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## Amendments to Code of Judicial Conduct

CHIEF JUSTICE: GOOD MORNING.

MARSHAL: PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING EVERYONE. WE UNDERSTAND AND WE APPRECIATE THE FACT THAT YOU ALL HAVE AGREED IN THE DIVISION OF TIME, DOWN TO THE FINITE SECONDS AND MINUTES. [LAUGHTER] AS WELL ORGANIZED AS THIS GROUP IS, I KNOW THAT HE THIS WILL WORK PERFECTLY, BUT AS A BACKUP --' [LAUGHTER] -- THE MARSHAL IS OVER THERE. I REMIND YOU THAT HE WILL HOPEFULLY BE ABLE TO ASSIST YOU BY USING OUR LIGHT SYSTEM HERE. AND THE RED LIGHT WILL BURN OFTEN, SO WITH THAT, I APPRECIATE YOUR WORK ON THIS VERY IMPORTANT ISSUE, SO WE WILL GO AHEAD WITH THE AMENDMENTS TO THE CODE OF JUDICIAL CONDUCT. WHOEVER AGREED TO GO FIRST MAY GO FIRST.

MAY IT PLEASE THE COURT. I AM JEFFREY SCHWARTZ, A MIAMI-DADE COUNTY COURT JUDGE. EARLIER THIS YEAR, UNDER THE AUSPICES OF THE IMMEDIATE PAST YEAR, JUDGE CHARLES CONOVER OF THE FIRST DCA AND JUDGE SCOTT SILVERMAN, WHO WAS THEN CHAIR OF THE JUDICIAL ETHICS ADVISORY COMMITTEE, CANON 4 OF THE CODE OF JUDICIAL CONDUCT WAS PROPOSED TO THIS COURT, TO ENCOURAGE TO PARTICIPATE IN ACTIVITIES DESIGNED TO IMPROVE THE LAW OF THE LEGAL SYSTEM AND THE ADMINISTRATION OF JUSTICE. SEVERAL MONTHS LATER, THE TASK FORCE ON JUDGES FILED ITS PETITION, SEEKING MANDATORY REPORTING FOR ALL JUDICIAL OFFICERS OR A CONTRIBUTION TO A LEGAL AID SOCIETY OR SORT.

IN TERMS OF WHERE THE CONTROVERSY, IT SEEMS LIKE MOST EVERYONE AGREES WITH THE PETITION THAT YOU FILED. THE BIGGEST CONCERN THAT SEEMS TO BE WITH EXPANDING THE CODE ANY FURTHER -- IS YOUR TIME UP?

YES, JUSTICE PARIENTE, IT IS. [LAUGHTER]

IS THERE SOMEONE ELSE?

I AM JUST INTRODUCTION PERSON, JUST PIECE PARIENTE.

WHY DON'T WE, THEN, IS JUDGE SILVERMAN GOING --

WE WILL GO RIGHT TO SILVERMAN.

I WILL SAVE JUDGE SCHWARTZ. LET ME INTRODUCE CHICAGO MI SELF FIRST. MY NAME IS SCOTT SILVERMAN. MAY IT PLEASE THE COURT. I AM A CIRCUIT JUDGE FROM MIAMI-DADE COUNTY, FLORIDA. I AM THE PAST CHAIR OF THE JUDICIAL ETHICS ADVISORY COMMITTEE, AND IT IS A PLEASURE TO BE HERE. YOUR QUESTION, JUDGE PARIENTE.

DID YOU HEAR THE FIRST PART? THE QUESTION IS WHETHER THE PARTS IN THE TASK FORCE'S REPORT THAT HAVE TO DO WITH FURTHER DISCUSSION OF WHAT IS PERMITTED AND WHAT IS ENCOURAGED, HAS THE JUDICIAL ETHICS ADVISORY COMMISSION LOOKED AT THAT, TO SEE IF THAT IS, OTHER THAN THE MANDATORY REPORTING PART, IF THAT IS CONSISTENT WITH THE INTENT. IN OTHER WORDS THERE SEEMS TO BE A MORE SPECIFIC STATEMENT, OR HAS, HAVE YOU HAD A CHANCE TO REALLY REVIEW IT, TO SEE IF OTHER THAN THE MANDATORY REPORTING,

WHETHER SOME OF THE SPECIFICS THAT SEEMS TO BE IN THE TASK FORCE REPORT, WOULD BE OBJECTIONABLE TO THE JUDICIAL ETHICS ADVISORY COMMISSION.

I WILL OBVIOUSLY DEFER THIS TO MR. EAT SON, BUT I WILL -- TO MR. EIDSON, BUT I WILL QUESTION AS BEST I CAN. WE ARE SEEKING TO AMEND THE CODE OF CONDUCT, THAT IS THE JUDICIAL ETHICS ADVISORY COMMITTEE, SO THAT WE NO LONGER PASSIVELY RECOGNIZE THAT JUDGES AS JUDICIAL OFFICERS, MAY ENGAGE INSERT ACTIVITIES TO IMPROVE THE LAW OR THE ADMINISTRATION OF JUSTICE OR TO TEACH AND SPEAK AND YES AS RELATES TO EXTRA JUDICIAL ACTIVITIES, BUT RATHER WE -- TO TEACH OR SPEAK AND AS RELATES TO EXTRA JUDICIAL ACTIVITIES, MONITORING OR WHAT HAVE YOU, OUR POSITION DOES NOT COMPROMISE THE INTEGRITY OR INDEPENDENCE OR IMPARTIALITY OF THE JUDICIARY. THAT IS OF CONCERN TO US. OUR POSITION COVERS THE ENTIRE STATE OF FLORIDA. IT DOES NOT PROVIDE BENEFITS TO ANY PARTICULAR ORGANIZATION, CLASS OR PARTY OR ANY PARTICULAR PEOPLE, SO THAT ANY PARTICULAR CLASS OF PEOPLE IN FLORIDA WILL BENEFIT, NOT JUST OUR PARTICULAR ORGANIZATION.

DOES ADDING THE REPORTING REQUIREMENT OR THE PAYMENT OF THE MONEY CHANGE THIS FROM AN ENCOURAGEMENT TO PARTICIPATE IN THESE ACTIVITIES, TO ACTUALLY MANDATING PARTICIPATION? IN THESE KINDS OF ACTIVITIES.

I THINK IT IS MORE APPROPRIATE FOR MR. EIDSON TO ADDRESS THESE MATTERS, BUT I WILL SAY THIS, THAT WHEN YOU HAVE AN ASPIRATIONAL GOAL OF PAYING MONEY TO AN ORGANIZATION, WHEN YOU HAVE AN ASPIRATIONAL GOAL OF KEEPING TRACK OF SPECIFIC HOURS, IT WILL HAVE AN IMPACT ON THE JUDICIARY, PARTICULARLY IT WILL HAVE AN IMPACT ON WHO GETS THESE DOLLARS AND WHO GETS THESE HOURS ON THE PART OF JUDGES. IT COULD RAISE SIGNIFICANT CONCERNS OF IMPARTIALITY OF THE JUDICIARY. AND THAT IS OUR GREAT CONCERN.

BUT HOW DO WE KEEP, I GUESS THE PROBLEM THAT I HAVE IS TRYING TO UNDERSTAND WHAT IS ACTUALLY HAPPENING OUT THERE IN THE LAST TEN YEARS, IS BECAUSE NOBODY IS REALLY KEEPING TRACK, WE DON'T HAVE A WAY TO TELL THE PUBLIC ALL OF THE GREAT THINGS THAT JUDGES AND LAW CLERKS HAVE DONE TO, IN FACT, BETTER THE SYSTEM OF JUSTICE.

YOU KNOW, I AM NOT AWARE OF ANY IMPERICAL EVIDENCE AT ALL THAT THERE IS A PROBLEM, SIMPLY STATED, AND I CAN LOOK AT EACH JUSTICE HERE AND I KNOW THAT YOU SPEAK PUBLICLY, YOU GO AROUND THE STATE, YOU TELL ABOUT THE ROLE OF THE COURT AND THE CHALLENGES THAT THE COURT IS FACING. I KNOW ALL OF DO YOU. THAT I AM IN A CIRCUIT WHERE WE HAVE TREMENDOUS COMMUNITY INVOLVEMENT AND I WILL TELL YOU WE NEED TO HAVE COMMUNITY INVOLVEMENT AS A JUDICIARY, BECAUSE WE NEED TO EXPLAIN TO THE PEOPLE OF OUR STATE WHAT WE DO AND HOW WE DO IT AND WHY IT IS IMPORTANT, WHAT WE DO. I AM NOT AWARE THAT IT IS REALLY A PROBLEM. I AM BEING PULLED DOWN BY JUDGE SCHWARTZ.

CHIEF JUSTICE: THE RED LIGHT IS ON.

AND I ALWAYS PAY ATTENTION TO RED LIGHTS. THANK YOU.

HOW MANY MINUTES DO YOU HAVE?

I REALLY DON'T HAVE A CLUE, JUSTICE PARIENTE. [LAUGHTER]

CHIEF JUSTICE: WE HAVE GOT TO BE CAREFUL ABOUT IT.

I KNOW THAT HE IS A TOUGH ADMISSION BUT IT IS THE DAY AFTER THE VOTE. MAY IT PLEASE THE COURT. MY NAME IS BILL VANORITY WICK, AND I AM -- BILL VAN ORTWICK, AND I AM CHAIRMAN OF THESE TWO COMMITTEES. THE DIFFERENCE IS THE GOAL. TO ENGAGE ACTIVITIES

THAT INCLUDE TEACHING AND SPEAKING, WILL IMPROVE THE SYSTEM OF JUSTICE, BUT OUR PROPOSAL IS MORE SPECIFICALLY ADDRESSED TO IMPROVING ACCESS TO JUSTICES. AND THIS FOCUS COMES FROM YOUR ADMINISTRATIVE ORDER, IN WHICH YOU DIRECTED THE TASK FORCE, QUOTE, TO STUDY HOW A PRO BONO COMMITMENT OR SIMILAR UNDERTAKING CAN BE CARRIED OUT BY JUDGES AND JUDICIAL STAFF, AND TO CONSIDER THE NEED FOR RULES RELATING TO PRO BONO SERVICE BY JUDGES AND JUDICIAL STAFF, AND, OF COURSE, IT ALL GOES BACK TO YOUR 1993 PRO BONO OPINION THAT ADOPTED THE LAWYERS ETHICAL PRO BONO RULE.

SO ARE WE TALKING ABOUT PRO BONO LEGAL SERVICES? I KNOW THERE IS SOME DISTINCTION MADE HERE, BETWEEN PRO BONO LEGAL SERVICES AND PRO BONO SERVICES. WHAT ARE YOU ASKING --

SOME OF THE COMMENTS --

-- JUDGES TO DO?

-- HAVE INCLUDED THAT, AND TO THE EXTENT IT CREATES CONFUSION, WE REGRET THAT. WE ARE REALLY TALKING ABOUT ACTIVITIES BY JUDGE THAT IS DON'T SERVE A PARTICULAR PERSON OR A PARTICULAR GROUP BUT THAT ENHANCE ACCESS. THE ISSUE OF IMPARTIALITY, I THINK, IS STANDING REALITY ON ITS HEAD. WHAT WE ARE PROPOSING IS THAT JUDGES GET INTO THE COMMUNITY, TO SET, IMPROVE THE SYSTEM, SO THAT PEOPLE WHO ARE NOW DENIED ACCESS MIGHT HAVE ACCESS. WHETHER THAT BE TALKING TO LAWYERS ABOUT DOING PRO BONO, WHETHER THAT BE WORKING TO IMPROVE THE WAY PRO SAY OR SELF REPRESENTED LITIGANTS DEAL WITH THE SYSTEM, OR TEACHING IN SCHOOLS, OR CIVIC GROUPS, TO THE EXTENT THAT ACCESS CAN BE IMPROVED, OF COURSE, I GUESS, SINCE THE POOR ARE DISPROPORTIONATELY DENIED ACCESS, I ASSUME, I GUESS YOU COULD COME UP WITH AN ARGUMENT THAT THERE FOR IT IS IMPARTIAL, BUT THAT SEEMS, TO ME, TO STAND IMPARTIALITY ON ITS HEAD.

HAVE YOU MET, WE ARE BLENDING TOGETHER, NOW, IN YOUR PROPOSAL, WHAT LAW CLERKS DO VERSUS JUDGES. ARE YOU GOING TO DO THAT SEPARATELY, TALK ABOUT, BECAUSE THAT IS NOT REALLY AT ISSUE IN THE PETITION. BUT IT IS AT ISSUE IN YOUR TASK FORCE, AS TO DIVIDING, AND WHETHER, I KNOW LAW CLERKS HAVE, INSERT OF THE APPELLATE COURTS AND CERTAIN OF THE CIRCUIT COURTS AROUND THE STATE HAVE, BEEN PARTICIPATING IN PRO BONO LEGAL SERVICES ON A LIMITED BASIS, BUT IT APPEARS THAT THE, ALL THE JUDGES AND EVERYONE WHO HAS FILED, JUST OPPOSING THAT THIS BE PLACED -- JUST POSING THAT THIS BE PLACED AS A SPECIFIC GOAL IN THE RULES.

WELL, THE TASK FORCE PROPOSAL, IN EFFECT, TREATS STAFF ATTORNEYS AS JUDGES, BECAUSE WE READ THE, THIS COURT'S OPINION, AS TREATING THEM THE SAME FOR THE PURPOSES OF THE RESTRICTIONS IMPOSED BY THE CANONS. HOWEVER, THERE WAS, THE JUDICIAL ETHICS ADVISORY COMMITTEE, IN A SEPARATE DOCKET, HAD PROPOSED A CODE OF CONDUCT. WE REALIZE THEY HAVE NOW WITHDRAWN THAT, BUT ORIGINALLY IN THAT PROPOSAL WAS A MORE DETAILED WAY, A MORE DETAILED PROPOSAL FOR STAFF ATTORNEY PRO BONO, MODELED ROUGHLY ON THE FEDERAL CODE OF CONDUCT, WHICH HAS SOME SPECIFIC PROVISIONS GOVERNING STAFF ATTORNEY PRO BONO.

CHIEF JUSTICE: BRINGING YOU BACK TO THE JUDICIAL ISSUE, WHICH IS, IT SEEMS TO ME, IS THE MAIN ONE, WOULD YOU AGREE, THAT WE ARE REALLY ON.

YES, YOUR HONOR.

SO IN TRYING, TO A GREAT DEGREE, JUST AS THERE WAS GREAT DEBATE OVER THE IMPOSITION OF REPORTING REQUIREMENTS ON LAWYERS AT THE TIME THAT WE ORIGINALLY DEBATED THIS, ONE OF THE CONCERNS EXPRESSED OUT THERE IS THAT IT IS THE POLICING ASPECT OF THIS, AND THAT THERE IS A QUALITATIVE DIFFERENCE BETWEEN LAWYERS AND, WHO ARE ENGAGED IN THE

PRACTICE OF LAW, AND PUBLIC SERVE ANSWER LIKE JUDICIAL OFFICERS, WHO TRULY ARE JUDICIAL OFFICERS 24 HOURS A DAY, AND ARE NOT ENGAGED IN PRIVATE PRACTICE OF LAW OR PRIVATE BUSINESS. I AM CONCERNED THAT THE POLICING ASPECT HERE MAY END UP HAVING A NEGATIVE SIDE EFFECT WITHIN THE JUDICIAL CULTURE. THAT IS THAT PUBLIC OFFICERS THAT ARE PUBLIC OFFICERS, 24 HOURS A DAY, ARE ALSO HAVING THESE REQUIREMENTS IMPOSED ON THEM, AND THAT IT IS SORT OF AN INSULT TO THEM THAT THEY ARE RECOGNIZING THEIR RESPONSIBILITIES 24 HOURS A DAY AND WORKING HARD AT THEIR PUBLIC RESPONSIBILITIES, AND YET THEY ARE GOING TO BE POLICED IN THIS REPORTING WAY, AND THEY DON'T HAVE NEARLY, REALLY, THE FREEDOM OF ACTION THAT LAWYERS DO, IN TERMS OF ORGANIZING THEIR TIME AND ACTIVITIES. AND I AM CONCERNED ABOUT THAT. AND THAT THIS COULD BECOME A DEVISIVE, AND A DISTRACTION AMONGST THESE VERY IMPORTANT PUBLIC SERVANTS THAT CAR I OUR JUDICIAL SYSTEM ON THEIR SHOULDERS. WOULD YOU ADDRESS THAT?

WELL, AS YOU NOTED, CHIEF JUSTICE ANSTEAD, THAT SAME TYPE OF ARGUMENT WAS MADE BY THE KBAR, AND FRANKLY -- BY THE BAR, AND FRANKLY, IN THE HISTORY OF THE FLORIDA PRO BONO SYSTEM, WHICH IS UNIQUE IN THE UNITED STATES, WITH ITS MANDATORY REPORTING REQUIREMENTS, THERE HAVE BEEN NO EXAMPLE E ELSE THAT I AM -- EXAMPLES THAT I AM AWARE OF, OF THESE HORRIBLE CONSEQUENCES, AND I REALIZE JUDGES ARE DIFFERENT THAN LAWYERS. THERE IS NO DOUBT ABOUT THAT, BUT JUDGES HAVE MANDATORY CONTINUING JUDICIAL EDUCATION, AND THAT HASN'T, TO ME, SEEMED TO IMPOSE AN INSULT ON THEIR PROFESSIONAL CHARACTER. MOST JUDGES, I BELIEVE, MANY JUDGES, ANYWAY, DO THE TYPES OF THINGS THAT WE HAVE LISTED HERE ALREADY. AND DO MORE THAN 20 HOURS. 20 HOURS IS NOT A MASSIVE AMOUNT OF TIME, SPREAD OVER AN ENTIRE YEAR. IF YOU GIVE THREE OR FOUR SPEECHES TO, OR TEACH IN A CLASSROOM, AND YOUR PREPARATION TIME IS COUNTED, IT IS NOT A TIME PROBLEM, AND I FRANKLY --

I AM HAVING DIFFICULTY SETTING OUT SORT OF THE DIFFERENCE HERE, BETWEEN, DOES THE JUDGE NOW CHOOSE, HE HAS GOT A JURY TRIAL TO BEGIN TOMORROW, AND SO SHE IS SITTING AT HOME, AND DOES SHE CHOOSE, NOW, TO DEVOTE HER TIME TO REVIEWING ALL THE MOTIONS AND THE MATTERS THAT ARE COMING UP IN THAT JURY TRIAL, THAT IS GOING TO START TOMORROW MORNING, TO BE SURE THAT THERE IS NO ISSUE THAT SHE CAN SEE IN THAT CASE THAT SHE IS NOT GOING TO BE PREPARED ON, OR NOW, BECAUSE OF THIS REPORTING REQUIREMENT, DOES SHE SAY, NO, MY OPTIONS ARE NOW LIMITED. INSTEAD OF CONTRIBUTING TO THAT PART OF THE SYSTEM, I AM GOING TO GO AND SPEAK TO A CIVIC CLUB. YOU KNOW, THAT NIGHT, INSTEAD OF DOING THIS. AS I SAY, I AM CONCERNED THAT THERE IS A QUALITATIVE DIFFERENCE BETWEEN THESE PUBLIC OFFICERS AND LAWYERS, IN TERMS OF IMPOSING THESE REQUIREMENTS.

WELL, I CERTAINLY DON'T DISAGREE WITH THE CONCLUSION THAT THERE IS A QUALITATIVE DIFFERENCE, BUT WITH 20 HOURS INVOLVED, IT SEEMS TO ME THAT THE ISSUE IS A TIME MANAGEMENT ISSUE. IF THAT IS WHAT IS INVOLVED. JUST LIKE THE READING FOR CONTINUING JUDICIAL EDUCATION REQUIRES A CERTAIN AMOUNT OF TIME, AND I CERTAINLY WOULDN'T EXPECT A JUDGE WHO IS PREPARING FOR A TRIAL THE NEXT DAY, TO TAKE TIME OUT AT THAT PARTICULAR MOMENT, TO DO THAT READING, BUT I CERTAINLY WOULD THINK THAT MOST JUDGES HAVE THE ABILITY TO MANAGE THEIR TIME, SO THAT THEY COULD DO THESE TYPES OF ACTIVITIES.

JUDGE VAN NORTWICK, YOU HAVE MADE THE STATEMENT IN A PRIOR ANSWER, TO THE EFFECT THAT JUDGES ARE ALREADY DOING THESE THINGS. WHAT IS OUR PURPOSE, IF THE JUDICIARY IS ENGAGED IN THIS KIND OF ACTIVITY, IS THE RECORDKEEPING ONE THAT WE REALLY WANT TO BEAT OUR DRUM, BECAUSE IT SEEMS TO ME THAT OUR EFFORTS RATHER THAN SELF-PROMOTION, SHOULD BE CONTENT OF DELIVERY, AND THAT OUR RESOURCES DIRECTED TO PROVIDING THE BACKGROUND, THE, ALL OF THE RESOURCES THAT THESE PEOPLE MAY NEED, RATHER THAN KEEPING THEIR HOURS OR COLLECTING A MONETARY AMOUNT, IF OUR GOAL IS TRULY DELIVERY

OF SOME KIND OF ADDITIONAL SERVICE TO THE PUBLIC. SO THAT IS, WHAT IS THE PURPOSE, IF IT IS NOT, IF WE ARE ALREADY DOING IT, WHY DO WE NEED TO KEEP HOURS, I GUESS, IS THE --

THE EVIDENCE ON THE LAWYERS RULE IS THAT REPORTING HAD SEVERAL VERY POSITIVE IMPACTS ON THE INVOLVEMENT AND INCREASE IN WHAT WE CALL THE PRO BONO CULTURE. FLORIDA HAS, AND I NOTICE MY RED LIGHT IS ON MAY I FINISH THIS ANSWER, PLEASE. FLORIDA HAS A MUCH HIGHER PARTICIPATION OF ITS LAWYERS. WE BELIEVE THAT IN PART, IT IS DUE TO THE REPORTING. SECONDLY, FLORIDA HAS BETTER INFORMATION ABOUT WHAT IS GOING ON, AND IT MEANS THAT FLORIDA CAN, THEN, FIGURE OUT HOW TO IMPROVE ITS SYSTEM, AND THAT INFORMATION IS PRIMARILY DEVELOPED THROUGH THE REPORTING SYSTEM. WE BELIEVE THAT WE CAN DEVELOP THE SAME TYPE OF INFORMATION THROUGH THE REPORTING SYSTEM HERE, AND FRANKLY WE FELT LIKE IT WORKED SO WELL WITH THE LAWYERS, THAT IT COULD BE ADOPTED FOR ANY JUDICIAL RULE.

EVEN THOUGH WE DON'T WORK ON CASE FILES AND ADDRESS OURSELVES TO REPRESENTING THOSE WHO DO NOT HAVE REPRESENTATION, IT WOULD STILL SERVE THE SAME FUNCTION, IN YOUR ESTIMATION.

I THINK IT WOULD. THE JUDICIAL LEADERSHIP WHICH WE ARE HOPING TO CREATE, THERE ARE MANY JUDGES WHO ARE INVOLVED. WE WOULD LIKE TO SEE MANY MORE INVOLVED. I MEAN, JUST IDEA OF HAVING OVER 800 JUDGES AVAILABLE TO TALK AND TEACH IN THE SCHOOL SYSTEM, ABOUT THE JUDICIAL SYSTEM AND THE IMPORTANCE OF ACCESS AND THE INDEPENDENCE OF THE JUDICIARY. I THINK WE WILL, WOULD GREATLY ENHANCE ACCESS AND THE CULTURE OF PRO BONO THAT WE ARE, THAT THE TASK FORCE WAS INTERESTED IN. THANK YOU.

CHIEF JUSTICE: WE HAVE TO RECOGNIZE THESE TIMES.

I UNDERSTAND.

GOOD MORNING. MAY IT PLEASE THE COURT. JOHN HAMILTON, ON BEHALF THE LEGAL AID SOCIETY OF THE ORANGE COUNTY BAR ASSOCIATION. I HOPE TO SPEAK VERY BRIEFLY, IN SUPPORT OF THE AMENDMENTS PROPOSED BY THE TASK FORCE. MY FRAME OF REFERENCE HERE, IS THE ENTITY THAT I REPRESENT, AND MY LOCATION IN ORANGE COUNTY, WHERE THERE IS A VERY STRONG CULTURE OF PRO BONO SERVICE BY THE LEGAL PROFESSION. AND IT IS MY FIRM BELIEF THAT THAT CULTURE WOULD NOT EXIST, WITHOUT THE STRONG SUPPORT AND INVOLVEMENT OF THE JUDICIARY IN ORANGE COUNTY.

ISN'T THERE ALREADY A STRONG CULTURE IN ORANGE COUNTY OF JUDICIAL LEADERSHIP ON THESE ISSUES?

PRECISELY, AND I THINK PART OF THE GOAL, PERHAPS, SHOULD BE TO MAKE THE CULTURE IN ORANGE COUNTY MORE OF A STATEWIDE CULTURE, AND I THINK TO DO THAT, YOU HAVE TO HAVE THE INVOLVEMENT AND LIST THE INVOLVEMENT OF THE JUDICIARY ON A STATEWIDE BASIS.

WHAT DO THE JUDGE INS ORANGE COUNTY DO, FROM THE POINT OF VIEW OF LEGAL AID, IS OF POSITIVE ASSISTANCE? BECAUSE THERE IS SOME CONCERN THAT SIMPLY, YOU KNOW, GOING INTO SCHOOLS TO TEACH STUDENTS, REALLY, ISN'T THE KIND OF ACCESS TO JUSTICE THAT IS GOING TO HELP THE LEGAL AID SOCIETY OR, YOU KNOW, UNREPRESENTED LITIGANTS. WHAT KIND OF ACTIVITIES DO YOU SEE AS BEING PARTICULARLY HELPFUL FOR JUDGE TO SAY ENGAGE IN?

I AM NOT SURE I COULD ENUMERATE ALL OF THE ACTIVITIES THAT ARE ENGAGED IN BY THE JUDGE INS ORANGE COUNTY, BUT I THINK I CAN LIST AT FEW. THEY DO INVOLVE THEMSELVES IN OUR TEAM COURT PROGRAM. I THINK THE JUDGES THAT SIT ON THE CRIMINAL BENCH DO NOT DO

THAT BUT OTHER JUDGES DO. THERE ARE SPEAKING ENGAGEMENTS. LAW DOWE PRESENTATIONS.  
-- LAW DAY PRESENTATIONS.

HOW DOES LAW DAY -- I THINK WHAT WE GET BACK TO IS WHETHER THIS IS TRULY SOMETHING THAT IS GOING TO HAVE MEANINGFUL, ENSURE MEANINGFUL ACCESS OR IS IT WINDOW DRESSING, NOT THAT THERE IS SOMETHING WRONG WITH LAW DAY, BUT IS THAT THE KIND OF THING THAT YOU ARE ENVISIONING WOULD BE PART OF WHAT A JUDGE WOULD REPORT, THEIR GOING TO SCHOOLS AND LAW DAY, AND HOW DOES THAT HELP THE UNREPRESENTED LITIGANTS THROUGHOUT THE STATE?

MY ANSWER TO THAT IS THAT I THINK ANYTHING THAT A PERSON DOES, JUDGE OR LAWYER, THAT INCREASES THE KNOWLEDGE OF THE PEOPLE, ABOUT THEIR ACCESS, ABOUT THEIR RIGHTS, ABOUT THEIR ABILITY TO PURSUE JUSTICE WITHIN OUR COURTS, SERVES THAT GOAL, BECAUSE THOSE WHO ARE MOST IN NEED OF THAT INFORMATION, OF THAT KNOWLEDGE, ARE THOSE THAT THE PRO BONO DECISIONS OF THIS COURT, OR THE DECISIONS OF THIS COURT REGARDING PRO BONO, ARE DESIGNED TO SERVE. SO IT IS ADMITTEDLY NOT AS DIRECT A RELATIONSHIP TO THE PROVISION OF LEGAL SERVICES TO THE POOR AND THE PROBLEM IN INDIGENT REPRESENTATION, AS WHEN AN ATTORNEY ACCEPTS A CASE TO REPRESENT AN INDIGENT CLIENT WHO IS BEING EVICTED FROM HIS HOME, BUT THERE IS A CORRELATION AND THERE IS A RELATIONSHIP, AND THERE ARE LIMITATIONS ON WHAT JUDGES CAN DO, BUT THAT DOESN'T MEAN THEY HAVE TO STEP OUTSIDE THE PROCESS ALTHOUGH AND ---ALL TOGETHER AND NOT PERFORM THESE KINDS OF SERVICES. WE HAVE A JUDGE SERVES AS A MEMBER OF THE BOARD OF TRUSTEES FOR THE LEGAL AID SOCIETY, EVER SINCE IT WAS FOUNDED, AS I UNDERSTAND IT, SINCE 1961.

PART OF YOUR POINT, IF I UNDERSTAND IT CORRECTLY, AND I WILL LET YOU ANSWER MY QUESTION, IS THAT THERE TRULYY IS A DIFFERENCE IN THE CULTURE OF PARTICULAR COMMUNITIES, WHERE THE JUDGES ARE ENTHUSIASTIC IN THEIR SUPPORT OF PRO BONO AND LEGAL AID AND OTHER EFFORTS LIKE THIS, AND AREAS OF THE STATE WHERE THE JUDGES ARE NOT ENTHUSIASTICALLY ONBOARD.

THAT IS MY POINT, YOUR HONOR, YES. THANK YOU.

CHIEF JUSTICE: GOOD MORNING.

GOOD MORNING, YOUR HONOR. MY NAME IS MIKE EIDSON, AND I AM AN ATTORNEY IN CORAL GABLES, FLORIDA. I AM HERE SPEAKING ON BEHALF OF THE JUDICIAL ETHICS ADVISORY COMMITTEE AND THE REPORT THAT THEY PRESENTED TO YOUR HONORS ON THIS SUBJECT. I THINK THE QUESTION HERE IS WHAT WE HAVE GOT IS WE HAVE GOT THE JUDICIAL ETHICS ADVISORY COMMITTEE REPORT, WHICH IS BACKED BY THE THREE JUDICIAL CONFERENCES IN FLORIDA, UNANIMOUSLY BY THE FLORIDA BAR, AND WE HAVE GOT THE TASK FORCE REPORT. BOTHWELL-MEANING. AND -- BOTH WELL MEANING, AND THE QUESTION IS DO WE NEED ONE OR THE OTHER OR BOTH OF THEM. I AM HERE SPEAKING ON BEHALF OF THE JAC. I DON'T THINK WE NEED EITHER ONE OF THEM. HAVING BEEN A MEMBER OF THE FLORIDA BAR FOR 28 YEARS AND DEEPLY INVOLVED IN COMMUNITY ACTIVITIES, IT IS MY OBSERVATION THAT JUDGES IN ALL OF THE COMMUNITIES WHERE I PRACTICED IN FLORIDA, ARE ALREADY DEEPLY INVOLVED IN PUBLIC SERVICE. THE ORIGINAL PLAN HERE, THE REASON THAT WE HAVE THIS TASK FORCE ON PRO BONO ACTIVITIES BY JUDGES IS BECAUSE THE SUPREME COURT WAS QUESTIONING WHETHER OR NOT PRO BONO LEGAL SERVICE PLAN THAT THEY ADOPTED FOR THE BAR SHOULD BE EXTENDED TO THE JUDICIARY, BECAUSE THEY HAD DEFERRED THE JUDICIARY, BECAUSE THE JUDICIARY CANNOT PRACTICE LAW, AND ALSO BECAUSE THE CONSTITUTION REQUIRES THE JUDICIARY TO BE FULL-TIME JUDGES. THE PROBLEM WITH, THE PROBLEMS WITH, I THINK WITH THE TASK FORCE PLAN ARE WELL COVERED BY JUDGE JACQUELINE GRIFFIN, WHO WROTE COMMENTS ON THE DISTRICT COURT OF APPEAL JUDGES DIRECTED TO THIS TASK FORCE REPORT. I THINK THAT THIS WOULD COMPROMISE THE INTEGRITY OF THE COURT. I THINK, IF YOU, IT IS DIFFICULT TO,

REALLY, LOOK THERE, IF YOU ASK ME A QUESTION, WELL, TELL ME THE DIFFERENCES. YOU HAVE TO READ THE REPORTS CAREFULLY. YOU HAVE TO READ EXACTLY THE WAY THEY ARE WORDED. ONE IS ENCOURAGING AND THE OTHER TO ME IS SIMPLY A MANDATORY PUBLIC SERVICE ORDER TO THE COURTS.

JUDGE GRIFFIN'S CONCERN IS THAT JUDGES WHO ARE INVOLVED IN TRAINING ATTORNEYS, LEGAL AID ATTORNEYS THAT, THERE IS EVEN A PROBLEM WITH THAT, AND WE HAVE ACKNOWLEDGED IN OUR 1993 OPINION, THROUGH THE DADE COUNTY "PUT SOMETHING BACK", THAT JUDGES WERE INVOLVED IN ALL SORTS OF THINGS, LIKE HELPING TEACH AT PRO SE CLINICS AND TEACHING LEGAL AID ATTORNEYS, SO AS A, SOMEBODY LOOKING AT IT FROM THE PERSPECTIVE OF THE JUDICIAL ETHICS ADVISORY COMMITTEE, WERE THOSE THING THIS IS THAT WE SAID WERE GOOD THINGS, ARING THERE PROBLEMS WITH EVEN THOSE KINDS OF ACTIVITIES?

I THINK THE JUDGES HAVE A PROBLEM WITH THAT. I THINK THE WAY IT STANDS NOW, THOUGH, IS THE JUDGE MAKES THEIR OWN VOLUNTARY CHOICE WHAT ACTIVITY THEY ARE GOING TO PARTICIPATE IN, RATHER THAN BEING DIRECTED TO DO SOMETHING BY THIS MANDATORY PROGRAM. REALLY IT IS ASPIRATIONAL, BUT THE FACT IS THAT JUDGES RUN FOR OFFICE IN THIS STATE, AND EVERYTHING THEY DO IS SUBJECT TO PUBLIC SCRUTINY.

BUT WE ARE ENCOURAGING LAWYERS ALL THE TIME, TO ENGAGE IN PRO BONO LEGAL SERVICES. THIS COURT SITS UP HERE, IN FEBRUARY OR MARCH, AND GIVES OUT AWARDS TO ATTORNEYS AROUND THE STATE THAT ARE DOING THIS. WE ARE ENCOURAGING LAWYERS TO REPRESENT UNREPRESENTED, POOR INDIVIDUALS. IS IT YOUR, IT SEEMS TO ME THAT IF YOU TAKE WHAT JUDGE GRIFFIN IS SAYING TO A LOGICAL CONCLUSION, THAT IS ALL IMPROPER FOR THE JUDGES TO BE DOING.

IT IS IMPROPER FOR JUDGE TO SAY BE ADVERSARIES FOR ANYBODY. THEY ARE SUPPOSED TO BE ABOVE THIS. I THINK THERE IS A FUNDAMENTAL DIFFERENCE THAT HAS BEEN POINTED OUT, BETWEEN LAWYERS WHO DO THAT HAVE OBLIGATION AND SHOULD BE INVOLVED IN COMMUNITY SERVICE AND REPRESENTATION OF THE POOR, AS DIRECTED BY THE SUPREME COURT IN THEIR PROGRAM THAT WAS ADOPTED IN 1993, AND HAVING JUDGES DO THAT.

SO I AM NOT SURE, YOU ARE SPEAKING ON BEHALF OF THE JUDICIAL ETHICS ADVISORY COMMISSION, WHICH IS SAYING THAT JUDGES SHOULD BE ENCOURAGED TO ENCOURAGE LAWYERS TO ENGAGE IN LEGAL SERVICES. ARE YOU, NOW, AS A MEMBER OF THAT COMMISSION, SAYING THAT THAT WOULD BE WRONG TO PUT THAT IN OUR CODE OF JUDICIAL CONDUCT?

NO. I THINK THAT THE JEAC, WHICH COVERED THIS ON PAGE 4 OF ITS REPORT VERY WELL, I THINK, EXACTLY WHAT A JUDGE SHOULD BE ENCOURAGED TO DO, BECAUSE THAT IS WHAT THESE AMENDMENTS TO THE CANONS IN THE JEAC REPORT ENCOURAGES, THE JUDGE TO SAY BECOME MORE INVOLVED. IT DOES EVERYTHING BUT ORDER THEM, UNLIKE THE TASK FORCE PLAN, WHICH IS REALLY MANDATORY, EVEN THOUGH IT IS ASPIRATIONAL, YOU REALLY HAVE NO CHOICE, BECAUSE WHAT YOU ARE GOING TO DO IS GOING TO BE A MATTER OF PUBLIC RECORD. ANYBODY CAN SEE IT. IF YOU PICK THE WRONG LEGAL AID SOCIETY, FOUR YEARS LATER YOU COULD BE CRITICIZED FOR IT OR YOU HAVE TO PAY, WHICH I THINK IS DEMEANING AND DEBASING AND PROTECTS THE INTEGRITY OF THE COURT, WHEREAS SUPPORT SAYS PRO BONO SERVICES AS MEMBERS OF THE BENCH IS AN ACTIVITY THAT RELATES TO THE IMPROVEMENT OF ADMINISTRATION OF JUSTICE AND ENCOURAGES JUSTICES TO BE INVOLVED IN PRO BONO ACTIVITIES, WITHOUT MAKING THEM, WITHOUT MANDATING IT AND CAUSING THEM TO REPORT ON IT, AND ALSO IF YOU READ CAREFULLY, YOU CAN SEE THE DIFFERENCE IN HOW THEY ARE DIRECTED TO PARTICIPATE IN THESE PRO BONO SERVICES, NOT PRO BONO LEGAL SERVICES, BECAUSE THEY CAN'T PARTICIPATE IN THAT, BECAUSE THE CONSTITUTIONAL ADMONITION, AND I THANK YOU VERY MUCH, YOUR HONORS.

BEFORE YOU SIT DOWN, LET ME BE SURE IN CLEARING UP WHERE YOU ARE ON THIS, AND YOU ARE FAMILIAR WITH A LOT OF VIEWS, YOU KNOW, THROUGH YOUR WORK ON THIS. I DON'T UNDERSTAND YOUR POSITION TO BE THAT YOU DISAGREE WITH THE EXAMPLE THAT WAS GIVEN OF THE ENTHUSIASTIC SUPPORT FOR PRO BONO LEGAL AID AND ALL OF THESE OTHER EFFORTS TO HELP THE POOR AND OTHERS, FOR INSTANCE, IN ORANGE COUNTY, AND ATTEMPTS TO SPREAD THAT SAME CULTURE OR THE CULTURE IN DADE COUNTY, FOR INSTANCE, AROUND THE STATE OF FLORIDA. YOU ARE NOT SUGGESTING THAT THAT SHOULD NOT BE ENCOURAGED.

NOT AT ALL, YOUR HONOR, AND I THINK THE JEAC STRONGLY SUPPORTS THAT, AND I THINK IT PROTECTS THE JUDICIARY AND LAYS OUT A MORE REASONABLE, FAIR PLAN TO ACHIEVE THIS PURPOSE.

CHIEF JUSTICE: OKAY. THANK YOU.

OKAY.

CHIEF JUSTICE: GOOD MORNING.

GOOD MORNING. MAY IT PLEASE THE COURT. MY NAME IS CHRIS ALTENBERND, AND I AM HERE TODAY ON BEHALF OF THE CONFERENCE OF DISTRICT COURT OF APPEAL JUDGES. IT IS MY PRIMARY RESPONSIBILITY TODAY TO REPORT TO YOU THAT AT OUR SEPTEMBER BUSINESS MEETING, WE VOTED WITH MORE THAN THREE-QUARTERS OF OUR MEMBERS IN ATTEND'S, THAT WE WISHED TO SUPPORT THE POSITION OF THE JEAC HERE TODAY, AND THAT WE WISH TO OPPOSE THE POSITION OF THE TASK FORCE. I CAN TELL YOU THAT, SAVE FOR THE VOTE OF MY WELL-MEANING BROTHER, WHO HAS ADMITTED THAT HE DOESN'T HAVE A CLUE, IT WAS AN UNANIMOUS VOTE. [LAUGHTER]

CHIEF JUSTICE: ADMISSIONS MADE IN ORAL ARGUMENT. [LAUGHTER]

YOUR QUESTIONS HAVE ALREADY CUED IN, I THINK, ON THE PRIMARY PROBLEM HERE, WHICH I THINK IS WE ARE HAVING A GREAT DIFFICULTY DECIDING WHAT IS COMMUNITY SERVICE AS COMPARED TO WHAT IS PRO BONO SERVICE THAT IMPROVES ACCESS TO THE LEGAL SYSTEM FOR THE POOR AND THE WORKING POOR. ALL OF US DO COMMUNITY SERVICE. THERE IS NO PROBLEM THERE, AND WE SHOULD BE VERY PROUD OF THAT. THE PROBLEM ARISES, WHEN THIS COURT TELLS THE REST OF US THAT WE SHOULD FAVOR, IN SOME FASHION, THE POOR AND THE WORKING POOR, WHEN WE GO OUT TO DO COMMUNITY SERVICE, AND THAT PROBLEM IS EXACERBATED, IF WE HAVE TO FILE PUBLIC REPORTS AND COMPETE WITH ONE ANOTHER AS TO HOW MANY HOURS IT IS THAT WE PERFORM THESE SERVICES. IN THIS SITUATION, THERE IS NOTHING MORE IMPORTANT TO THE LETMACY OF THIS BRANCH OF -- LEGITIMACY OF THIS BRANCH OF SERVICE, THAT ALL OF US, 427, MUST PEANUTRAL ARBITERS AND THE PUBLIC MUST PERCEIVE THAT WE ARE NEUTRAL ASHYTERS, AND IF THIS -- ARBITERS, AND IF THIS COURT ORDERS THAT WE GO AND SPEAK ON BEHALF OF THE POOR, WHAT IS THE MIDDLE-CLASS TO THINK OF THAT?

LET'S ASSUME THAT WE DON'T HAVE A RULE LIKE THAT. WHAT DO YOU THINK ABOUT A RULE THAT SAYS WE WANT TO YOU REPORT, WHETHER YOU ENGAGE AND WHAT SERVICES YOU ENGAEL IN, AND SPEAKING TO -- IN GAUGE IN, AND SPEAKING TO HIGH -- AND WHAT SERVICES YOU ENGAGE IN, AND SPEAKING TO HIGH SCHOOLS AND LEGAL DAY AND ALL OF THAT, WE WANT YOU TO SPEAK AND INFORM THE PUBLIC ABOUT WHAT THE JUDICIARY DOES AND WE WANT YOU TO REPORT TO US ABOUT WHAT YOU HAVE DONE.

IT DEPENDS A BIT ON HOW YOU DEFINE COMMUNITY SERVICE IN THAT PROCESS. IF YOU WANT TO HAVE A REPORTING OBLIGATION FOR COMMUNITY SERVICE, THAT CERTAINLY IS A LESS TROUBLESOME THAN ONE THAT CONCERNS REPORTING ABOUT SERVICES TO THE POOR. BUT IF YOU DO THAT, YOU CREATE A PUBLIC RECORD DOCUMENT WHERE I HAVE TO SHOW I HAVE 20

HOURS, AND YOU HAVE TO UNDERSTAND THAT EVERY SINGLE ONE OF US IS A TYPE "A" PERSONALITY OR WE WOULDN'T HAVE HAD THESE JOBS. WE WILL HAVE 30 HOURS AND 40 HOURS AND 80 HOURS, AND PEOPLE SORT OF COMPETING WITH ONE ANOTHER. MANY OF THESE JUDGES ARE ELECTED. I AM NOT. BUT WE CREATE A SITUATION WHERE WE ARE PRESSUREING JUDGES TO GO OUT AND DO THINGS OTHER THAN THEIR JOB TO LOOK GOOD, AND I WILL TELL YOU THAT THE REASON WE HAVE A RULE PROHIBITING US FROM PRACTICING LAW, IS BECAUSE THE FIRST AND FOREMOST RULE TO BECOMING A NEUTRAL ARBYTER IS TO AVOID THE APPEARANCE OF IMPROPRIETY, AND IF WE PUT IN PUBLIC RECORD REQUIREMENTS AND ENGURJ COURAGE -- AND ENCOURAGE PEOPLE TO DO MORE AND MORE OF THIS, YOU WILL HAVE PEOPLE GO AND CROSS THE LINE AND SPEAKING ABOUT TENANCY ISSUES AND ANSWER CASE QUESTIONS ABOUT WHAT THEY SHOULD DO WITH THEIR EVICTION CASE. THESE THINGS WILL HAPPEN AND THE UNFORTUNATE THING THAT YOU VIEWED HERE A HALF AN HOUR AGO, WE WILL SEE AGAIN AND AGAIN HERE IN THIS COURT, BECAUSE THE PRESSURE TO DO PUBLIC SERVICE WILL CAUSE PEOPLE TO END UP VIOLATING THE CANONS, AND I THINK AS JUDGE GRIFFIN SAID IN HER REPORT, WE MAY LOSE MORE THAN WE GAIN OUT OF THAT PROCESS.

WHAT ABOUT THE POSITION ON THE LAW CLERKS, AND I KNOW THAT DIFFERENT DISTRICT COURTS OF APPEAL IN PARTICULAR, AND THE SUPREME COURT HAS ACTUALLY ENDORSED LAW CLERKS DOING WHAT IS MUCH CLOSER TO PRO BONO LEGAL SERVICES. YET WE HAVE SORT OF SAID, NO, JUDGES AND LAW CLERKS THE SAME BUT THEY ARE REALLY NOT, I MEAN, IN THIS COURT WE HAVE ALLOWED LAW CLERKS TO STAFF HOMELESS SHELTERS, BE INVOLVED IN TEEN COURT, SERVE AS GUARDIANS AD LITEM. WHAT IS THE POSITION OF THE CONFERENCE ON THAT?

THE CONFERENCE ACTUALLY OPPOSES THAT FOR THE STAFF ATTORNEYS, AS WELL AS FOR THEMSELVES, FROM AN ANECDOTAL STANDPOINT, I HAVE A STAFF ATTORNEY WHO BELIEVES DEEPLY IN THESE ISSUES AND HAS WORKED HARD TO TRY TO FIND THINGS TO DO, AND IN THE END SHE HAS DECIDED THAT THE MENTORING PROCESS THAT YOU ALL HAVE PROMOTED IS THE FAR BETTER SOLUTION FOR HER, BECAUSE EVERY TIME SHE WENT OUT TO DO SOMETHING, SHE WAS PERCEIVED AS MY STAFF ATTORNEY THAT WAS PRESTIGE IN THAT, AND IF WE DEAL WITH, AGAIN, THE APPEARANCE OF IMPROPRIETY --

I AM NOT SURE I UNDERSTAND, IN RESPONSE TO THE QUESTION WHEN YOU SAID THAT THE CONFERENCE OPPOSES THAT, AND I AM NOT SURE WHAT, JUSTICE PARIENTE WAS DESCRIBING SOME OF THE EXAMPLES OF STAFF MEMBERS HERE AT THE COURT THAT DO THINGS. I HOPE I AM NOT TAKING YOUR ANSWER TO MEAN THAT YOU OPPOSE STAFF ATTORNEYS CHOOSING TO DO THOSE THINGS. OR IS IT THAT YOU OPPOSE THE MANDATORY REPORTING REQUIREMENT BEING IMPOSEED ON STAFF ATTORNEYS, ALSO?

I OPPOSE BOTH THE MANDATORY REPORTING AND, IN THE ALTERNATIVE, THE MONETARY FOR THEM, BUT I DO BELIEVE THAT COMMUNITY SERVICE, AS COMPARED TO PRO BONO SERVICE, A FAR SAFER THING FOR STAFF ATTORNEYS TO DO SO, BECAUSE THEY, TOO, NEED TO AVOID THE PRACTICE OF LAW, AND THEY ARE EVEN YOUNGER AND MORE INEXPERIENCED THAN ME, AND MY TIME IS UP. THANK YOU VERY MUCH.

GOOD MORNING. MAY IT PLEASE THE COURT. MY NAME IS BETH BLOOM. I AM CURRENTLY THE ISN'T OF THE CONFERENCE OF COUNTY COURT JUDGES OF FLORIDA, AND I AM HERE SPEAKING ON BEHALF OF THE 276 COUNTY COURT JUDGE INS FLORIDA. OUR CONFERENCE FILED WITH THIS COURT, A RESOLUTION THAT WAS PASSED UNANIMOUSLY BY OUR BOARD OF DIRECTORS SUPPORTING THE JEAC PROPOSAL. I BELIEVE I AM COOK RAT IN SAYING THAT OUR COUNTY COURT JUDGES ARE AT THE FOREFRONT IN PROVIDING ACCESS AND SERVICES RELATING TO THE LEGAL NEEDS OF THE POOR, AND WE DO IT EVERY SINGLE DAY IN OUR COURTROOMS, WHETHER IT IS REPRESENTING OUR, EXCUSE ME, HAVING INDIVIDUALS COME BEFORE US WHO ARE UNREPRESENTED LITIGANTS IN TRAFFIC COURT, SMALL CLAIMS COURT, LANDLORD-TENANT CASES AND NO-JAIL CRIMINAL CASES. WE ARE AT THE FOREFRONT IN PROVIDING A SERVICE TO

THESE INDIVIDUALS. THE TASK FORCE PROPOSAL IMPOSES UPON EACH JUDGE, A DUTY TO SERVE A PARTICULAR SEGMENT OF THE SOCIETY, YET JUDGING ITSELF AS A PUBLIC SERVICE, AND IT IS CRITICAL THAT THE SERVICE IS CONFERRED UPON THE PUBLIC AS A WHOLE, IT IS EASY TO ENVISION, WHEN I LOOK AT OUR COUNTY COURT JUDGES, A SITUATION WHERE A JUDGE, IN ORDER TO COMPLY WITH THE TASK FORCE ASPIRATIONAL GOAL, AGREES TO LECTURE TO A LEGAL SERVICES ORGANIZATION, TO A GROUP OF TENANTS ON A TOPIC OF LANDLORD TENANT LAW, IT THEN HAS A TENANT COME BEFORE THAT JUDGE IN AN EVICTION CASE OR THE LAWYER WHO MAY COME BEFORE THAT JUDGE WHO WAS PRESENT AT THE SEMINAR.

CHIEF JUSTICE: WE HAVE GOT TO HONOR THE TIME.

HER POSITION OF THE COUNTY JUDGES. ARE THE COUNTY JUDGES FOR IT, EITHER ONE OF THE REPORTS?

THE CONFERENCE OF COUNTY COURT JUDGES IS IN FAVOR OF THE JEAC PROPOSAL.

BUT NOT THE TASK FORCE.

NOT THE TASK FORCE.

NO. WE OPPOSE THE TASK FORCE. WE ARE IN FAVOR OF THE JEAC PROPOSAL ENCOURAGING JUDGES.

CHIEF JUSTICE: THANK YOU VERY MUCH.

MAY IT PLEASE THE COURT. GOOD MORNING. MILES McGRANE. I AM PRESIDENT-ELECT OF THE FLORIDA BAR. WE FILED, WITH THE COURT, IN LETTER FORM, THE BAR'S POSITION CONCERNING THIS, AND I REALLY DON'T NEED TO AMPLIFY, BUT IN TYPICAL BAR SPEAK, OUR POSITION IS THAT WE CANNOT SUPPORT THE TASK FORCE POSITION. WE BELIEVE THAT THE APPEARANCES OF THE JUDGE BEING IMPARTIAL IS JUST PRIMARY TO THE SYSTEM OF JUSTICE. AND WE BELIEVE THAT THE TASK FORCE COULD PUT THAT IN QUESTION.

DO YOU AGREE WITH THE ETHICS ADVISORY COMMITTEE RECOMMENDATION?

YOUR HONOR, WE DO.

THANK YOU.

WE ARE BACK ON TIME.

CHIEF JUSTICE: I AM NOT SURE WHERE WE ARE.

MAY IT PLEASE THE COURT. GOOD MORNING. JOE FARINA. REPRESENTING THE FLORIDA CONFERENCE OF CIRCUIT JUDGES. THIS CONFERENCE, ALSO, SUPPORTS THE JEAC PROPOSALS. WE ARE AGAINST THE TASK FORCE PROPOSAL. SO WE JOIN ALL 789 TRIAL JUDGES IN THIS STATE WHO ARE THE LINE JUDGES WHO HAVE TO DEAL WITH THIS.

IN YOUR CIRCUIT, YOU HAVE "PUT SOMETHING BACK."

WE DO.

WHAT NUMBER OF JUDGES ARE INVOLVED IN "PUT SOMETHING BACK"?

A SIGNIFICANT NUMBER OF THEM IN THE FOLLOWING TYPES OF ACTIVITIES. WHEN THE "PUT SOMETHING BACK" PROGRAM ASKS JUDGE TO SAY PARTICIPATE, WE SEND OUT A NOTICE NOT JUST TO THOSE FOLKS OR THOSE ATTORNEYS THAT ARE INVOLVED IN "PUT SOMETHING BACK",

BUT TO ALL ATTORNEYS. IT IS SYSTEM-WIDE, SO WE ARE NOT INVOLVED WITH JUST GIVING ADVICE TO THOSE ATTORNEYS WHO DO PROVIDE SERVICE FOR THE POOR OR FOR THE WORKING POOR. GIVE YOU AN EXAMPLE. WE ARE HAVING A VIEW FROM THE BENCH, FROM THE PROBATE COURT, THREE OF THE FOUR JUDGES ARE GOING TO BE THERE, BUT SO WILL THE ENTIRE DADE COUNTY BAR PROBATE DIVISION, IN ADDITION TO WHICH THOSE FOLKS WHO VOLUNTEERED TO DO PRO BONO SERVICES, SO WE ARE VERY CONCERNED ABOUT MAKING SURE THAT TRIAL JUDGES ARE NOT PUT IN THE POSITION OF SERVICING A SPECIFIC CLASS OF PERSONS AND THEN HAVING A REPORTING REQUIREMENT, WHICH IS SUBJECT TO THE PUBLIC RECORDS DEMAND, WHICH IS GOING TO IMPACT, FROM A POLITICAL, ELECTION AND RECUSAL BASIS, THE TRIAL JUDGES IN THIS STATE. THIS IS A ONEROUS PROVISION.

LET ME ASK YOU, LET'S ASSUME FOR A MOMENT THAT JUDGE FARINA IS INVOLVED IN SPEAKING ACROSS THE STATE, VERY INVOLVED IN COMMUNITY SERVICE, NOT, NOTHING TO DO WITH PRO BONO LEGAL SERVICES BUT JUST GENERAL PUBLIC SPEAKING OF A VIEW FROM THE BENCH KIND OF THINGS. HE PERFORMS 8 ON HOURS A YEAR OF THESE -- HE PERFORMS 80 HOURS A YEAR OF THESE KINDS OF SERVICES, AND WE WANT TO ENCOURAGE THAT AND WE SAY JUDGE FARINA, WE LIKE WHAT YOU ARE DOING AND WE THINK YOU ARE DOING A GREAT JOB, BUT WE WOULD LIKE FOR YOU TO REPORT WHAT YOU ARE DOING, SO THAT EVERYBODY CAN SEE, AND IN ADDITION JUDGE SCHWARTZ HERE IS NOT DOING ANYTHING, AND WE WANT TO ENCOURAGE JUDGE SCHWARTZ TO BE LIKE JUDGE FARINA, AND THEREFORE WE ARE GOING TO HAVE ASK JUDGE SCHWARTZ TO GIVE US A REPORTING REQUIREMENT, SO THAT WE CAN EC -- SO THAT HE CAN START ENGAGEING IN PRO BONO COMMUNITY SERVICE, WHAT IS WRONG WITH THAT KIND OF REPORTING REQUIREMENT?

JUDGE FARINA AND JUDGE SCHWARTZ AND ALL OF THE OTHER JUDGE INS THIS STATE CAN BE ENCOURAGED TO PROVIDE COMMUNITY SERVICE BY ADOPTING THE JEAC PROPOSAL. REPORTING REQUIREMENTS ARE A TREMENDOUS DISSERVICE TO THE TRIAL COURT. WE ARE ALREADY SECOND-GUESSED AS TO WHY WE MAKE CERTAIN DECISIONS. IS IT BECAUSE WE KNOW SOMEBODY? IS IT BECAUSE WE PREFER A CERTAIN CLASS OF PERSONS? IS IT BECAUSE WE HAVE A PREFERENCE FOR CERTAIN FOLKS? BY HAVING THE REPORTING REQUIREMENTS, PEOPLE WILL BE ABLE, THROUGH THEIR OWN PERCEPTION, TO DECIDE YES, BECAUSE WE HAVE TO DO SOME COMMUNITY SERVICE FOR A LANDLORD OR A TENANT OR A BUSINESS PERSON OR FOR A LABORITE THAT, IS WHY WE MADE THE DECISION WE MADE. THE REPORTING REQUIREMENTS WILL BITE US SEVERELY AND WILL HARM THE NEUTRALITY IN THE COURTROOM AND THE CREDIBILITY THAT WE HAVE AS DECISION-MAKERS. WE VISION 7 IS RIGHT AROUND THE CORNER -- REVISION SEVEN IS RIGHT AROUND THE CORNER, FOLKS. THIS IS NO TIME TO HAVE THE EYES OF FOLKS IN THIS STATE, A PERCEPTION THAT JUDGES ARE GOING TO SUPPORT A PARTICULAR CLASS OF PERSONS. WE NEED TO MAINTAIN OUR NEUTRALITY AND OUR CREDIBILITY AND NOT PROVIDE AMMUNITION TO ACTUALLY DEBUNK AND HURT US.

I GUESS WHAT I DON'T UNDERSTAND IS, IF WE HAVE A REPORTING REQUIREMENT, WHY WOULD A JUDGE GO SPEAK BEFORE A PRO BUSINESS GROUP OR PRO LANDLORD OR PRO TENANT GROUP, IF HE KNOWS HE IS GOING TO STRO REPORT THAT? WHY WOULDN'T THEY JUST STICK TO THE GENERAL COMMUNITY SERVICES THAT THEY ARE ALREADY DOING, KNOWING THAT YOU ARE ALREADY GOING TO HAVE TO REPORT THAT?

I JUST DON'T BELIEVE THERE IS A NEED FOR A REPORTING REQUIREMENT, IF THE JEAC PROPOSAL REMOVES ANY DOUBT IN SOME JUDGES' MINDS THAT THEY ARE ENCOURAGED TO DO IT. I THINK, IF THEY ARE ENCOURAGED BY THIS COURT AND THROUGH THE CODE, TO CONTINUE WHAT THEY ARE DOING OR BE ABLE TO SAY THIS IS SOMETHING WHICH I BELIEVE THE COURT WOULD LIKE ME TO DO, THEY ARE GOING TO FOLLOW THE LEAD OF THE CHIEF JUDGESS AND THE OTHER ADMINISTRATIVE JUDGES OF THIS STATE. GIVE US THAT OPPORTUNITY, BUT LET'S NOT GO TO A MANDATORY REPORTING REQUIREMENT FOR JUDGES. THANK YOU.

CHIEF JUSTICE: THANK YOU.

I WOULD LIKE TO ADDRESS A COUPLE OF SOME OF THE ISSUES THAT HAVE BEEN RAISED -- OF THE ISSUES THAT HAVE BEEN RAISED. FIRST OF ALL, NOTHING IN THE TASK FORCE PROPOSAL SUGGESTS THAT JUDGES SHOULD ADVOCATE FOR, REPRESENT OR SERVE ANY PERSON OR GROUP OF SOCIETY. THE ISSUE IS ACCESS. THE ISSUE IS NOT SERVING THE -- THE ISSUE IS SERVING THE POOR. ACCESS WILL IMPACT BOTH POOR AND THE MIDDLE-CLASS. AS THIS COURT KNOWS, BETTER THAN ANYONE, THE ISSUE WITH SELF-REPRESENTED CLIENTS IS AN ISSUE THAT, WHILE MAYBE 70 PERCENT OF THOSE PERSONS ARE POOR, ALSO GREATLY IMPACTS THE MIDDLE-CLASS -- ALSO GREATLY IMPACTS THE MIDDLE-CLASS. ACTIVITIES BY JUDGES THAT ADDRESS THAT ISSUE ARE SOME OF THE THING THAT IS THE TASK FORCE WERE TALKING B.

SO I GUESS YOUR PROPOSAL GOES BEYOND ENCOURAGING COMMUNITY ACTIVITIES THAT WE ALL CONSIDER JUDGES ALREADY TO BE DOING, SPEAKING IN PUBLIC, GOING TO HIGH SCHOOLS, PARTICIPATING IN LAW DAY, VIEW FROM THE BENCH SEMINARS, THAT KIND OF THING, YOU ARE PROPOSING SOMETHING BEYOND THAT, TO HELP THE POOR OBTAIN LEGAL SERVICES?

SOME OF THAT WOULD BE INCLUDED IN WHAT WE ARE TALKING ABOUT. BUT IN THE 1990 AND 1993 OPINIONS OF THIS COURT, THIS COURT SAID THAT IT WAS NOT IN THE BUSINESS OF REGULATING CIVIC INVOLVEMENT. THERE BY LAWYERS. OUR TASK FORCE REPORT SAYS EXPRESSLY, THAT, WHILE THAT WOULD BE A GREAT THING, THAT WE DON'T, WE ARE NOT GOING THERE, BECAUSE THIS COURT HAS SAID THEY ARE NOT IN THE BUSINESS OF THAT TYPE OF REGULATION. AS LAUDABLE AS GENERAL CIVIC COMMUNITY SERVICE IS, THIS COURT IS FOCUSING ON IMPROVING THE SYSTEM OF JUSTICE, ON IMPROVING ACCESS TO JUSTICE, AND SOMEONE SAID THAT THERE REALLY WASN'T A NEED FOR EITHER ONE OF THESE, AND THE STATISTICS ON THE NEED TO IMPROVE ACCESS, I DON'T KNOW HOW ANYONE CAN SAY THERE IS NO NEED TO IMPROVE ACCESS. AND THE LEADERSHIP OF THE JUDICIARY IS VITAL IN DOING THAT. ORANGE COUNTY IS VERY FORTUNATE. THEY HAVE HAD A LONG HISTORY AND A LONG CULTURE, AND IT IS THE OTHER AREAS OF THE STATE, DADE COUNTY IS DEVELOPING THAT CULTURE.

I AM STILL HAVING A PROBLEM HERE, TRYING TO FIGURE OUT HOW THE LIMITED THING THAT IS WE HAVE TALKED ABOUT THAT A JUDGE CAN DO, BECAUSE WE ARE NOT TALKING ABOUT LEGAL PRO BONO LEGAL SERVICES, PER SE, BUT ON THE LIMITED THINGS THAT A JUDGE CAN DO, HOW DOES THAT IMPROVE ACCESS?

WELL, JUDGE FARINA GAVE AN EXAMPLE OF SOMETHING THAT OCCURS IN DADE COUNTY. THE JUDGES HELP BRING TOGETHER LAWYERS. WELL, ONE OF THE THINGS THAT HAPPENS AT THOSE MEETINGS IS THAT THE LAWYERS THAT ATTEND, BROAD SPECTRUM OF THE SOCIETY OF LAWYERS, COMMIT TO TAKE A PRO BONO CASE. THAT IS PART OF THEIR PRO BONO PROGRAM. THAT COUNTS. THAT IS JUDGES GOING OUT THERE AND TRYING TO GET LAWYERS, AND DADE COUNTY HAS DRASTICALLY INCREASED THE AMOUNT OF PRO BONO DONE. THAT IS SOME OF THE TYPE OF ACTIVITIES WE ARE TALKING ABOUT.

SO THAT WOULD BE SUPPORT OF PRO BONO LEGAL SERVICES BY MEMBERS OF THE BENCH.

THAT'S CORRECT.

AND I GUESS WE GET BACK TO THIS, AS I READ AND I PUT TOGETHER THE TWO PROPOSALS, TO MAKE SURE I COULD SEE WHAT WAS DIFFERENT, AND I COULDN'T SEE, WITH ALL THAT WE HAVE GONE THROUGH TODAY, MUCH DIFFERENCE IN WHAT THE TASK FORCE HAS AND WHAT THE CODE IS, THE AMENDMENTS ARE, OTHER THAN THIS, QUOTE, REPORTING REQUIREMENT, AND DO WE REALLY, REALLY THINK THAT, IN TERMS OF THAT IF WE, IF THIS COURT COMES OUT WITH A STRONG OPINION THAT SAYS THAT WE THAT, THIS IS WHAT JUDGE RESPECT ENCOURAGED TO DO, BUT WHEN WE HEAR FROM JUDGES AROUND THE STATE THAT THE REPORTING ASPECT THAT THEIR CONCERN WILL BE SOMETHING THAT WOULD BE USED AGAINST THEM, WHICH IS

CERTAINLY NOT THE CASE WITH LAWYERS, WHAT, WHAT IS YOUR RESPONSE TO THAT? THAT IS A CONCERN THAT IS OUT THERE. WE HAVE ANY OTHER STATES THAT HAVE DONE ANYTHING LIKE THIS, TO BE ABLE TO SAY THAT THIS IS NOT A VALID CONCERN? COULD YOU --

NO. AS USUAL, FLORIDA IS IN THE FOREFRONT HERE. BUT I BEG TO DIFFER. THERE IS A GREAT DIFFERENCE BETWEEN THE TWO PROPOSALS, AND IT, THE LIST OF THE TYPES OF ACTIVITIES THAT COUNT IS, I THINK, A VALUABLE ADDITION IN THE TASK FORCE PROPOSAL, BECAUSE IT GIVES JUDGES GUIDANCE AS TO THE KINDS OF THINGS THAT MIGHT IMPROVE ACCESS, AND ENHANCE PRO BONO.

BECAUSE, AGAIN, I AM HAVING TROUBLE SEEING THAT YOUR LIST IS MUCH MORE SPECIFIC THAN AT LEAST THE COMMENTARY TO 4-B, THAT IS PROPOSED BY THE JUDICIAL ETHICS ADVISORY COMMISSION.

WELL, THE LIST IN THE TASK FORCE REPORT SAYS PRO BONO SERVICE MAY INCLUDE PARTICIPATING IN ACTIVITY THAT ENCOURAGE OR SUPPORT PRO BONO LEGAL SERVICE BY LAWYERS, TEACHING, SPEAKING, WRITING OR PARTICIPATING IN PRESENTATIONS REGARDING THE RIGHTS AND RESPONSIBILITIES UNDER THE LAW, WHICH RELATE TO IMPROVING ACCESS TO JUSTICE FOR THE POOR AND THE WORKING POOR. PARTICIPATING IN ACTIVITIES THAT RELATE TO IMPROVING THE FAIR ADMINISTRATION OF JUSTICE AND/OR EQUAL ACCESS TO THE JUDICIAL SYSTEM. PARTICIPATING IN, AUTHORIZED CONTINUING LEGAL EDUCATION PERHAPS, WHICH RELATE -- PROGRAMS, WHICH RELATE TO IMPROVING ACCESS TO THE JUSTICE SYSTEM BY THE POOR AND THE WORKING POOR.

BUT I THINK PART OF JUSTICE PARIENTE'S CONCERN AND, PERHAPS, MAIN -- PERHAPS, MINE, TOO, IS THAT IS THERE ANY REASON WHY WE CAN'T ENCOURAGE MEMBERS OF THE JUDICIARY TO CARRY THE BANNER OF EQUAL JUSTICE UNDER LAW? LET'S FACE IT, THAT IS THE INSCRIPTION ABOVE THE HIGHEST COURT IN THIS COUNTRY, AND YET NOT HAVE THE BAGGAGE OF THE, THESE REPORTING REQUIREMENTS? IS THERE ANY REASON, FIRST OF ALL, WHY WE CAN'T ENCOURAGE THEM TO CARRY THAT BANNER OF EQUAL JUSTICE UNDER LAW?

OH, CERTAINLY NOT, AND WHAT, THIS COURT HAS DONE THAT TRADITIONALLY.

BUT GETTING DOWN TO THE CRUX OF, OBVIOUSLY, WHAT THE DEBATE HAS BEEN ABOUT, IS WHETHER THAT CAN BE DONE WITHOUT HAVING THESE MANDATORY REPORTING REQUIREMENTS. ARE YOU SUGGESTING THAT THE CULTURE IN ORANGE COUNTY AND DADE COUNTY AND SOME OF THE OTHER PLACES, WHERE THE JUDICIARY HAS BEEN HEAVILY INVOLVED, LEADERS OF THE EQUAL JUSTICE UNDER LAW, AND HELPING THE LEGAL AID SOCIETIES AND THE PRO BONO ACTIVITIES IN THOSE COMMUNITIES, THAT IT SIMPLY IS GOING TO BE SEVERELY HANDICAPPED, IF THESE REPORTING REQUIREMENTS ARE NOT IMPOSED?

NO. WHERE THERE IS AN EXISTING CULTURE, CERTAINLY IN ORANGE COUNTY, ORANGE COUNTY WAS, REALLY, THE TEMPLATE FOR THE CREATION OF THE FLORIDA PRO BONO PLAN. THAT HELPED TO CREATE AN ORANGE COUNTY CULTURE EVERYWHERE, BY CREATING CIRCUIT COMMITTEES.

CAN IT BE SPREAD EVERYWHERE, THOUGH, BY HAVING THIS REPORTING REQUIREMENT?

THAT IS A QUESTION THAT I CAN'T TELL YOU THE ANSWER TO. I CAN TELL YOU THE ANSWER IN FLORIDA HAS BEEN THAT, IF YOU COMPARE FLORIDA TO OTHER STATES WHICH ADOPTED SIMILAR PRO BONO PLANS WITHOUT REPORTING, THE AMOUNT OF PRO BONO WORK IN FLORIDA IS GEOMETRICLY GREATER, WHERE THE DIFFERENCE IS ONLY THE REPORTING REQUIREMENT.

BUT THAT IS WITH LAWYERS.

BUT THE ISSUE WITH JUDGES IS, AND FRANKLY THE REASON THAT WE HAVE IT IN, IS BECAUSE IT GIVES ADDITIONAL INFORMATION AND IT WORKED FOR THE LAWYERS. AND WE WOULD SUGGEST THAT IT WILL, ALSO, ENHANCE THE QUALITY AND QUANTITY FOR JUDGES.

BEFORE YOU SIT DOWN, I AM, A CONCERN OF MINE IS THE CONCERN THAT JUDGE ALTENBERND, REALLY, FOCUSED ON, AND THAT IS THE IMPARTIALITY OF THE JUDICIARY, AND IT SEEMS TO ME, ISN'T THERE A STRIKING DIFFERENCE BETWEEN ACCESS TO COURTS AND A JUDGE BEING IN A POSITION THAT THE JUDGE, WHETHER IT BE A LANDLORD TENANT CASE OR A SUIT AGAINST A CAR DEALER FOR EXORBITANT INTEREST RATES, BUT EVEN IN THOSE CASES, THE HALLMARK OF THIS SYSTEM HAS GOT TO BE THAT THE JUDGE IS NOT OUT PROMOTING THAT LITIGATION, AND DON'T WE RUN A RISK IN THIS SYSTEM, IF WE GET JUDGES TOTALLY INVOLVED IN THE PRO BONO ACTIVITIES, OF IT APPEARING THAT WE ARE PROMOTING THAT LITIGATION, AS OPPOSED TO JUST HAVING THE COURTHOUSE OPEN?

WELL, I WOULD CERTAINLY AGREE, IF A JUDGE WAS IN THE POSITION OF PROMOTING THAT TYPE OF LITIGATION, I THINK THAT WOULD BE INAPPROPRIATE. I DON'T THINK ANYTHING WE SUGGEST OR ANYTHING THAT I AM AWARE OF THAT IS GOING ON IN FLORIDA, CONSTITUTES THAT TYPE OF ACTIVITY. I THINK CLEARLY THAT IS INAPPROPRIATE. BUT I DON'T THINK THAT IS WHAT WE SUGGEST OR WHAT WILL HAPPEN.

CHIEF JUSTICE: OKAY. WE WANT TO THANK ALL OF YOU. WE KNOW THAT YOU ARE ALL DEVOTED TO THE FAIR ADMINISTRATION OF JUSTICE, AND WE THANK YOU FOR THE EXHAUSTIVE WORK THAT ALL OF YOU HAVE DONE EVERYDAY ON BEHALF OF THE JUSTICE SYSTEM HERE, IN FLORIDA. WE ESPECIALLY THANK THOSE THAT ARE DIRECTLY INVOLVED IN PROVIDING EQUAL JUSTICE FOR ALL. THE COURT IS GOING TO TAKE A 15-MINUTE RECESS BEFORE WE HEAR THE LAST TWO CASES. THE COURT WILL STAND IN RECESS.