her
23 own canoe, and she's trying to keep everybody
24 else's lives in check while at the same time
25 working on her own recovery.

1 And I feel -- and I know that Mr.
2 Schwartzreich and I had this conversation --
3 that perhaps we could have done more to support
4 her through this, especially after her mom
5 died. Because now she's truly alone in the
6 world. And she's alone in the world with a
7 21-, 22-year-old handicapped son. And we sort
8 of figured, okay, look, she's tough. She's
9 been through this. She's been sober for 19
10 years. She'll be okay. She'll manage. And
11 she just didn't. And she has relapsed. And
12 it's not a relapse that I'm talking about from
13 six months ago. I'm talking about from 19
14 years ago.

15 She came back, and she -- again, I feel
16 that she should not have been back where she
17 was right away with the pressures of the
18 day-to-day and getting up and going to work
19 every day. And perhaps that's our failure as
20 well.

21 But this -- this plan that's in place for
22 her. This is a tough plan. This is talking
23 about 45 to 90 days of intense inpatient here
24 and followed up by four and five additional
25 months that she's going to have to pay for.

1 This is a tough plan that goes out nine months.
2 She also knows that this is it. She's lucky
3 enough that if the committee goes along with
4 our recommendation, with our request, this is
5 it. There's no coming back from this.

6 And when you -- we talk about the words
7 "rock bottom." You know, we hear it again and
8 again in court. I'm sure the judges here
9 certainly hear people come and say, "Well, I've
10 hit rock bottom. I wasn't there before, but
11 I'm here now."

12 This is it. Where's she going to go from
13 here? What's she going to do? She still has
14 her son at home. She still has a long life
15 ahead of her. And so she knows that when we
16 put a title on something with last chance
17 agreement, this is it. And it's succeed or
18 die.

19 So please don't judge her on her worst
20 moments, the person in these -- that's had
21 these last couple of incidents. This is a
22 very, very short time, a period out of a long
23 20 years where she's done nothing but the right
24 thing and in no way but honorably. Thank you.

25 THE CHAIR: Thank you.

1 MR. WHITE: You know, I can just say for
2 me personally that it's a sad day because she
3 is a fine judge. You know, and to go 19 years
4 with sobriety on one hand, obviously, on the
5 other hand, and you guys get it, you know, we
6 can't allow judges to continue this type of
7 behavior. I hope this is rock bottom for her.
8 I hope it doesn't get any worse and she doesn't
9 leave any rehab centers or anything else. But,
10 you know, we've got to also be concerned with
11 the judiciary and the citizens in Florida, both
12 in the court system and out of the court
13 system. It's a tough day, sad day. But I
14 don't really have any questions. I mean, I
15 understand everything and get everything.

16 The only question I do have, the second
17 incident, the courthouse, you all -- she
18 doesn't dispute that that happened. Right?

19 MR. SCHWARTZREICH: No, we're not
20 disputing anything.

21 MR. WHITE: Okay. Okay.

22 MR. SCHWARTZREICH: There's no -- she's
23 falling on the sword.

24 MR. WHITE: That's what I thought. I
25 just wanted to be sure.

1 MR. SCHWARTZREICH: Even on the DUI, we
2 want to get her help. She wants the help.
3 She's -- she does, and she's ready. She really
4 is.

5 MR. WHITE: Okay.

6 MR. SCHWARTZREICH: I do feel it's rock
7 bottom. And I agree, I hope it's rock bottom.

8 MR. WHITE: Yeah.

9 MR. SCHWARTZREICH: I spent time with
10 her, and I'm seeing it. I didn't see it
11 before. I'm seeing it now.

12 MR. WHITE: Thank you.

13 THE CHAIR: Judge Marx.

14 JUDGE MARX: So for the record, then, she
15 is stipulating she was intoxicated on the bench
16 on the second incident. Is that correct? That
17 on her behalf, you're stipulating that, in
18 fact, she was intoxicated?

19 MR. SCHWARTZREICH: I'm stipulating that
20 she was -- it's a difficult situation for me to
21 answer that question, but yes, we're not here
22 playing any games.

23 JUDGE MARX: You discussed that with her,
24 and she's willing to stipulate to it?

25 MR. SCHWARTZREICH: I've discussed with

1 her falling on the sword, which she wants to
2 do. I didn't discuss with her what -- and the
3 circumstances of her being impaired on the
4 bench. But I would like to discuss that with
5 her before --

6 MR. MAISTER: I don't think we actually
7 used the word "stipulation" when we had the
8 conversation.

9 MR. SCHWARTZREICH: That's what I'm --
10 I'm going back and forth. I don't want to do
11 anything to harm her when you ask me that
12 question.

13 JUDGE RUTH: Can you reach her on the
14 phone?

15 MR. SCHWARTZREICH: Usually what happens
16 is, she calls me. I can try, and I can call
17 over there. If you want me to do that, I can
18 step outside. I'm sure that John Lesko will be
19 able to get her on the phone for me. I can try
20 and do that, yes. If you'd like for me to do
21 that, Judge Marx, I will.

22 JUDGE MARX: When does her term expire?

23 MR. SCHWARTZREICH: 2016, she faces the
24 electorate, hopefully.

25 JUDGE MARX: She basically was just

1 re-elected for another six-year term?

2 MR. SCHWARTZREICH: No. Because I think
3 the --

4 JUDGE RUTH: 2010.

5 JUDGE MARX: Two years. The last time
6 she was re-elected was for a six-year term.

7 MR. SCHWARTZREICH: Right.

8 JUDGE MARX: And you indicated that
9 BlueCross BlueShield is no longer covering
10 treatment?

11 MR. SCHWARTZREICH: She's been having --
12 well, she's asked me to try and help her with
13 that, and I haven't got involved in it. But
14 she's been -- one of her concerns and one of
15 the stressors for her has been the financial
16 consequences of the treatment. She's indicated
17 to me that insurance is not covering
18 everything. She's had to go out of pocket a
19 lot.

20 So I like the facility she's in, because
21 I think it's a good facility. But I don't know
22 if financially she's going to be able to stay
23 there. But I know that she's had to come out
24 of pocket a lot for the treatment, upward, 20,
25 \$40,000. And it's going to continue.

1 JUDGE MARX: You indicated that she went
2 voluntarily to this next rehab?

3 MR. SCHWARTZREICH: Yes.

4 JUDGE MARX: After -- it's my
5 understanding the DUI occurred, because she was
6 leaving the rehab she went to after --

7 MR. SCHWARTZREICH: Yes.

8 JUDGE MARX: -- the second incident on
9 the bench?

10 MR. SCHWARTZREICH: That's true.

11 JUDGE MARX: But some of the
12 documentation we received indicated that there
13 was pretty significant resistance from the
14 judge with regard to going to rehab this time.
15 We received letters that indicated that there
16 had to be some pressure put on her. And you
17 indicated that you considered Baker and
18 March --

19 MR. SCHWARTZREICH: Yes.

20 JUDGE MARX: -- a Marchman Act would,
21 obviously, have been more appropriate than
22 Baker. And so was that discussed with her?

23 MR. SCHWARTZREICH: Yes.

24 JUDGE MARX: And -- and convincing her to
25 voluntarily go?

1 MR. SCHWARTZREICH: May I? I was very
2 involved in that. I kind of -- and I don't
3 want to put blame on myself. I probably
4 thought, looking back, because I've been aware
5 of what's going on, I probably should have done
6 that sooner. But I discussed with her, because
7 I was really concerned for her safety. I saw
8 her, and I -- I was concerned. I've never seen
9 her like that. She said she would go
10 voluntarily, and she didn't want us to do it.

11 But my instinct, my concerns were, that
12 in case she wouldn't, I wanted to have those
13 mechanisms in place. So I had people put the
14 mechanisms in place. She constantly said, "I
15 will go voluntarily." And what was very
16 telling was, she drove -- I picked her up at
17 High Point, and I drove her in my car. I
18 didn't have one issue, one problem with her.
19 She didn't even know at that point in time I
20 had Marchman papers in my car. Went
21 voluntarily.

22 I stopped at a rest stop. She didn't try
23 and run. She went there. She had a heart to
24 heart with me and told me how embarrassed
25 humiliated she was. I don't know if she used

1 the word rock bottom. She used words like, "I
2 can't believe this. I can't believe I did
3 this." And went voluntarily.

4 I did have the paperwork prepared and
5 some other individual paperwork prepared. But
6 she did go. And also attached to what I've
7 given you are the voluntary admissions where
8 she voluntarily went. But I wanted to make
9 sure. I wanted to do the right thing, not just
10 as a lawyer, but a human being, that in case
11 there were any issues, these mechanisms were in
12 place. That was more my doing and members of
13 the community doing. But she did go
14 voluntarily. I mean, it was a voluntarily
15 thing for her to do.

16 JUDGE MARX: So -- and I just want a
17 little bit of clarification on that, because I
18 sat in drug court for a long time too. You're
19 indicating to us she voluntarily has gone this
20 time. But we received some letters indicating
21 that there was resistance from her. I believe
22 it was from Mr. Bogenschutz, indicating he was
23 putting pressure on her and others were putting
24 pressure on her to recognize that that was what
25 was needed. And if anybody knows anything

1 about substance abuse, it's not till the
2 individual themselves recognize that they have
3 a problem.

4 So I'm a little concerned that we're
5 getting some info there with regard to was it
6 really voluntary or was it because there's this
7 threat we're going to Marchman Act you or that
8 people were indicating, if you don't go -- so I
9 just kind of want clarification on that.

10 MR. SCHWARTZREICH: I understand. The
11 best I can tell you is, from the scene of --
12 yes, there were people telling you, you need to
13 get help, you need to get treatment. I don't
14 think at the time, Mr. Bogenschutz -- I don't
15 know if you have them in front of you, if
16 that's what you're talking about. I imagine
17 that that happened before she hit this point.
18 I don't think that she had the realization
19 where that -- she came to the realization until
20 she had these DUIs, until she hit, as Mr.
21 Maister said and used the term, rock bottom. I
22 don't think she was there.

23 And was she -- was the disease affecting
24 her ability? Yes. Were there issues, where
25 she didn't realize what was going on? But I'm

1 telling you that she did go voluntarily.
2 Because -- I know that, because I voluntarily
3 took her over to High Point. Went with me
4 without resistance. She drove all the way with
5 me from Fort Lauderdale up to Gainesville
6 without resistance and did go voluntarily.

7 I think that there was conflict in her in
8 the beginning, because as someone has
9 alcoholism, I don't think she realized or was
10 clearheaded or hit that point. But everything
11 she has done -- ad this is voluntarily. This
12 isn't a ruse. This isn't gamesmanship. This
13 isn't chess to try to convince you to take a
14 chance on her.

15 I've got two points. First and foremost,
16 I want to help save her life. Because if
17 she's -- if Judge Pollack is not willing to
18 save herself, we can't save her. There's
19 nothing in here that this committee can do or
20 we can do. But she's also worth taking a
21 chance on, and she is a great judge, and I know
22 I'm getting sidetracked there.

23 But my point is, she did go voluntarily.
24 I think it took, like, the wagons to circle for
25 her to get full circle. There was struggle,

1 and there was conflict. And I'm not -- you
2 probably know a lot more about it -- because
3 you were a drug court judge -- addiction and
4 recovery than I do. I just know from speaking
5 with doctors. And I know that you know from
6 your experience. But just from speaking with
7 her, I just don't think she had come to the
8 point of realization -- I use the term come to
9 Jesus moment. I don't think she had gotten
10 there. I think she's there. And she is
11 voluntarily now there. I do understand your
12 concerns, but she did go there on her own
13 volition. It wasn't at gunpoint. It wasn't
14 forced.

15 I had the mechanisms in place, because I
16 didn't want -- I was concerned. My God, I
17 think to myself, what if something happens, you
18 know, what if -- what if she fails. I was
19 concerned, and I wanted to make sure that I
20 didn't make a wrong move. I don't know if I
21 made a wrong move at this point. I mean, I
22 guess I can always Monday morning quarterback.
23 But I know. I'm telling you, she did go there
24 voluntarily, and she's at that place.

25 JUDGE MARX: Okay. Thank you.

1 MR. MAISTER: Can I add that she's --
2 financially, she's wiped herself out to pay for
3 it. And she -- you know, she could have put
4 her hands up and said, "I'm not paying this. I
5 haven't got the money. This is for my son.
6 I'm sorry." But she didn't. She --

7 JUDGE MARX: I think it's very
8 interesting, because I've known BlueCross
9 BlueShield to cover before. So I don't know
10 why she's running into that glitch.

11 MR. MAISTER: I don't know.

12 MR. SCHWARTZREICH: I'm trying to solve
13 it. But I have had other issues with other
14 clients before that need treatment, and
15 insurance doesn't always cover it. Maybe she's
16 exhausted it.

17 JUDGE MARX: I guess there's certain
18 treatments it covers.

19 THE CHAIR: There's also limits.

20 MR. WHITE: There's limits and maximum
21 amounts.

22 THE CHAIR: I know there are.

23 MR. SCHWARTZREICH: I think that's what's
24 going on. She -- that's a big stressor for
25 her. She's so concerned and consumed about

1 that. You do make a good point. In my
2 conversation with her, "I'm going to be broke.
3 I'm going to be wiped." So I'm trying to see
4 what I can do. There are other programs that
5 are a lot less. But I think this is the best
6 program, and I feel that this is a program that
7 this -- the committee members would like and
8 the program I believe that you're familiar
9 with. It was Mr. Bogenschutz who suggested
10 this program.

11 And, you know, it's more difficult for
12 Judge Pollack when she's away from her son.
13 She's very concerned. She's in Gainesville
14 away from her son. And she's up in
15 Gainesville, about five hours' car drive away.
16 She also is not driving and doesn't have her
17 license right now, if any concerns there.

18 JUDGE MARX: Thank you.

19 THE CHAIR: Judge Ruth.

20 JUDGE RUTH: Did she file a suit in that
21 case involving her son?

22 MR. SCHWARTZREICH: I think so. I do
23 believe there is a lawsuit pending.

24 MR. WHITE: Do you know the answer to
25 that?

1 MR. SCHWARTZREICH: I want to say maybe
2 the firm of Krupnik Campbell from Fort
3 Lauderdale is handling it, but I'm not a
4 hundred percent certain. But I do believe I
5 asked her that. And I do think that there is a
6 suit --

7 JUDGE RUTH: There's no recovery at this
8 time?

9 MR. SCHWARTZREICH: No, not at this time.
10 No.

11 MR. WHITE: I would hope there would be a
12 lawsuit. Because that doesn't sound like --

13 MR. SCHWARTZREICH: It doesn't. I
14 totally agree.

15 MR. WHITE: -- a result from that type of
16 surgery that one should have.

17 MR. SCHWARTZREICH: It's been really --

18 JUDGE RUTH: Does she have any other
19 income other than the income she receives
20 from --

21 MR. SCHWARTZREICH: When her mother
22 passed away, it's my understanding that her
23 mother left her a little bit of money, and
24 maybe to the tune of 70 to a hundred thousand
25 dollars. I don't have verification of that.

1 But I know she's exhausted a lot of it, from
2 what she's telling me, on the rehab and issues
3 with her son. So I don't think there's much
4 money left. I know she is trying to sell her
5 out right now that she lives in with her son,
6 because she can no longer afford to keep the
7 house with her son, and she's concerned she's
8 spending all of her assets, all of her money,
9 all of her resources on rehab, which she needs
10 to do. But it's stressful for her.

11 JUDGE RUTH: Okay.

12 THE CHAIR: Judge Evander.

13 JUDGE EVANDER: This is follow-up to what
14 Judge Ruth asked. Would you be able to get us
15 a letter from that law firm just telling us the
16 status? Obviously, nothing privileged. Just
17 the status of the case --

18 MR. SCHWARTZREICH: Yes.

19 JUDGE EVANDER: Is it set for trial or
20 the complaint just got filed, whatever --

21 MR. SCHWARTZREICH: The lawsuit involving
22 her son?

23 JUDGE EVANDER: Yes.

24 MR. SCHWARTZREICH: I believe it's
25 Krupnik Campbell. I'm not sure. Yes, I can

1 get that. May I e-mail to Mr. Schneider?

2 Okay.

3 JUDGE EVANDER: I just want to go through
4 some dates. On December 17th of 2013, you
5 know, it's alleged, and it's -- your client
6 does not contest that she appeared on the bench
7 for court proceedings impaired by alcohol. You
8 agree with that?

9 MR. SCHWARTZREICH: I do. But I would
10 like to, what Judge Marx said, I want to make
11 sure I can step outside and call her.

12 JUDGE EVANDER: Maybe it's not a
13 stipulation. She's not contesting it.

14 MR. SCHWARTZREICH: No.

15 JUDGE EVANDER: Okay. She appeared in
16 front of us February 21st. Do you know what
17 treatment she sought between those two dates,
18 December 17th and February 21st?

19 MR. SCHWARTZREICH: I don't, but I can
20 find that out. I do know, and I should say,
21 more or less, the rumors around the campfire,
22 that she was in treatment, in meetings. And I
23 had spoken to her as well. But I can get you
24 the details, Mr. Maister, if you would write
25 that down. I can get you the details. But I

1 do believe she was getting treatment, and I can
2 get you the answer to that, yes.

3 JUDGE EVANDER: February 21st, she
4 appeared in front of us, and she entered a
5 stipulation shortly thereafter where she agreed
6 not to use alcoholic beverages, enroll in The
7 Florida Bar Assistance Program, and to, you
8 know, not go on the bench impaired. Would you
9 agree that she does not contest she violated at
10 least two of those?

11 MR. SCHWARTZREICH: Yes.

12 JUDGE EVANDER: Going on the bench
13 impaired again, and that was on March 19, and
14 by consuming alcohol?

15 MR. SCHWARTZREICH: I do. But I do just
16 want to make sure that I can call her
17 afterwards and --

18 JUDGE EVANDER: And I'm doing this as
19 you're not contesting.

20 MR. SCHWARTZREICH: Understood.

21 JUDGE EVANDER: Between February 21st,
22 when she appeared in front of us, and
23 March 19th, the date of the second incident, do
24 you know if she attended any programs, other
25 than the Florida Assistance -- the Bar

1 Assistance Program?

2 MR. SCHWARTZREICH: I believe. I would
3 have to get you where she -- I know she was
4 going to meetings on -- I can find that out. I
5 don't want to make a statement, because I don't
6 know off the top of my head. But I will get
7 that information from her. I can probably get
8 it for you shortly.

9 JUDGE EVANDER: And after the March 19th
10 incident, then she went to rehab. Do you know
11 if there's a gap when she started rehab?

12 MR. SCHWARTZREICH: Yes. Do you mean
13 after the DUI?

14 JUDGE EVANDER: No. After the second
15 incident on the bench.

16 MR. SCHWARTZREICH: I don't. But I can
17 find out.

18 JUDGE EVANDER: Okay. Because the DUI, I
19 guess, she was arrested on May 2nd.

20 MR. SCHWARTZREICH: Yes. I can tell you
21 from the subsequent -- that's when I got more
22 involved, subsequent to the DUI. But I can
23 find out the answers to those questions.

24 JUDGE EVANDER: All right. So as you --
25 you don't know right now what she may have done

1 between March 19th and May 2nd?

2 MR. SCHWARTZREICH: No. But I believe
3 she was getting some form of treatment.
4 Whether it was residential or outpatient, I
5 don't know. I don't want to make an
6 affirmative statement, but I can get you answer
7 to that.

8 JUDGE EVANDER: Okay. Thank you for
9 that.

10 MR. SCHWARTZREICH: Thank you.

11 JUDGE FREEMAN: My questions go --
12 regarding the treatment that she was receiving
13 that she left on May the 1st, but you don't
14 know if it was residential or --

15 MR. SCHWARTZREICH: The treatment that
16 she left?

17 JUDGE FREEMAN: Right.

18 MR. SCHWARTZREICH: It was residential.
19 The treatment that she left was the Shands
20 Florida Recovery Center in Gainesville, and
21 that was the one that I believe she entered
22 into the agreement with you. I hope I'm not
23 misspeaking. That's the treatment program that
24 she left she's back in.

25 JUDGE FREEMAN: Right. She left that on

1 May 1st?

2 MR. SCHWARTZREICH: Yes.

3 JUDGE FREEMAN: What time did she leave,
4 do you know?

5 MR. SCHWARTZREICH: I don't. I can find
6 out.

7 JUDGE FREEMAN: All right. Did -- how
8 long had she been in that program before she
9 left on May 1st? Do you remember the number of
10 days?

11 MR. SCHWARTZREICH: I don't. I think
12 since she entered into the agreement last time.
13 I apologize for being unprepared for the
14 answers to those questions. But I can get
15 those answers pretty quickly.

16 JUDGE FREEMAN: I'm curious if she was
17 completely detoxified.

18 MR. SCHWARTZREICH: I think so.

19 JUDGE FREEMAN: And --

20 MR. SCHWARTZREICH: But I don't know the
21 answer to that.

22 JUDGE FREEMAN: The next question is, was
23 she being medicated while she was at that
24 program at Shands?

25 MR. SCHWARTZREICH: I believe she was,

1 yes.

2 JUDGE FREEMAN: Do you know what those
3 medications were?

4 MR. SCHWARTZREICH: No. But I can find
5 out. I'm sorry. I don't know the answers to
6 these questions. I apologize. But I'll get
7 them.

8 JUDGE FREEMAN: That's all.

9 MR. SCHWARTZREICH: Okay.

10 MS. BOWNE: Me?

11 THE CHAIR: I'm sorry.

12 MS. BOWNE: My turn?

13 THE CHAIR: Please.

14 MS. BOWNE: And following up on what
15 Judge Freeman said, when she left on May 1, he
16 said was she detoxified. Does that -- would
17 that be the same thing as sober? Was she sober
18 when she walked away?

19 MR. SCHWARTZREICH: I don't know the
20 answer to that. She was supposed to be. But
21 then she had the DUI, so I know she was sober
22 in the program.

23 MS. BOWNE: That was the next day, I
24 think, wasn't it?

25 MR. SCHWARTZREICH: You're right. I

1 mean, I believe she was sober, but then, I
2 mean --

3 MS. BOWNE: This says she got -- that she
4 apparently left and then -- yeah.

5 MR. SCHNEIDER: Early in the morning.

6 MS. BOWNE: In the morning and became
7 intoxicated. Now, do you know anything that
8 triggered her to leave?

9 MR. SCHWARTZREICH: I know that three
10 things that have been the constant. I don't
11 know anything in particular that happened in
12 between. But I know that the -- the two things
13 in -- particularly have been the loss of her
14 mother. She just -- while it's been maybe a
15 year, she -- her mother was always by her side.
16 And they were like best friends. And I -- I
17 really know from speaking with her --

18 MS. BOWNE: My question really is, do you
19 know anything that happened --

20 MR. SCHWARTZREICH: I don't.

21 MS. BOWNE: -- on or close to May 1 --

22 MR. SCHWARTZREICH: I don't.

23 MS. BOWNE: -- that would have caused her
24 to decide to leave?

25 MR. SCHWARTZREICH: I don't know anything

1 in particular, other than that, and then that
2 she's always obsessed with her son and being
3 with her son. And she's obsessed right now,
4 being in Gainesville, that she's not with her
5 son. Although he's 21, he's severely disabled.

6 MS. BOWNE: How is he being cared for
7 while she's --

8 MR. SCHWARTZREICH: Well, he's 21, so he
9 can live on his own. I think there are other
10 family members and friends checking in, if he
11 needs help. He's a little upset with her right
12 now because of what's going on. He's a little
13 embarrassed. And I haven't told her that,
14 because I don't want to have that be another
15 trigger. But I know that he's being cared for.
16 But I know she's obsessed and has a strong
17 feeling of guilt that she's up there and not
18 with him.

19 MS. BOWNE: I can understand any mother
20 having all of those feelings. My next question
21 is, once she finishes this program and would go
22 back to her regular life, and if that went to
23 back to the bench and so on, why won't these --
24 if her son still is -- has this condition and
25 is still there, why won't that start all over

1 again? I mean, do you have any -- I know you
2 can't answer that. But I'm trying to figure
3 out what we're really doing here. Because we
4 can't do anything about the problems that she's
5 going to need to take -- need or will take on
6 again, which, if those are what caused her to
7 get into this condition, why wouldn't that
8 happen all over again?

9 MR. MAISTER: I think -- I think our
10 hope, and we had this -- funny -- this
11 conversation, obviously, in preparing for
12 today. The length of this program, we think,
13 is the key to why -- what's different this
14 time. It is our understanding of addiction,
15 which we picked up in our last what, 20-odd
16 years in the courthouse and dealing with these
17 sorts of issues.

18 It's not -- it's not usually just a
19 question of a craving for alcohol. There's an
20 underlying trauma or an underlying issue that
21 is causing people to reach out and medicate
22 themselves, whether it's the pills that we've
23 talked about, OxyContin, or other drugs.

24 When we start talking about this
25 particular program, it is our hope that, yes,

1 she's going to dry out, and that's going to
2 take a period of time to get sober and to get
3 her wits about her again. She is going to have
4 to address the issues of the loss of her mother
5 and the trauma to her son. And if she's able
6 to correct those issues -- not correct them,
7 but cope and understand them and deal with
8 them -- and, of course, you know, if somebody
9 botches a surgery, for lack of a better word,
10 of your family member, there's going to be
11 anger and then all of those sorts of issues,
12 that's what she's going have to work out, if
13 she's going to, you know, regain her sobriety,
14 again, hopefully now, for the rest of her life.
15 It's a process, but that's the purpose of this
16 program.

17 MS. BOWNE: And I understand that. And
18 our -- as I see our problem, we certainly -- no
19 one here can fail to have compassion for this
20 judge and what she's been through. But there's
21 also the court system to think of. Have you
22 taken the what ifs and said what is it going to
23 cost the taxpayers to have that -- her position
24 essentially vacant for nine months? Somebody
25 else is going to have to take care -- that

1 docket is not going to -- whatever her
2 responsibilities are are not going to go away.
3 I suppose that filling it with other judges,
4 chief judges. So a cost to the taxpayers of
5 nine months, and that's seems, to me, like it's
6 going to get pretty expensive to the taxpayers.

7 MR. SCHWARTZREICH: Well, I wouldn't
8 suggest -- if she does well, I'd like the
9 opportunity to come back in front of you and
10 shorten it, if possible, if that's your
11 concern, on three months or four months, if
12 she's ready. I understand that concern to the
13 taxpayers. But, you know -- and that is a
14 concern you need to be aware of. But this is
15 the longest, what I'm proposing, treatment that
16 has been proposed for her since she's had this
17 relapse. Maybe it can be done in three months
18 or so. And the reality --

19 MS. BOWNE: I would hope that it could.
20 But we're -- what we're asking to agree to here
21 is nine months. And so that's stress on the
22 court, I would think, for nine months --

23 MR. SCHWARTZREICH: Well, I'd ask then --

24 MS. BOWNE: -- plus there is some costs.

25 MR. SCHWARTZREICH: -- for less time.

1 I'm trying to come in here and show you -- you
2 know, so you don't think I'm off my rockers --
3 come in here and show you a plan that you
4 guys -- that everyone would be okay with in
5 here. But ideally could she be recovered in
6 three months? I don't know. I'm not a doctor.
7 I'm not an expert.

8 MS. BOWNE: I understand that. And --

9 MR. SCHWARTZREICH: It could be. And I'd
10 prefer it to be three months, but I don't
11 want --

12 MS. BOWNE: But I'm dealing with what
13 we're being asked to agree to here, the nine
14 months. That's what's being asked to --

15 MR. SCHWARTZREICH: Well, can I modify?

16 MS. BOWNE: It could be -- well, I
17 don't -- I don't know that even you should.
18 I'm not -- I wouldn't want you to modify it and
19 cause a problem. If the doctors say that's
20 what it needs, I don't -- I wouldn't want to
21 set her up for failure. What I'm just trying
22 to figure is, I think you would understand that
23 there are certainly -- there's another issue
24 here, and one that we need to look at. And I
25 think there's -- there's a -- as I look at it,

1 at least, it does -- that is a factor.

2 Another factor is, this is not just a
3 secret in the courthouse anymore. This is out
4 in the public venue now. And I'm -- I'm also
5 considering how the public is going to feel
6 about being judged by a judge who's had this
7 much notoriety in this period of time. I hope
8 that doesn't -- I don't mean to sound --

9 MR. SCHWARTZREICH: It sounds honest.

10 MS. BOWNE: -- incompassionate on this.
11 I think it's just that. But I think those are
12 factors. And I didn't know if you all had
13 considered those in your --

14 MR. SCHWARTZREICH: May I respond to
15 that?

16 MS. BOWNE: Yes.

17 MR. SCHWARTZREICH: I would ask -- and I
18 think you're asking excellent and pointed
19 questions. I would ask, I don't want this to
20 go on ad nauseam or some indefinite period of
21 time. I do understand your concerns. I would
22 like to be able to -- I'm willing to come back
23 here to see how she's doing in three months.
24 But to answer your question, yes, it's out in
25 the public. But also in the public, I practice

1 predominantly --

2 MR. SCHNEIDER: That's not you. That's
3 that --

4 MR. SCHWARTZREICH: My phone is vibrating
5 too.

6 MR. SCHNEIDER: Oh, well, maybe it's
7 interference.

8 MR. SCHWARTZREICH: I feel like I've got
9 electrodes on me or something. I lost my train
10 of thought. I'm sorry. But the general public
11 where I practice, and the word -- we have a
12 blog, and it gets nasty practicing with all
13 these blogs now. It's a whole -- it's a story
14 for a different day. We have this courthouse
15 blog, and people, like they blog anonymously.
16 And they're probably, like, all five of the
17 same people blogging. Those people say nasty
18 things. That's a true statement. I hate the
19 blog for that reason.

20 Those people, if you read -- and some of
21 the other judges read blogs. If you see some
22 comments in the blogs, maybe five people leave
23 nasty comments. But I can tell you as a
24 practitioner for the past 17 years in Broward
25 County that she's very well respected. This

1 wasn't a woman that made a secret of this.
2 This wasn't a woman that got caught with her
3 hand in the cookie jar. She relapsed. But
4 when she campaigned, she went into our
5 community and said, "Here I am, warts,
6 wrinkles, and all. I have -- I'm an alcoholic.
7 I'm in recovery."

8 And the public knows. I get -- and I
9 represent a lot of people in our community.
10 But I've never had an outpouring of support.
11 Thank you for giving me this half hour as
12 well -- bless you. I've never -- I get calls
13 from the public, "We're supporting her. We're
14 with her on her side." Now, of course, there
15 are naysayers out there.

16 But the answer to your question is,
17 really, at the end of the day, 2016 -- I think
18 Judge Marx asked me when her term is up -- she
19 and, hopefully, you know, if you'll make a
20 recommendation that she's able to stay on or
21 that she doesn't get suspended or suspended
22 with pay, she's going to have to face the
23 electorate. And they're the ones that are
24 really -- if she's given that opportunity, that
25 are going to look at her and make a

1 determination.

2 And I could be crazy here, but people
3 sometimes always love an underdog story. Or
4 Rudy is a great movie or Rocky. She is very
5 compassionate. She's been very good in our
6 community. I think if she gets her act
7 together, that she can survive this.

8 If the general public, to answer your
9 question, if they don't want her in office
10 because she's got a DUI or what's going on,
11 they vote her out. They get rid of her. The
12 public -- she gets to answer to the public.
13 And that time is very short. I mean, we're
14 talking 2016. As judges know, you start
15 gearing up for a campaign. She's in no
16 condition to gear for a campaign. This could
17 be the end of her judicial career. That's the
18 reality here as well. Because at the end of
19 the day, no matter what we do, she's going to
20 have to face the electorate in 2016.

21 I think the public, from what I know
22 about her, from what Mr. Maister knows about
23 her, would give her another shot. She is very
24 well respected in our community, absent the
25 five bloggers that like to blog on the local

1 JAABlog. She has done a lot of wonderful
2 things for people. And I get your concern.
3 But I think people would give her a chance
4 because of how she's been in our community.

5 MS. BOWNE: That's all I have.

6 MR. MAISTER: Local sentiment is very
7 much in her favor. I mean, everybody really is
8 rooting for her.

9 THE CHAIR: Okay. Mr. Schneider, any
10 questions?

11 MR. SCHNEIDER: No.

12 THE CHAIR: I just have a few questions.
13 First of all, the night she got the DUI or the
14 early morning when she got the DUI, how did she
15 present herself to the police officer? Was she
16 combative? Did she --

17 MR. SCHWARTZREICH: No.

18 MR. WHITE: Did she follow sobriety
19 tests? Did she go to the courthouse and blow?

20 MR. SCHWARTZREICH: She did not.

21 THE CHAIR: So she refused?

22 MR. SCHWARTZREICH: Well, it's
23 interesting. I wish I had brought you the
24 police report. I was thinking about that here.
25 They should have taken -- they should have

1 taken blood. But to be honest with you, law
2 enforcement kind of messed that up. We're not
3 playing that game, because we're going to --
4 she's got a good case, a criminal defense
5 attorney, they got no blood. But we're not
6 playing that game. She didn't -- she was
7 willing to, and then she wasn't. So that's
8 kind of a gray area for me, as to whether or
9 not she cooperated. But she did do the
10 roadside exercises. She wasn't combative. She
11 didn't pull the "Hey, I'm a judge, don't --
12 don't arrest me."

13 In fact, what's very telling about her
14 hitting rock bottom, I think one of the
15 comments that might be in the police report, "I
16 don't want to go to jail," and like the fear of
17 that. So she was respectful to law
18 enforcement, did cooperate, didn't play games.

19 You know, there are judges that get
20 pulled over or state attorneys, and they show
21 the badge, and they say, "I'm a judge," and
22 they ask for special treatment. She didn't go
23 there. Gisele Pollack would never do something
24 like that. But there was no blood. But I
25 don't really think that was a fault of her own,

1 if you really see what went on there.

2 JUDGE RUTH: I'm sorry. When you say
3 she's throwing herself on the sword on a DUI,
4 that means she's pleading guilty to the DUI?

5 MR. SCHWARTZREICH: That's what I'm
6 telling you, and call them, change their mind,
7 because I don't want to mislead anyone in this
8 room. Our intention is to not play games with
9 the DUI. The DUI is going to be a misdemeanor.
10 It's not serious bodily injury. The gentleman
11 that was in the other car was not serious
12 bodily -- it's going to be a misdemeanor. Our
13 intention is to try to resolve the case on her
14 behalf. We're not going to go --

15 JUDGE RUTH: So you -- well, my question,
16 so she's interested in pleading guilty to the
17 charge?

18 MR. SCHWARTZREICH: Yeah. Or if --
19 there's an executive assignment. Palm Beach
20 County, as Judge Marx probably knows, has
21 diversion. I don't know if they'll offer that
22 in our county or Dade County.

23 JUDGE MARX: Not with an accident.

24 MR. SCHWARTZREICH: What?

25 JUDGE MARX: Not with an accident.

1 MR. SCHWARTZREICH: Right. So -- if I
2 could get diversion and resolve it, that would
3 be something --

4 JUDGE RUTH: Because earlier when we were
5 here, we were talking, you said she was going
6 to throw herself on the sword, she was
7 admitting everything, except issues with the
8 car, get confirmation. Then when Mr. Morales
9 started asking you questions, you start talking
10 about possible defenses. So I just want to
11 make sure we understand you. Are you saying
12 that she's pleading guilty --

13 MR. SCHWARTZREICH: Yes.

14 JUDGE RUTH: -- to the DUI? Whatever the
15 State charges her with, she's pleading guilty,
16 unless it's diverted?

17 MR. SCHWARTZREICH: We are -- our plans
18 are not to -- when I make the comments that
19 they messed it up with the blood, that's from
20 my defense side.

21 JUDGE RUTH: I understand.

22 MR. SCHWARTZREICH: That's just me being
23 honest. I'm a criminal defense attorney. They
24 got problems. They don't have blood. That's
25 my nature.

1 JUDGE RUTH: Right.

2 MR. SCHWARTZREICH: However, I am telling
3 you that, yes, our intention is to resolve the
4 DUI. How do I consider --

5 THE CHAIR: Resolve.

6 MR. SCHWARTZREICH: Resolve. To plead.

7 THE CHAIR: Resolve it.

8 MR. SCHWARTZREICH: Yeah. No motions, no
9 challenges, no -- no, they don't have blood
10 to -- when I say "resolve," when you say
11 "guilty" or "no contest," I'm not trying -- I'm
12 trying also -- I don't want to do it -- I'm
13 cognizant that I'm representing a judge and I'm
14 here in front of the JQC. So I'm being honest
15 with you. I'm not in here to play games.

16 But, yes, when I say "resolve," and you
17 say "plead guilty," do I mean plead no contest
18 or plead guilty, but I also want to do what's
19 in her best interest as an attorney. But the
20 point of your question is very well taken.
21 Yes, she is not fighting. We are not demanding
22 a jury trial. We're not filing motions. We
23 want to resolve this. We want to get her help.
24 She's falling on the sword. She's contrite.
25 And I'm asking everyone here to give her

1 another chance. It's like I said before, I'm
2 not playing chess or gamesmanship. I've got
3 two roles, help her --

4 JUDGE RUTH: I'm not saying you shouldn't
5 fight the DUI. I'm not saying that. I'm
6 just --

7 MR. SCHWARTZREICH: Yeah, but I'm --

8 JUDGE RUTH: You used the word -- you
9 said on the sword. I just want to make sure.
10 All right. All right.

11 MR. SCHWARTZREICH: I don't want to come
12 here in front of you say she didn't do it. I
13 don't want to come here in front of you and say
14 she is not impaired on the bench. I want it
15 clear of what I can say with my client before I
16 can do that, but I want to tell you that we're
17 not in here pointing figures and saying, "Woe
18 is me, poor is Gisele, you know, everyone is
19 out to get me, this is everyone's fault."
20 Gisele Pollack, through her disease, put
21 herself in this situation. And I have her
22 permission to fall on the sword. And I'm
23 asking you for her mercy. I'm asking you
24 for -- and I understand your role as the JQC to
25 the taxpayers, to the judiciary. But this is a

1 disease. And I'm asking you -- and I'll
2 stop --

3 THE CHAIR: We're here --

4 MR. SCHWARTZREICH: To give her a chance.

5 THE CHAIR: We're here to protect the
6 public.

7 MR. SCHWARTZREICH: Understood.

8 THE CHAIR: And to protect the judge from
9 herself.

10 MR. SCHWARTZREICH: Understood.

11 THE CHAIR: It is a situation here where
12 we're very concerned. She has been twice,
13 allegations, and it appears she's not fighting
14 those allegations, twice she has been on the
15 bench impaired, which is a serious issue for
16 us. Then again, she also was -- you know, did
17 have a DUI, somebody was injured, thank God,
18 not seriously.

19 So, I mean, we want to make sure we
20 understand what her intentions are. That's why
21 I asked, is she planning on -- we have many
22 judges that get DUIs, and some of them fight it
23 to the death. We have judges that get DUIs and
24 walk in there and say, "I'm guilty, and I
25 should know better because I'm a -- I'm a

1 judge."

2 MR. SCHWARTZREICH: That's us.

3 THE CHAIR: Okay.

4 MR. SCHWARTZREICH: That's what we're
5 doing. And she should have known better. I'm
6 telling you, this is what happened. Yes, it's
7 a misdemeanor, because of -- she hit rock
8 bottom, it's because of addiction. But she --
9 I hope that's not me. Is that me?

10 MS. BOWNE: No. That's --

11 MR. SCHWARTZREICH: Our plan is to
12 resolve, to plead guilty or no contest. I was
13 thinking about diversion. But you -- you're
14 right -- I'm thinking you're right, that maybe
15 won't offer diversion, but to resolve this for
16 her. And that's what she wants to do. This is
17 not a lawyer in here. She is contrite. She is
18 apologetic. She realizes she's got a disease,
19 and she wants to fix it. And if she wanted to
20 fight all this stuff, she'd have no business
21 having me come in here and ask you to take a
22 chance on her. You're probably saying, "We've
23 already taken a chance on her."

24 THE CHAIR: Okay.

25 MR. SCHWARTZREICH: She hadn't hit rock

1 bottom.

2 THE CHAIR: Right.

3 JUDGE RUTH: I'm sorry. Now, there were
4 two questions that Judge needed answered.

5 MR. SCHWARTZREICH: Yes.

6 JUDGE RUTH: You said you were not able
7 to answer, but you would be -- you would step
8 out and call her and get -- try to get the
9 answer to those two questions.

10 MR. SCHWARTZREICH: Yes.

11 JUDGE RUTH: Which are very important
12 questions.

13 MR. SCHWARTZREICH: Yes.

14 THE CHAIR: I would like you to do that
15 in a minute. But in the meantime, Mr.
16 Schneider has a question.

17 MR. SCHNEIDER: Yes, sir. The -- looking
18 at the police report, like four counts of DUI
19 and one count of failure to use due care. Are
20 you -- do you have an assistant state attorney
21 now that you're dealing with in terms of charge
22 bargaining, trying to figure out what the
23 actual charge is going to be? Because some of
24 these -- you know, hard to know what they're
25 going to charge.

1 MR. SCHWARTZREICH: Not yet. But I can
2 tell you from what I know. I've tried. Not
3 for lack of trying, though. Mike Satz's office
4 has recused themselves. They've asked for an
5 executive assignment. It has not been assigned
6 yet. We've also asked for an executive -- I
7 think it's going to go to another judge from
8 another county as well. I don't believe -- can
9 I look you guys in the eyes and tell you this
10 is going to be a felony? I do DUIs and DUI
11 manslaughters all the time. And I don't
12 believe, from what I've seen and what I know,
13 that this is going to be a -- a misdemeanor.
14 Obviously, when they charge DUIs, they charge
15 multiple counts --

16 MR. SCHNEIDER: Right.

17 MR. SCHWARTZREICH: -- like that, but in
18 the end, it hopefully will just be one count --

19 MR. SCHNEIDER: Okay.

20 MR. SCHWARTZREICH: -- that she's going
21 to plead no contest or guilty to or it
22 resolves, so you don't think I'm in here trying
23 to fight this.

24 MR. SCHNEIDER: That's why I mentioned
25 it, because you can have an assistant that

1 might be more ambitious and want to charge.

2 MR. SCHWARTZREICH: You can.

3 MR. SCHNEIDER: So that's just why I was
4 wondering if you knew anything about that.

5 MR. SCHWARTZREICH: But again, she can
6 only be sentenced for one, and it could --

7 MR. SCHNEIDER: Sure. I understand. I
8 just want -- I'm asking if you knew.

9 THE CHAIR: Why don't -- why don't you
10 step outside --

11 MR. SCHWARTZREICH: Yes.

12 THE CHAIR: -- and try to --

13 MR. WHITE: Do they have any questions on
14 the phone?

15 MR. SCHNEIDER: Oh. We have -- Mayanne?

16 THE CHAIR: Right.

17 MR. MAISTER: Can we be clear about the
18 two questions? Is she stipulating to --

19 THE CHAIR: Yeah. Are we --

20 JUDGE MARX: We just need that for the
21 record for whether or not as to the second
22 incident, you know, we saw the -- heard the
23 audio clip and so forth, but whether she's
24 stipulating, in fact, she was intoxicated on
25 the bench on that second date.

1 MR. MAISTER: What was the other
2 question?

3 JUDGE FREEMAN: How long had she been in
4 the treatment program when she left on May 1?

5 MR. SCHWARTZREICH: May I ask you a
6 question, Judge Marx? Did she stipulate to --

7 JUDGE FREEMAN: And what --

8 THE REPORTER: I'm sorry. Hold on. Hold
9 on, wait a minute.

10 MR. SCHWARTZREICH: I'm sorry.

11 THE CHAIR: One at a time.

12 JUDGE FREEMAN: And what medications?

13 THE CHAIR: Okay. Judge Freeman.

14 JUDGE FREEMAN: That's all. Thank you.

15 THE CHAIR: Okay. Who else was -- is
16 that it? Any other questions.

17 MR. SCHWARTZREICH: Yeah. I have one.

18 THE CHAIR: Go ahead.

19 MR. SCHWARTZREICH: Did she stipulate
20 with David Bogenschutz that the first time she
21 was impaired on the bench?

22 JUDGE MARX: Yes.

23 MR. SCHWARTZREICH: Let me find out as
24 well.

25 JUDGE MARX: She said she'd fallen off

1 the wagon.

2 MR. SCHWARTZREICH: Do you want me to
3 find anything else out?

4 MR. WHITE: I think that's it.

5 MR. SCHWARTZREICH: Okay. How much time
6 do we have? Do you have other hearings?

7 THE CHAIR: We do not. But we have
8 other -- we still -- we have to meet on other
9 items, but why don't you --

10 JUDGE MARX: Step out and --

11 JUDGE RUTH: We'll be checking. You let
12 us know.

13 MR. SCHWARTZREICH: Okay. Sorry for
14 talking over everyone. I get a little excited.

15 THE CHAIR: Why don't we -- we'll
16 continue this for a few minutes. Bekah, if you
17 give us a few minutes. And then we -- as soon
18 as we have an answer, we'll get back together.
19 I mean, we probably have 30, 45 minutes of
20 meeting to meet on our own. And then after
21 that, we'll get back in touch.

22 MR. SCHWARTZREICH: Okay.

23 (Recess from 11:09 a.m. to 11:41 a.m.)

24 MR. MAISTER: We were able to speak to
25 the judge. Actually, they pulled her out of

1 the group. So direct answers to the questions.
2 Yes, she stipulates to the second incident
3 dated March the 19th.

4 THE CHAIR: She was intoxicated on the
5 bench?

6 MR. MAISTER: Yes.

7 THE CHAIR: Okay.

8 MR. MAISTER: Yes, she's going to plead
9 guilty or no contest, depending on what's --
10 what's charged. Right. If the reviewing
11 assistant state attorney says --

12 MR. SCHNEIDER: That's why I said --

13 MR. MAISTER: -- charging -- well --

14 MR. SCHNEIDER: Felony.

15 MR. MAISTER: -- that would be -- but I
16 mean, if they -- they may reduce it. They may
17 look at this and say, "Well, it's not quite
18 there. It's this." So --

19 THE CHAIR: Her intention is not going
20 to --

21 MR. MAISTER: Specifically, it's not
22 going to be -- it's not going to trial, going
23 to have a jury trial on the case.

24 MR. SCHWARTZREICH: I don't want to be a
25 bad lawyer. Yes, she wants to resolve it and

1 plead guilty. That was just me --

2 JUDGE RUTH: We weren't trying to force
3 you.

4 MR. SCHWARTZREICH: I know. I don't want
5 to mislead anyone. But, yes, she told me she
6 wants to plead guilty, resolve it. Depends on
7 what they charge her with. But I want to look
8 at the evidence.

9 MR. MAISTER: How long was she in
10 treatment prior to May the 1st? She was at
11 Shands, plus or minus, a couple of days, 40
12 days, four zero days. She believes it was last
13 week of March when she went in. She was
14 prescribed three different medications.
15 Effexor is an antidepressant. Abilify is an
16 antidepressant. And she started -- just before
17 she left, they started putting her on something
18 called Naltrexone, which is designed to block
19 the cravings. Apparently, it obviously didn't
20 work and apparently did the opposite for her.

21 On May the 1st, she'd been in 40 days.
22 She was under the normal, I miss my son sort of
23 a -- you know, I miss my home thing. She had
24 been increasingly unhappy with the way -- what
25 she perceived as a lack of professionalism with

1 the way the program was being run. There had
2 been a specific meeting, a group, a
3 professional women's group meeting that was
4 supposed to take place that afternoon, and
5 the -- the moderator -- the facilitator just
6 failed to appear. So they all end up sitting
7 in a room. So she went back to her room, and
8 that was the moment when she decided to leave.

9 THE CHAIR: About -- do you know
10 approximately what time?

11 MR. MAISTER: She left at 4:00 p.m. --

12 THE CHAIR: Okay.

13 MR. MAISTER: -- plus or minus a few
14 minutes, and was arrested within eight hours.

15 MR. SCHWARTZREICH: She thinks at 10:30
16 is around when the arrest --

17 MS. BOWNE: Is that when the accident
18 occurred?

19 MR. MAISTER: Yes.

20 MR. SCHWARTZREICH: That's what she said.
21 I don't think -- the police report says --

22 MR. WHITE: Probably would reflect that.

23 MR. SCHNEIDER: One in the --

24 MR. MAISTER: I thought it was one in the
25 morning.

1 MR. SCHNEIDER: -- morning.

2 MR. SCHWARTZREICH: She said it was
3 around 10:30.

4 THE CHAIR: She was smashed.

5 MR. MAISTER: Yes.

6 THE CHAIR: Unfortunately.

7 JUDGE MARX: Thank you for getting those.

8 MR. MAISTER: Thank you. Was there --
9 there was a couple other questions that you
10 had. I don't know if you want to go over it
11 now.

12 THE CHAIR: Go right ahead.

13 MR. MAISTER: Between the December 19th
14 and February 21st, she was doing an outpatient
15 treatment at a place called Satori Waters. She
16 feels that was a mistake, that she should have
17 been directly inpatient. She felt that she
18 needed to be in court. She didn't want to let
19 the other judges down. She didn't want to have
20 people covering her docket. So she was doing
21 outpatient while she was in court, and that was
22 a mistake. Which was repeated between
23 February 21st and March 19th, she was
24 outpatient, intensive outpatient through
25 Florida Bar Assistance, I believe. Florida Bar

1 Assistance?

2 MR. SCHWARTZREICH: Florida Recovery.

3 MR. MAISTER: All right. And I think
4 those are the questions.

5 THE CHAIR: Okay. Thank you for
6 appearing today on her behalf. And we will be
7 in touch.

8 (Proceedings concluded at 11:45 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:
COUNTY OF HILLSBOROUGH:

I, Rebekah M. Lockwood, RPR, Notary Public in and for the State of Florida at Large, do hereby certify that I reported in shorthand the foregoing proceedings at the time and place therein designated; that the witness herein was duly sworn by me; that my shorthand notes were thereafter reduced to typewriting under my supervision; and that the foregoing pages are a true and correct, verbatim record of the aforesaid proceedings.

Witness my hand and seal May 21, 2014, in the City of Tampa, County of Hillsborough, State of Florida.

Rebekah M. Lockwood, RPR
Notary Public
State of Florida at Large