

IN THE SUPREME COURT OF FLORIDA

CASE NO: SC14-985

RE: GISELE POLLACK

INQUIRY CONCERNING A JUDGE,

NOS. 13-633, 14-151, 14-187

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**PETITION FOR RECONSIDERATION**

COMES NOW, the Respondent, GISELE POLLACK, by and through her undersigned counsel, and files this, her Petition for Reconsideration of the Court's Order entered May 23, 2014, suspending her from judicial office without pay, pending final disposition of these proceedings, and would aver as follows:

1. Judge Pollack first appeared before the Judicial Qualifications Commission on February 21, 2014, as a result of an incident in which she was involved, where she was observed under the influence of an alcoholic beverage, or other substance, while presiding over misdemeanor drug court in the Seventeenth Judicial Circuit;

2. She went into treatment almost immediately and stipulated at that JQC hearing, among other things, not to attend court or be at the Broward County Courthouse in an impaired state (See Copy of Stipulation, attached as Exhibit I);



3. Subsequently, she had another relapse and went into the Florida Recovery Center Residential Program for treatment;

4. That prior to treatment being completed, she left that Program, and returned to Fort Lauderdale, in her vehicle, and was involved in a traffic accident, again in an impaired state. She subsequently returned to the Florida Recovery Center on or about May 7, 2014, and remains there at the time of this Petition. She was actively in treatment at the time of the Judicial Qualifications Commission meeting on May 16<sup>th</sup>, 2014, did not appear at that hearing, and was no longer engaging in the illegal or otherwise use of drugs and alcohol;

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5. The Florida Recovery Center is a “supervised rehabilitation program.”

6. At that May 16<sup>th</sup>, 2014 meeting, the Commission recommended, and Judge Pollack agreed, that she be suspended for a period of time until the Commission acted with finality on this issue. The issue of “with or without pay” was left to the discretion of this Honorable Court.

It has been acknowledged, and it is factual, that Judge Pollack has, and has had, over a period of time, a significant alcohol abuse issue. It is a problem that plagues many Americans, and for which many, like Judge Pollack, have sought and received several rehabilitation efforts, both residential and otherwise.



7. Judge Pollack is known as, and has been recognized as an innovative, and well respected county court judge during her several terms of office. Her agreement to a suspension with the JQC was designed to provide her with the most uninterrupted, and unimpaired ability to seek, and receive, residential rehabilitative treatment to combat this abysmal disease.

Alcoholism has been recognized as a “disability” covered by the Americans With Disabilities Act (ADA). *Schmidt v. Safeway Inc*, 864 F.Supp. 991, 996 (D. Or. 1994); *see also* 42 USCA § 12102(1), 12111(8), 12112(a)(b). In addition, “reasonable accommodations” for an alcohol problem, such as a modified work schedule or a leave of absence so the employee could seek treatment, are required by the ADA. 42 USCA § 12111(9).

8. Judge Pollack is a judge whose personal expenses, and financial situation are such that a suspension without pay will cause a tremendous hardship and may require her to sell her home, as well as dip into retirement funds to maintain her cost of living over the next several months of her treatment. She is not a wealthy woman, and lives as many people do, on her salary. A suspension without pay will work an onerous hardship and be emotionally debilitating as she struggles to overcome this disability and disease. If, in fact, Judge Pollack had been suffering from cancer, or another disability that required her to be out of office in treatment or therapy, such a



restriction would not have been appropriate. The legal and national communities are recognizing alcoholism now as an insidious encroachment upon the physical and emotional well-being of our citizens, and it, respectfully, appears to serve no purpose other than to make this rehabilitation process more difficult, that she be suspended without pay.

9. The Commission could have recommended that in their Recommendation to this Court. They did not.

10. It is respectfully urged that this Court reconsider its Order of May 23<sup>rd</sup>, 2014, and amend it to permit Judge Pollack, like any other person with a “disability” be afforded the “reasonable accommodation” of a suspension with pay, such status to be revisited in a period of ninety (90) days, so that the Court may be apprised of, and keep track of her progress, and so that that “accommodation” be reviewed to assure that Judge Pollack’s good faith efforts are continuing and so that the public funds which are drawn to continue her financial well-being, are wisely spent. To do so would give life and meaning to the spirit of the Americans With Disabilities Act, and to acknowledge the efforts on her behalf to rehabilitate herself from this disability.

It is an enlightened and a productive step for this Court to take for Judge Pollack, and for others like her. Certainly, with a ninety day “window,” this Court



can not only manage, but can insure that her ongoing efforts deserve a continuation of that accommodation.

WHEREFORE, Gisele Pollack respectfully urges this Court, for the reasons set forth above, to amend its order of May 23<sup>rd</sup>, 2014, to a suspension with pay, with a ninety day period of review of her ongoing rehabilitation efforts.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that this Petition for Reconsideration has been electronically filed on the Florida Courts E-Filing Portal on this 28<sup>th</sup> day of May, 2014, and that copies of the same have been e-mailed accordingly to all interested parties.

Respectfully submitted,

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/s/ J. David Bogenschutz

BY: \_\_\_\_\_  
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