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**FILED**

SID J. WHITE

JUL 6 1993

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

IN RE: PROPOSED AMENDMENTS  
TO THE CODE OF JUDICIAL CONDUCT

Case no. 81,685

**RESPONSE OF MARK ZIMMERMAN**

COMES NOW, MARK ZIMMERMAN, as a pro se litigant, a citizen of this Great State of Florida, and a concerned parent and member of the general public, and hereby responds to the Proposed Amendments to the Code of Judicial Conduct as filed herein and shows this Honorable Court the following:

1. The undersigned fully supports all the said proposed amendments to The Code of Judicial Conduct as drafted, except Canon 3(D)(2) and Canon 3(E)(1); Canon 3(D)(2)

2. As proposed, Canon 3(D)(2) would be amended to read as follows:

"A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of the Rules Regulating The Florida Bar **"SHOULD"** take appropriate action-'  
(emphasis added)

The use of the word "**SHOULD**" leaves a judge a **loophole** whereby a judge can **wiggle and squirm around and protect a friend, member of the Good ole' boy system and convolute his judicial requirement of reporting or taking proper action** in a case wherein

a lawyer has committed a violation of the Rules Regulating The Florida Bar or against a lawyer involved in criminal activity when it is brought to his attention. This **loophole** certainly **does not promote justice and righteousness** within our judicial system. In fact, those unethical and or co-conspiring judges will compromise their own **integrity** and the **integrity** of our judicial system by using this **loophole** to protect corrupt lawyers that may have an **overriding influence** with a particular judge and therein create a posture that the general public has recently become more aware of. During the past several years (1982-present) this undersigned citizen of this state and victim of judicial misconduct has appeared in the Florida courts, the undersigned has seen judges in a number of cases fail to report or take any action whatsoever against Florida Bar lawyers who had committed both unethical and criminal conduct requiring that this litigant go so far as to file a Federal court action against these rotten apples in the barrel of judicial practice. Pursuant to **18 U.S.C. Section 4**, it constitutes a **felony** on the part of a judge who has knowledge of the violation of federal law if the judge does not report the violation, yet I personally question when and where it shows that a judge is not politically aware of his responsibility to protect the Good ole' boys overriding his professional oath to maintain the public's best interests. It is not in the best interest of justices to adopt a Code of Judicial Conduct that leaves to the **discretion** of a judge whether the judge will or whether the judge will not report and take proper action against a lawyer who has violated the Rules Regulating the Florida Bar or against a lawyer involved in criminal conduct. It should be **mandatory** that a judge reports and takes proper action against a lawyer who has

violated the Rules Regulating The Florida Bar or against a lawyer who has violated the laws of the State of Florida or against a lawyer who has violated the laws of the United States. Therefore, with a view to eliminating the corruption that exists in the courts of Florida, and possibly touching all of the other States of our Great nation, as of today, Canon 3(D)(2) of the Code of Judicial Conduct should be amended to read as follows:

'A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of The Rules Regulating The Florida Bar **SHALL** take appropriate action which action **SHALL** include reporting the violation to The Florida Bar, to the State Attorney or to the U.S. Attorney as appropriate.'

### CANON 3(E)(1)

Thus establishing for the whole nation to see, that Florida Court's are on the leading edge of Judicial Candor and accountability.

3. As proposed, Canon 3(E)(1) would ~~be~~ amended to **read** as follows:

'A judge "SHOULD" disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:'  
(emphasis added)

The **integrity**, in fact, the continued existence of our present system of justice requires that the judge or justice who presides in a case within our courts be impartial and honest. It is

**mandatory** that a judge whose impartiality might reasonably be questioned in a case be disqualified. It is **mandatory** that a judge be disqualified in a case where the judge has a personal bias or prejudice concerning a party or a party's lawyer. It is **mandatory** that a judge be disqualified in a case where the judge has personal knowledge of disputed evidentiary facts concerning the proceeding. It is **mandatory** that a judge be disqualified in a case where the judge served as a lawyer or was the lower court judge in the matter in controversy, or a lawyer concerning the matter, or the judge has been a material witness concerning the matter in controversy. It is also **mandatory** that a judge be disqualified in a case wherein a lawyer that is appearing in the case before the judge has been **overriding influence** with the judge.

The use of the word **'SHOULD'** as prosed in **Canon 3(E)(1)** leaves a judge a **loophole** whereby a judge can **wiggle and squirm around disqualification and therein obstruct the true flow of justice until he personally could find reason to require justice be furthered** in a case wherein the judge should disqualify himself or herself **sua sponte** without the necessity of a motion for disqualification being filed by a party in the case. It is not in the best interest of justice to adopt a Code of Judicial Conduct that leaves to the **discretion** of a judge whether the judge will or whether the Judge will not disqualify himself or herself in the circumstances as set out herein above. In each and every one of the above stated circumstances, the disqualifications of the judge is **mandatory sua sponte** if our present system of justice is to maintain **integrity and honesty**. Therefore, with a view to eliminating the corruption that exists in the courts of Florida today,

integrity demands that Canon 3(E)(1) of the Code of Judicial Conduct be amended to read as follows:

'A judge SHALL disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:'

The undersigned recommends that Canon 3(E)(1)(a) and Canon 3(E)(1)(b) be adopted as drafted and that a Canon 3(E)(1)(c) be added to read as follows:

"(c) a lawyer that is appearing in the case before the judge has an overriding influence with the judge.'

4. Further-, the undersigned recommends that the following words be adopted as part of the 'PREAMBLE' to the Code of Judicial Conduct:

'You must not pervert judgment- You must not be partial or accept a bribe, for the bribe blinds the eyes of wise ones and distorts the words of righteous ones- Justice - justice you should pursue...'

The above quoted words contain a perfect job description for judges and justices. The said words are quoted from the New World Translation of The Book of Perfect Law, commonly called The Holy Bible, which words are recorded in the book of Deuteronomy, Chapter 16, Verses 19 and 20.

If all our judges and justices would daily read, daily follow and

daily implement the above quoted words, corruption with our system of justice and corruption within our present society would be greatly reduced which would in turn earn the respect of "We The People" for our judges and justices. We The People appreciate very, very much our Judges and Justices who are Honest and Honorable. "WE THE PEOPLE" are pained when we read accounts regarding judges such as required to be run off the bench for their transgressions, of which several most recently were in Citrus County and the Metro-Dade area. This citizen fully believes that if the Judicial qualifications Commission were properly funded by our state the improper actions of the few would be addressed and the public's respect for the many would be restored in full. The proposed amendments to our Code of Judicial Conduct is of utmost importance to WE THE PEOPLE of which I personally am proud to be considered one.

Let us not forget that the oath of your office mandates that you firstly protect and uphold the constitution of this Great Nation, Secondly uphold the Constitution of this Great State, and lastly, if you as justices and judges, convolute or fail to effectuate issue one, or issue two, the result is our Liberty and Greatness as a Nation falls to a lower ideal and as citizens our respect for your authority dwindles to a lower level as well.

Respectfully submitted this 30<sup>th</sup> day of June, 1993.



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