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## **In re: Report on Assignment of Senior Judges**

THE NEXT CASE ON THE COURT'S ORAL ARGUMENT CALENDAR THIS MORNING IS THE REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON POINT AND ASSIGNMENT OF SENIOR JUDGES. JUDGE GOSHORN.

CHIEF JUSTICE WELLS, MEMBERS OF THE COURT, I AM GIL GOSHORN, CHAIRMAN ON THE COMMITTEE OF ASSIGNMENT OF SENIOR JUDGES. I HAVE WITH ME HERE, TODAY, TWO MEMBERS OF THE COMMITTEE WHO WOULD LIKE TO ADDRESS THE COURT AFTER I CONCLUDE MY REMARKS.

CHIEF JUSTICE: IF YOU WOULD PLEASE PAY ATTENTION TO YOUR TIMES, WHICH IS ON --

I DON'T EXPECT TO USE MY TIME JUSTICE WELLS. THANK YOU. BEFORE ADDRESSING THE REPORT, LET ME COMAN END END THE STAFF -- LET ME COMMEND THE STAFF OF THE STATE COURT ADMINISTRATOR'S OFFICE, PARTICULARLY PEGGY HORVATH AND STEVE HANDLY. THEIR ASSISTANCE WAS INVALUABLE. I WOULD, ALSO, LIKE TO COMPLIMENT YOUR COMMITTEE. WE STARTED WITH MANY DIFFERENT VIEW POINTS AND PERSPECTIVES, AND AFTER TAKING MATERIALS AND COMMENTS AND LISTENING TO EACH OTHER, WE WERE ABLE TO ARRIVE AT SUBSTANTIAL AGREEMENT ON THE VARIOUS POINTS. IN ADDRESSING THE REPORT, I ONLY HAVE A FEW BRIEF COMMENTS, AND THEN I WILL BE GLAD TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE. LET ME SAY, AT THE OUTSET, THAT IT IS APPARENT THAT, FROM THE COMMENTS THAT WE RECEIVED, THAT THE PRESENT SYSTEM IS WORKING EXTREMELY WELL IN MANY OF THE CIRCUITS, AND NO CHANGES ARE DESIRED FROM THOSE CIRCUITS OR NEEDED, REALLY. ON THE OTHER HAND, IT WAS EQUALLY APPARENT TO US THAT, IN CERTAIN CIRCUITS, THE SYSTEM OF CERTIFICATION AND ASSIGNMENT OF SENIOR JUDGES NEEDED SOME TWEAKING OR ADDRESSING. IT IS OUR HOPE THAT THE RECOMMENDATIONS IN THIS REPORT WILL ADDRESS THOSE PROBLEMS, WITHOUT DIMINISHING THE AVAILABILITY OF THE VALUABLE RESOURCE OF SENIOR JUDGES.

MR. GOSHORN.

YES.

IT SEEMS TO ME THAT THE REAL CON TENINGTS US ISSUE -- CONTENTIOUS ISSUE HERES THE ASSIGNMENT OF SENIOR JUDGES TO HANDLE COMPLEX CASES, AND WE HAVE, IT,AR ON THE ONE HAND, BOTH THINK THAT ISSUE SHOULD BE LEFT TO THEIR DISCRETION AND ON THE OTHER HAND, WE SEEM TO HAVE A NUMBER OF PRACTITIONERS WHO BELIEVE THAT THERE SHOULD BE A BLANKET PROHIBITION ON ASSIGNING THESE COMPLEX CASES TO SENIOR JUDGES, AND SO HAS THE, WOULD YOU KIND OF TELL US WHY THE COMMITTEE HAS COME TO THIS, IT LOOSE SORT OF IN-BETWEEN STANCE HERE, ON THAT ISSUE?

I WILL, JUSTICE QUINCE. THAT WAS REALLY THE NEXT ITEM THAT I WANTED TO ADDRESS, BECAUSE IT WAS THE SUBJECT OF MOST OF THE COMMENTS THAT HAVE BEEN MADE TO YOU. IT WAS, ALSO, THE SUBJECT OF MOST OF THE DISCUSSION AND CONTENTION WITHIN THE COMMITTEE, ITSELF. AS YOU POINT OUT, THERE ARE THOSE THAT BELIEVED AND STILL BELIEVE THAT THERE OUGHT TO BE AN ABSOLUTE PROHIBITION AGAINST THE USE OF SENIOR JUDGES IN SO-CALLED COMPLEX OR LENGTHY CASES. THERE ARE OTHER MEMBERS OF THE COMMITTEE THAT FELT THAT WE SHOULDN'T EVEN ADDRESS THAT MATTER. OBVIOUSLY THE RECOMMENDATION IS A COMPROMISE BETWEEN THE TWO. IN MY OPINION, THERE HAS BEEN

SOME MISREADING OF THE REPORT, IF I UNDERSTAND THE COMMENTS. THOSE WHO BELIEVE THAT THE RECOMMENDATION LIMITS THE POWER OF THE VARIOUS CHIEF JUDGES, I THINK, HAVE NOT FULLY CONSIDERED ALL OF THE COMMENTS. THE COMMENT TO RECOMMENDATION EIGHT EXPRESSLY PROVIDES, AND I QUOTE, CHIEF JUDGES SHOULD THERE FOR CONTINUE TO HAVE MAXIMUM FLEXIBILITY IN MAKING ASSIGNMENTS OF SENIOR JUDGES. IN MY OPINION, WHAT THIS COMPROMISE RECOMMENDATION ACCOMPLISHES IS SIMPLY TO ENCOURAGE THE CHIEF JUDGES TO CONSIDER THE REQUIREMENTS OF EACH INDIVIDUAL CASE, ON A CASE-BY-CASE BASIS, AND ATTEMPT TO MATCH THE SENIOR JUDGE'S TALENT AND ABILITIES TO T CASE. THERE IS NO OUTRIGHT PROHIBITION. IT IS JUST TO CALL TO THEIR ATTENTION THE.SKEDE WHAT SOME OF THE PROBLEMS WERE? WELL, OF COURSE, YOU HAVE SEEN THE COMMENTS FROM THE ATTORNEYS AND FROM THEIR PERSPECTIVE. ONE OF THE PROBLEMS, OF COURSE, IS THAT THERE IS AN UNEQUAL GEOGRAPHIC DISTRIBUTION OF THE VARIOUS SENIOR JUDGES. SOME CIRCUITS MAY HAVE A SURPLUS. OTHERS A SHORTAGE. AND SO IT HAS CAUSED SOME PROBLEMS IN THE ASSIGNMENTS. AND WE HAVE TRIED TO ADDRESS THAT, BY PROVIDING THAT THERE SHOULD BE NO GEOGRAPHIC RESTRICTION ON THE ASSIGNMENT OF SENIOR JUDGES.

BUT IT SEEMS TO BE THAT THE LAWYERS WHO HAVE COMMENTED'S COMPLAINT IS THAT IN SOME CIRCUITS, THAT ALL OF THE COMPLEX, THE LENGTHY CASES, END UP BEING ASSIGNED TO ACCEPT I DON'T REMEMBER JUDGE -- ASSIGNED TO A SENIOR JUDGE, AND THAT THAT IS THE PROBLEM THAT IS BEING RAISED HERE, AND IS THERE AWAY OR SHOULD WE ADDRESS THAT ISSUE?

I AM NOT SURE I CAN REALLY RESPOND TO THAT. YOU KNOW, YOU HAVE GOT THE STATUTORY AND CONSTITUTIONAL DIRECTION. I THINK THAT WHAT THE THRUST OF OUR COMMITTEE, WITH THIS RECOMMENDATION, WAS TO JUST ENCOURAGE THEM TO, THE CHIEF JUDGES TO MAKE THESE ASSIGNMENTS ON A CASE-BY-CASE BASIS, RATHER THAN JUST A PURELY BLANKET ASSIGNMENT AS APPEARS TO BE THE CASE IN AT LEAST ONE OF THE CIRCUITS THAT YOU ARE CONCERNED WITH.

WELL, IS THERE A CONCERN EXPRESSED THAT THESE CONCERNS HAD BEEN EXPRESSED TO THE CHIEF JUDGE, AND THE CHIEF JUDGE WAS, CHIEF JUDGES IN THOSE AREAS, WERE NONRESPONSIVE TO THE CONCERNS? HOW DID THAT COME OUT?

WE RECEIVED SOME COMMENTS TO THAT EFFECT. WE RECEIVED OTHER COMMENTS TO THE EFFECT THAT WE ARE RELUCTANT TO GO TO THE CHIEF JUDGE WITHPR,O T WAS SORT OF A MIX. I HAVE A LAWYER MEMBER OF THE COMMITTEE HERE, AND HE MAY WANT TO ADDRESS SOME OF THOSE PROBLEMS. I AM NOT SURE WHAT HIS PREPARATION AND PRESENTATION IS.

ANOTHER RECOMMENDATION THAT SEEMS TO BE SOMEWHAT CONTROVERSIAL IS THE RECOMMENDATION NUMBER THREE, THE EFFECT OF AN ELECTION DEFEAT ON THE JUDGE. WOULD YOU EXPAND ON THAT?

YES, SIR. I THINK THAT IT IS FAIR TO SAY THAT THE MAJORITY OF THE COMMITTEE TOOK THE POSITION, AFTER DISCUSSION, THAT IT WAS JUST HARD TO EXPLAIN, FROM A PUBLIC POLICY POSITION, HOW A JUDGE COULD BE DEPETEED -- DEFEATED IN ELECTION ONE DAY AND THE NEXT DAY BE PRESIDING OVER THEIR CASE. IT WAS A POLICY DECISION THAT THE COMMITTEE RECOMMENDED TO YOU. WE RECOGNIZE THAT THERE ARE JUDGES, FOR A VARIETY OF REASONS WHO ARE DEFEATED IN ELECTIONS, OUTSTANDING JUDGES WHO THIS WOULD EFFECT, BUT ON BALANCE, THAT WAS THE COMMITTEE'S CONSENSUS.

CHIEF JUSTICE: IF YOU, IF OTHER COUNSEL ARE GOING, IF COUNSEL IS GOING TO COMMENT, WE BETTER GIVE THEM SOME TIME.

YES. THAT'S FINE.

MAY IT PLEASE THE COURT. MY NAME IS J LEWIS HALL JR.. I AM A LAWYER, RETIRED CIRCUIT

JUDGE AND PRESENTLY SENIOR JUDGE PURSUANT TO YOUR DECIDING OF THIS COURT, AND I SERVED ON COMMITTEES. TWO QUICKIES, ONE A COMMENT BY JUSTICE QUINCE ABOUT A COMPROMISE ON THE RECOMMENDATION PART OF THAT, AND IT DOES NOT SEEM TO HAVE BEEN SURFACED IN SOME OF THE MATERIALS FURNISHED TO THE COURT. A SENIOR JUDGE IS A SENIOR JUDGE IS A SENIOR JUDGE, AND HOPEFULLY SHORTLY WE WILL BE UPGRADING OUR MEMBERSHIP. BUT, SO, IT APPLIES AT ALL LEVELS, INCLUDING THIS COURT. AND CASES THAT ARRIVE HERE ARE IMPORTANT CASES AND THEY ARE ALSO COMPLEX, AND I ASSUME THAT, FROM TIME TO TIME, YOU WOULD WISH TO GET FORMERLY FORMER JUDGES WHO CAN ONLY JURIES -- FORMER JUSTICES, WHO CAN ONLY SERVE AS A SENIOR JUDGE. TO HAVE A BLANKET PROHIBITION AS A SENIOR JUDGE, TO COMPLEX CASES CAN APPLY TO DEATH PENALTY CASES.

THIS WAS DIRECTED TO A TRIAL LEVEL, IT WASN'T DIRECTED TOWARD AN APPELLATE COURT LEVEL. ISN'T THAT --

NOT PARTICULARLY. THAT SUBJECT WAS BROACHED, I THINK, JUDGE GOSHORN, AT OUR LAST MEETING, THAT THESE RECOMMENDATIONS WOULD APPLY TO SENIOR JUDGES AND UTILIZATION. THAT IS THE TENSION.

MY POINT IS THAT THE CRITICISM OR THE PROBLEM THAT THE LAWYERS HAVE IS NOT WITH APPELLATE JUDGES SITTING IN COMPLEX CASES AT WHICH TIME IS WITH TRIAL JUDGES, ISN'T IT? ISN'T THAT WHAT WE ARE TALKING ABOUT?

I WOULD SUGGEST, DEFERENTIALLY AND WITH RESPECT JUSTICE LEWIS, THAT IF YOU COME OUT WITH A BLANKET RECOMMENDATION, THAT THAT NOT BE DONE, THAT YOU ARE GOING TO SEE THAT IN APPEALS COMING UP, AND THIS COURT HAS THE LEADERSHIP POSITION OUR BRANCH.

BUT, AGAIN, BACK -- THE LEADERSHIP POSITION IN OUR BRANCH.

BUT, AGAIN, BACK TO WASN'T THAT THE CONCERN AT THE TRIAL LEVEL?

IT WAS PART OF THE CONCERN, CERTAINLY. CERTAINLY. THE OTHER, OTHERS -- -- THE OTHER, OF COURSE, IS SENIOR JUDGES DON'T HAVE A DOG IN THIS FIGHT.

I AM READING THE RECOMMENDATION AGAIN. CHIEF JUDGES ARE ENCOURAGED NOT TO ASSIGN SENIOR JUDGE TO SAY PRESIDE OVER COMPLEX CASES. I DIDN'T READ THIS AT ALL AS BEING APPLICABLE TO THE APPELLATE COURTS, WHERE SENIOR JUDGES REGULARLY WILL SIT IN, ON NOT REGULARLY, BUT THAT THAT IS --

JUSTICE PARIENTE, MY COMMENTS REALLY, ARE SIMPLY TO WAVE JUST A SMALL IF NOT RED, LITTLE PINK FLAG ON CAUTION IN WHATEVER YOU DO, YOU MIGHT WANT TO PHRASE YOUR ACTION VERY SPECIFICALLY IN THAT REGARD.

WELL, ON THE SPECIFIC, ARE YOU GOING TO ADDRESS, THOUGH, YOUR VIEWS ON WHETHER THE ENCOURAGEMENT OF CHIEF JUDGES NOT TO ASSIGN SENIOR JUDGE TO SAY PRESIDE OVER COMPLEX CASES, IS AN APPROPRIATE RECOMMENDATION FOR THIS COURT TO BE MAKING?

I THINK THEY WOULD BE ENCOURAGED TO, BUT, OF COURSE, THEY WOULD HAVE TO TAKE INTO CONSIDERATION THE QUALIFICATIONS OF THE JUDGES THAT THEY USE IN SENIOR JUDGE WORK. IT IS ATTENTION. THERE IS NO CONFLICT THAT EVERYBODY IN OPEN TOE IS A TENSION. THERE IS NO CONFLICT -- CONDUCT SHOULD ALWAYS TAKE OVER THE TENSION, WHICH THE PROBLEM OF MOVING THE CASE IS PARAMOUNT. A PERSONAL MOMENT VERY QUICKLY AND LET ME SURRENDER MY TIME TO MR. LOMBANO WHO, IS HERE. WHEN I PRACTICED LAW, I APPEARED BEFORE THIS COURT ON NUMEROUS OCCASIONS. I SERVED ON YOUR COMMITTEES. MY LATE FATHER APPEARED HERE, OF COURSE HE AND I ALWAYS FOR THE RESPONDENT AND THE APPELLEE. MY GRANDFATHER WAS A MEMBER OF THIS COURT. THIS IS PROBABLY THE LAST TIME

I WILL EVER BE HERE IN THIS CAPACITY. IT HAS BEEN A RARE PRIVILEGE. THANK YOU VERY MUCH.

CHIEF JUSTICE: THANK YOU.

MAY IT PLEASE THE COURT. GOOD MORNING. MY NAME IS HECTOR LOMBADA, AND I AM THE TRIAL LAWYER IN THE GROUP. THE PRESENT PROBLEMS THAT WE HAVE WITH UTILIZATION OF SENIOR JUDGES IN SOME COUNTIES ARE SO SIGNIFICANT THAT THEY ARE SERIOUSLY, AND I MEAN SERIOUSLY ERODING THE CONFIDENCE OF LAWYERS AND LITIGANTS AND OUR JUDICIARY'S ABILITY TO HANDLE THE MOST COMPLEX OF CASES. THE CRUX OF THE PROBLEM SEEMS TO BE, FROM MY DISCUSSION WITH LAWYERS AND MY OWN PERSONAL EXPERIENCE, IS THAT THE MOST DIFFICULT CASES, THE ONEST REQUIRE THE HIGHEST AMOUNT OF INTELLECTUAL ACUTE AND THE GREATEST PHYSICAL STAMINA N S NOW BEING CONSISTENTLY REFERRED TO JUDGES, WHO AS A RESULT OF COMBINATIONS OF DIFFERENT FACTORS, INCLUDING AGE, TEMPERAMENT, CONDITION, PHYSICAL CONDITION AND MOTIVATION, ARE LEAST CAPABLE OF HANDLING THEM. CASES IN SOME COUNTIES THAT SHOULD TAKE WEEKS TO TRY ARE TAKING MONTHS TO TRY.

CAN WE BE MORE SPECIFIC? I MEAN, WE ARE HERE. WE ARE NOT KNIFE ABOUT THIS. ARE WE TALK -- WE ARE NOT NAIVE ABOUT THIS. ARE WE TALKING MAYBE ABOUT BROWARD, OR IS THIS PRACTICE OCCURRING THROUGHOUT THE STATE?

MOST OF MY EXPERIENCE IS DADE AND BROWARD COUNTY. I WOULD SAY THAT THE PROBLEM IS MOST ACUTE IN BROWARD COUNTY. MUCH LESS ACUTE IN DADE COUNTY, BUT THERE ARE SOME JUDGES WHO SERVE ON THE RETIREMENT LIST IN THE DADE COUNTY WHO ARE, BECAUSE OF ADVANCING AGE, INCAPABLE OF TRYING A CASE.

ISN'T THE OTHER PART OF, AND YOU WERE ON THIS COMMITTEE, THE RECOMMENDATIONS, TO REALLY DO A BETTER JOB OF SCREENING ON BOTH THE INITIAL BASIS, AS WELL AS ON AN ONGOING BASIS, AND WOULDN'T THAT, REALLY, BE THE WAY TO ADDRESS THIS ABERRANT PROBLEM OF THERE BEING A JUDGE THAT REALLY SHOULDN'T BE SITTING? WHETHER IT IS A LITIGANT HAS A SLIP AND FALL CASE, THEY DON'T WANT TO HAVE SOMEBODY WHO IS NOT CAPABLE TO SIT ON THAT CASE. IT IS NOT A QUESTION OF COMPLEXITY. MAYBE THEY ARE NOT QUALIFIED TO BEGIN WITH.

I AGREE. THE SUGGESTION AND NOW THE PROHIBITION AGAINST COMPLEX CASES BEING GIVEN TO CD JUDGES, IS, IN MY ESTIMATION ON THE COMMITTEE'S WORK, IS THE FACT THAT, OVER TIME, ONCE WE BRING THE MAJORITY OF THE JUDGES UP TO PAR, AS IT WERE, TO TRY COMPLEX CASES, THAT THE LAWYERS WILL BE LESS RETICENT TO ACCEPT ASSIGNMENT TO A SENIOR JUDGE, ONCE WE HAVE PROVEN THEIR QUALIFICATIONS. THAT IS WHY THERE IS NO OUTRIGHT PROHIBITION BUT THE SUGGESTION THAT JUDGES TAKE A LOOKT AND MAKE SURE THAT THE APPROPRIATE JUDGES ARE ASSIGNED.

SO DO YOU THINK THAT THE RECOMMENDATION, I BELIEVE, IT IS RNR SEVEN, WELL, SIX AND SEVEN, CONCERNING PERIODIC REVIEW OF JUDGES, THREE YEARS FOR JUDGES WHO HAVE NOT REACHED THE SEVENTH-YEAR MARK, AND ONE YEAR FOR JUDGES WHO HAVE IN FACT, REACHED THAT MARK, WOULD HELP TAKE CARE OF A PROBLEM THAT WE HAVE BEEN TALKING ABOUT WITH THESE SENIOR JUDGES BEING ASSIGNED TO COMPLEX CASES?

I THINK IT WOULD BE THE MOST ESSENTIAL RECOMMENDATIONS, AND THOSE ARE THE MOST CRITICAL AND WOULD HELP TREMENDOUSLY IN DOING THAT. THE PROBLEM IS THAT THERE IS GOING TO BE SOME LAG TIME BETWEEN THE TIME THAT YOU BEGIN TO IMPLEMENT THESE RECOMMENDATIONS, CARRY THESE RECOMMENDATIONS OUT, AND THE FACT THAT THERE ARE CASES WHICH ARE BEING DELAYED AND/OR ARE BEING TRIED, WHICH ARE GUARANTEED TO BE COMING BACK AND ADDING TO JUDICIAL WORKLOAD, BECAUSE THEY ARE GOING TO ULTIMATELY BE REVERSED.

COUNSEL, WAS THERE, IN YOUR EXPERIENCE, A FEELING, OR I DON'T KNOW WHETHER YOU CAN SCIENTIFIC, GET IT DOWN TO A SCIENTIFIC NUMBER, BUT THAT THESE PROBLEMS WERE PRESENTED TO THE CHIEF JUDGES AND THERE WAS A NONRESPONSE, OR THAT THEY WERE NOT RESPONSIVE TO THIS?

MY CHIEF JUDGE IS VERY RESPONSIVE.

I WOULD ASSUME --

THERE ARE OTHERS THAT HAVE BEEN LESS THAN HELPFUL IN THEIR SPOBZ SPOBZ RESPONSES AND HAVE -- IN THEIR RESPONSES AND HAVE CREATED CALENDARS, AND I HAVE PROVIDED COPIES OF THE COMMITTEE OF THE CALENDARS, WHICH, ARE REALLY TRIAL LAWYER HELL.

A DIVISION, ANOTHER DIVISION OF THE COURT, IN EFFECT.

YEAH. AND THE CASES LANGUISH, AND THERE ARE LAWYERS WHO HAVE SO MANY CASES IN FRONT OF THAT DIVISION, THAT THEY MANIPULATE WHEN THEY DECIDE, SPECIFIC LAWYERS THAT HAVE SO MANY CASES IN THAT DIVISION, THAT THEY MANIPULATE THE, WHAT CASE GOES TO TRIAL AT WHAT TIME AND SORT OF DOMINATE THE DOCKETS, MAKING OTHER PE.THEMWHAT, WHEN YOU GET A REALLY COMPLEX CASE AND YOU HAVE A TRIAL JUDGE SITTING, THAT IT -- THAT IS GOING TO SPEND THE FIRST FOUR DAYS READING MOTIONS IN LIMINE, BECAUSE THE JUDGE IS NOT UP-TO-DATE ON THE CASE THAT, SIGNIFICANTLY DELAYS THE TRIAL.

HOW DOES THIS RECOMMENDATION, WHICH SAYS CHIEF JUDGES ARE ENCOURAGED NOT TO ASSIGN SENIOR JUDGES TO PRESIDE OVER COMPLEX CASES, IN EFFECT, WHAT, ONCE WE PUT THAT INTO EFFECT, HOW DOES THAT HELP IN BROWARD COUNTY?

IT WILL GIVE THE LAWYERS SOME ARGUING POWER, TO -- I MEAN, TO MAKE A DIRECT PROHIBITION WOULD HAVE BEEN, I THINK IN MY ESTIMATION, UNREASONABLE, BUT IT WOULD HAVE GIVEN FODDER TO THE TRIAL LAWYERS, TO GO SAY TO THE CHIEF JUDGES IN BROWARD COUNTY OR OTHER COUNTIES THAT, PLEASE, THIS JUDGE CAN'T HANDLE THIS.

AGAIN, YOU SAID IT IS HAPPENING A LITTLE BIT IN DADE. MAINLY IN BROWARD. ANY OTHER PLACE IN THE STATE?

I AM NOT FAMILIAR WITH ANY OTHER PLACES THAT THERE ARE THESE PROBLEMS.

WERE YOU ON THE COMMITTEE?

I WAS ABSOLUTELY ON THE COMMITTEE, AND I HAVE SPOKEN TO OTHER LAWYERS ON THE COMMITTEE, COMMITTEE, TED BAB AND SCOTT KIRK AND THEY ALL AGREE WITH THESE RECOMMENDATIONS AND ARE VEE HEMENT WITH THE FACT THAT THESE NEED TO BE INSTITUTE ADD CROSS THE STATE, BECAUSE PLAINTIFFS LAWYERS HAVE BEEN DIFFICULT IN SOME INSTANCES AND DEFENSE LAWYERS DON'T UNDERSTAND THE PROBLEMS CREATED IN A CASE THAT SHOULD TAKE TWO WEEKS, THAT TAKES TWO OR THREE MONTHS.

CHIEF JUSTICE: THANK YOU. WE WILL HEAR FROM YOUR CHIEF JUDGE AMONG OTHERS. I WOULD COMMENT UPON YOUR REMARK THAT, YOU ARE THE LAWYER IN THE GROUP, SIMPLY BECAUSE THESE PEOPLE ARE JUDGES. IT HASN'T CURED THEM OF BEING LAWYERS. AND SO JUDGE BLACKWELL.

GOOD MORNING AND MAY IT PLEASE THE COURT. MY NAME IS WILLIAM BLACKWELL. MY VOICE IS A LITTLE RASPY TODAY. I AM THE CHIEF JUDGE OF THE TWENTIETH CIRCUIT, AND AFTER LISTENING TO SOME OF THESE PROBLEMS AND READING ABOUT THEM INES T E COMMITTEE

CONSIDERED, I HAVE COME TO THE CONCLUSION THAT I LIVE IN A DIFFERENT WORLD THAN THEY DO. IN MY TENURE AS CHIEF JUDGE OF THE 20th, I HAVE NEVER HEARD A COMPLAINT ABOUT A SENIOR JUDGE. WE GET FREQUENT REQUESTS FROM LAWYERS, PLAINTIFFS AND DEFENSE COUNSEL, TO EMPLOYEE SENIOR JUDGES, TO GET THE BIG CASES THROUGH THE DOCKET QUICKER. THEY ACTUALLY LIKE IT. WE HAVE A RETIRED DISTRICT COURT OF APPEALS JUDGE IN OUR AREA, WHO LOVES TO COME BACK TO THE TRIAL COURT NOW, AND DO TRIALS, AND HE WILL TRY ANYTHING FROM SMALL CLAIMS COURT TO MAJOR CASES VERY EFFECTIVE. WE WOULD LIKE TO SAY THAT, ON BEHALF THE JUDGES OF OUR CIRCUIT RETIRED AND ACTIVE, AND MOST OF THE CHIEF CIRCUIT JUDGES IN THE STATE THAT WE OPPOSE RECOMMENDATION 11 FOR THE SIMPLE REASON THAT IT IS GOING TO CLOG OUR DOCKETS. IF WE HAVE ANY RESTRICTIONS ON THE ABILITY TO USE THESE SENIOR JUDGES.

JUDGE BLACKWELL, CAN I MR. CHIEF JUSTICE

JUSTICE LEWIS.

I AM HAVING A REAL DIFFICULTY WITH THE WAY THIS THING IS COMING DOWN, AND THAT IS THAT IT APPEARS THAT THERE HAS BEEN AN ORGANIZED EFFORT ON BEHALF OF THE ORGANIZED JUDICIARY, TO TAKE THE POSITION THAT ANYONE WHO PAR TAKES OF OUR JUDICIAL SYSTEM DOESN'T KNOW WHAT THEY ARE TALKING ABOUT, AND IT ALMOST HAS BEEN, NOW, CAST IN AN US AGAINST THEM, AND THE LAWYERS IN CERTAIN PARTS OF THE STATE, ARE REALLY STRUGGLING, AND IT IS AS THOUGH THE CONSUMERS OF THE JUDICIAL PRODUCT, JUSTICE, AND THEIR CLIENTS, ARE SAYING WE CAN'T TRUST THIS PROCESS IN SOME AREAS AND CERTAINLY I UNDERSTAND THAT YOUR CIRCUIT MAY BE QUITE A BIT DIFFERENT, AND I UNDERSTAND THE DIVERSITY OF THIS STATE, AND IT CREATES A LOT OF PROBLEMS, AS WE TRY TO STRUCTURE RULES, BUT IS IT IMPOSSIBLE FOR THEM TO SEE LAWYERS AND CLIENTS CRYING OUT FOR WE NEED TO HAVE SOMERETTEMN SOME OF THE AREAS, AND IT TROUBLES ME THAT THERE IS THIS, WE KNOW BETTER THAN YOU KIND OF APPROACH TO THESE CASES, AND THAT IS WHAT IT SEEMS TO BE COMING DOWN, THROUGH THE ORGANIZED LETTER-WRITING CAMPAIGN THAT THIS COURT RECEIVED.

I AM NOT IN FAVOR OF GLOSSING OVER ANY PROBLEM. IF THERE IS A PROBLEM OUT THERE, WE NEED TO SOLVE IT.

IF THERE IS A PROBLEM IN THESE COUNTIES, AS THESE LAWYERS ARE SAYING, HOW CAN YOU SOLVE IT OTHER THAN PASSING OR HAVING SOME KIND OF RULE OR GUIDANCE OR REQUEST THAT YOU NOT USE CERTAIN KINDS OF CASES AS A DUMPING GROUND.

WELL, I WAS ABOUT TO SAY THAT WE ARE IN FAVOR OF THE ADOPTION OF RECOMMENDATIONS ONE THROUGH TEN AND 12-THROUGH-15. THE ONLY ONE WE OPPOSE IS 11. I SUBMIT THAT, IF YOU ADOPT ALL OF THESE OTHER RECOMMENDATIONS, YOU WILL IMPLEMENT A SCREENING SYSTEM THAT WILL EFFECTIVELY PRECLUDE THESE KINDS OF PROBLEMS PROBLEMS. NOW, I THINK IT IS FAIR TO CALL YOUR ATTENTION TO SOME OF THE MATTER WHICH CONSTITUTES THE RECORD IN THIS CASE. WE DON'T HAVE AN APPELLATE RECORD IN THE USUAL SENSE OF THAT WORD TO LOOK AT. WHAT WE HAVE ARE THE RESULTS OF A BUNCH OF SURVEYS. THE MEMBERS OF THE COMMITTEE SURVEYED THE 20 CHIEF CIRCUIT JUDGES. THEY GOT 13 RESPONSES. THAT IS A 65 PERCENT RESPONSE FACTOR. THEY SURVEYED TEN, I DON'T KNOW HOW MANY LAWYERS THEY SURVEYED, BUT THEY SAY THEY GOT TEN RESPONSES. IN MY MATERIALS, I GOT COPIES OF NINE COMMUNICATIONS FROM LAWYERS IN RESPONSE TO THE SURVEY. SIX OF THOSE LAWYERS WERE FROM PALM BEACH COUNTY. ONE WAS FROM PENSACOLA. ONE WAS FROM BROWARD COUNTY, AND ONE WAS FROM MIAMI. I DON'T KNOW WHERE THE TENTH ONE WAS FROM, BECAUSE I DIDN'T GET THAT LETTER. I SUGGEST THAT THIS KIND OF RESPONSE INDICATES ONE OF SEVERAL THINGS. THIS IS A GEOGRAPHIC PROBLEM, AND, ALSO, I THINK IT IS A FAULTY METHOD OF POLLING LAWYERS IN THE STATE. WE HAVE HOW MANY THOUSANDS OF LAWYERS INS.FE ONLY GOT

RESPONSES FROM TEN LAWYERS, IT SEEMS TO ME THAT THERE IS NOT MUCH OF A PROBLEM, UNLESS THESE, THIS FIELD OF LAWYERS THAT WAS SURVEYED WAS EXTREMELY SMALL AND GEOGRAPHICALLY LOCATED, WHICH APPEARS TO BE THE CASE. IF YOU WOULD PERMIT ME TO MANIPULATE THE POLL, I COULD PROVE TO YOU THAT THE EARTH IS FLAT AND NOT ROUND. A COUPLE OF OTHER THINGS I WOULD LIKE TO INVITE YOUR ATTENTION TO. SOME OF THE LETTERS FROM THESE LAWYERS IN FAVOR OF THESE RESTRICTIONS MENTION A CONSTITUTIONAL ISSUE. I HAVE READ ARTICLE V OVER AND OVER VERY CAREFULLY. SECTION 2-B, CLEARLY, AND UNAMBIGUOUSLY, GIVES THE CHIEF JUSTICE THE AUTHORITY AND THE POWER TO DELEGATE AND ASSIGN SITTING JUDGES AND JUSTICES ANYWHERE IN THE STATE, EXTRA TERRITORIAL. THEY DON'T HAVE TO BE LIMITED TO THE TERRITORIAL JURISDICTION IN WHICH THEY ARE ELECTED. THAT SAME SECTION 2-B, ALSO, GIVES THE CHIEF JUSTICE THE AUTHORITY TO DELEGATE, TO THE CHIEF JUDGES OF THE CIRCUITS, THAT SAME POWER TO USE SENIOR JUDGES, AS WE YOUTHFUL MISSCALLY CALL THEM -- AS WE EUPHAMISTICALLY CALL THEM, WE HAVE ONE FROM THE 13th WHICH IS RETIRED AND IS WILLING TO COME TO OUR JURISDICTION TO TRY SOME CASES. THAT IS APPARENTLY TRUE OF OTHER AREAS OF THE STATE. OUR POPULATION GROWS SO FAST HERE, IF YOU WOULD JUDICIALLY NOTICE THE CENSUS FIGURES FOR 1990 AND THE YEAR 2000, YOU WOULD SEE THAT THE STATE OF FLORIDA INCREASED ITS POPULATION IN THAT TEN-YEAR PERIOD BY 23 AND-A-HALF PERCENT. ALL FIVE COUNTIES IN OUR CIRCUIT THE 20th, GREATLY EXCEEDED THAT GROWTH RATE. CHARLOTTE COUNTY GREW BY 26.7 PERCENT, LEE BY 31.6 PERCENT, GLADE BY 39.3 PERCENT, HENDRY BY 63.5 PERCENT. OUR POPULATION IS EXPLODING DOWN THERE. IT IS THE SECOND-FASTEST-GROWING REGION IN THE UNITED STATES, AND WE CAN'T KEEP UP WITH OUR CASELOAD, WITHOUT THE EXPLOIT EMPLOYMENT OF -- WITHOUT THE EMPLOYMENT OF THESE JUDGES. OUR EXPERIENCE IS COMPLETELY SATISFACTORY AND NOT ANY COMPLAINT AT ALL. THE PART THAT I REFER TO ABOUT RECOMMENDATION 11 IS IT REQUIRES THE CONSENT OF THE ATTORNEYS. I THINK THAT SETS UP THE SITUATION WHERE LAWYERS CAN FORUM SHOP FOR A JUDGE. I WILL CONCLUDE THIS DISCUSSION BY SAYING THIS SO-CALLED CONSTITUTIONAL ISSUE, I DON'T THINK, IS A CONSTITUTIONAL ISSUE. I THINK THE WORD "ANY", IN FRONT OF JURISDICTION, THE WORD "ANY" IS ABSOLUTE IN ITS MEANING. IT IS NOT AMBIGUOUS. IT NEEDS NO CONSTRUCTION. IT MEANS WITHOUT LIMITATION. THE ONLY LIMITATION ON A JUDGE IN THAT SECTION OF THE CONSTITUTION IS THE LANGUAGE FOR WHICH THE JUDGE IS QUALIFIED. IF YOU WILL ADOPT RECOMMENDATIONS ONE-THROUGH-TEN AND 12-THROUGH-15, YOU WILL, AS I SAID EARLIER, IMPLEMENT A SYSTEM THAT WILL SCREEN CIRCUIT JUDGES OR SENIOR JUDGES, AND I THINK IT WILL ASSURE THAT WE HAVE A POOL OF QUALIFIED JUDGES FOR COMPLEX CASES. IT IS NOT OUR PRACTICE, IN THE 20th, TO ROUTINELY ASSIGN ALL THE COMPLEX CASES TO SENIOR JUDGES. WE TAKE A LOOK AT THE CASE AND WE DECIDE WHETHER IT IS APPROPRIATE FOR ONE OF THE SITTING JUDGES OR A SENIOR JUDGE. SOME CASES MR. CHIEF JUSTICE

JUDGE BLACKWELL, I THINK IF YOU ARE GOING TO SPLIT YOUR TIME, YOU BETTER BE COGNIZANT OF THAT.

ALL RIGHT.

CHIEF JUSTICE: THANK YOU VERY MUCH.

MAY IT PLEASE THE COURT. I AM LOUISE MacMURRAY. I AM HERE ON BEHALF OF THE PETITIONERS IN THOSE PROCEEDINGS THAT ARE NOW HERE BEFORE THE COURT ON WRITS OF PROHIBITION, S HEALTHCARE PLANS, TENANT HEALTHCARE HOSPITALS AND EM HOSPITALS. I AM ALSO HERE ON BEHALF OF THE LAW FIRM. I AM VERY HONORED TO BE HERE ON BEHALF OF LITIGANTS IN THE SYSTEM, ON BEHALF OF PRACTITIONERS IN THE SYSTEM. I THINK THE FIRST THING I WOULD LIKE TO SAY TO THE COURT IS THAT THERE IS AN ISSUE HERE OF A POINT OF POWER VERSUS THE POWER TO ELECT. I THINK SOME OF THE PROBLEMS THAT ARE APPEARING NOW, WITH SOME OF THE SENIOR JUDGE DOCKET ISSUES IN BROWARD COUNTY, SOME OF THE CONTENTION THAT IS HAVE ARISEN, WHEN THIS COMMITTEE HAS ATTEMPTED TO MAKE SPECIFIC

CONCRETE RECOMMENDATIONS, IS THAT WE HAVE LOST TRACK OF SOME OF THE CONSTITUTIONAL LIMITATIONS AND CONSTRAINTS ON USE OF SENIOR JUDGES, AND, YES, WE ARE THE ONES WHO HAVE CALLED ATTENTION TO THE FACT THAT THE UNDERLYING PROBLEM IS FUNDING, AND I WOULD READ FROM JUST A SINGLE QUOTE FROM THIS COURT, WITH RESPECT TO CERTIFICATIONS OF NEEDS FOR JUDGES AT THE CIRCUIT LEVEL. FLORIDA TRIAL COURTS HAVE CONTINUED TO ADDRESS WORKLOAD PRECIOUS, BY RELYING HEAVILY ON THE TEMPORARY ASSIGNMENT OF SENIOR JUDGES. I AM SORRY. I AM HAVING A BIT AFTER COLD TODAY. A TOTAL OF 4582 DAYS OF SERVICE WAS PROVIDED BY SENIOR JUDGES IN FISCAL YEAR 1990-91. THIS IS THE EQUIVALENT OF APPROXIMATELY 19.2 JUDGE YEARS. THEN A BIT FARTHER, WE EXPECT DEMANDS FOR SENIOR JUDGE SERVICE TO CONTINUE TO GROW, SINCE NO KNEW JUDGESHIPS WERE AUTHORIZED FOR THE CURRENT FISCAL YEAR, YET BUDGET CUTBACKS HAVE FORCED A CURTAILMENT OF THE ASSIGNMENT OF SENIOR JUDGES. I THINK WHAT IS HAPPENING IS THAT WE ARE ALL AWARE THE POPULATION IS BOOMING. CASELOAD IS EXPANDING. THE QUESTION FOR THIST IS CAN YOU USE AN EMERGENCY MEASURE A LIMITED POWER OF APPOINTMENT, TO TRY TO SALVAGEATT, , IS RUNNING UPON THE SHOALS OF BUDGETARY CONSTRAINTS. OUR SUGGESTION IS ABSOLUTELY NOT. THE POWER OF APPOINTMENT IS LIMITED. THIS COURT HAS PREVIOUSLY HELD THAT A POINT I HAVE POWER OF -- AN APPOINTIVE POWER OF AN ELECTED OFFICIAL MUST BE BASED UPON THE LANGUAGE, AT ONE CASE WAS USED, EMERGENCY OF THE PUBLIC BUSINESS, MUST BE DONE ON A CASE-BY-CASE BASIS AND MUST BE JUSTIFIED, BASED ON THE CIRCUMSTANCES OF THE CASE. WITH RESPECT TO BROWARD COUNTY, WE SEE AN UNIQUE SITUATION, A SITUATION THAT IS WORSE IN THAT COUNTY THAN, PERHAPS, OTHERS, WITH THE WHOLESALE REFERRAL OF ALL COMPLEX CASES TO A SENIOR JUDGE'S DOCKET.

HOW DO YOU RESPOND TO JUDGE BLACKWELL'S SUGGESTION THAT, IF, AND I BELIEVE YOUR RECOMMENDATION WAS THAT THE ONLY THAT SENIOR JUDGES BE APPOINTED TO THESE COMPLEX CASES, ONLY WITH THE CONSENT OF THE PARTIES, CORRECT?

IT CERTAINLY POSES NO CONSTITUTIONAL PROBLEMS, IF THE PARTIES CONSENT.

SO, BUT, HOW DO YOU, THEN, RESPOND TO JUDGE BLACKWELL'S SUGGESTION THAT THIS GIVES THE LITIGANTS AN OPPORTUNITY TO FORUM SHOP, IF WE ONLY DO IT AT THEIR CONSENT IN THESE SITUATIONS?

WELL, I DON'T REALLY THINK THERE THERE IS ANY FORUM SHOPPING INVOLVED, BECAUSE PRESUMABLY THESE LITIGANTS WHO ARE FAILING TO CONSENT TO A RETIRED JUDGE ARE ASSIGNED TO A SITTING ELECTED JUDGE. NOW, I HAD THE HONOR OF SPEAKING TO JUDGE BLACKWELL BEFORE WE CAME HERE TODAY, ABOUT THE PRACTICE IN HIS CIRCUIT, ABOUT HIS OWN EXPERTISE, ABOUT THE FACT THAT MANY SENIOR OR RETIRED JUDGES HAVE SPECIAL EXPERTISE. I WOULD RECOMMEND THAT THIS COURT TAKE A LOOK HARD AND LONG AT ITS OWN MEMORANDUM OF 1991. I WOULD SUGGEST THAT THERE ARE MANY, MANY STEPS BUILT INTOS MEMORANDUM, CONCERNING THE USE OF SENIOR JUDGES, THAT ARE CONSTITUTIONALLY GROUNDED, THATTO NE S LACKWELL HAS IS ADDRESSED IN THAT MEMORANDUM. IT SAYS, WHENEVER POSSIBLE, SENIOR JUDGES SHOULD BE USED IN ACCORDANCE WITH THE FOLLOWING PRIORITIES. AND AT NUMBER FOUR, IT HAS A SPECIAL CATEGORY OF CASE WHERE AN AVAILABLE SENIOR JUDGE HAS DEVELOPED THE NECESSARY EXPERTISE. I CANNOT SAY, AS A PRACTITIONER, THAT IN ANY CIRCUIT IN THIS STATE, THAT AT SOME TIME IN SOME CIRCUMSTANCE, THERE MIGHT BE SUCH A NEED FOR A COMPLEX CASE, TO HAVE SERVICES OF A RETIRED JUDGE. IT CANNOT BE DONE. I THINK THAT IS WHAT THE APPOINTIVE POWER IS FOR, IS TO BE ABLE TO BE USED IN A SPECIAL CASE WHERE SPECIAL CIRCUMSTANCES DO JUSTIFY THAT. HOWEVER, THE SUPREME COURT'S OWN MEMORANDUM, ALSO SAYS THAT THE ASSIGNMENT OF SENIOR JUDGE TO SAY CASES PARTICULARLY THOSE AFTER COMPLEX NATURE, WHICH MAY REMAIN IN THE SYSTEM FOR A LENGTHY PERIOD OF TIME AND FOR WHICH IT IS DIFFICULT TO ESTIMATE THE TOTAL NUMBER OF HEARING OR TRIAL DAYS THAT MAY ULTIMATELY BE REQUIRED, IS ALSO DISCOURAGED. WHY? WHY IS IT DISCOURAGED? TWO COMMENTS OF PRACTITIONERS IN THIS STATE, WITH

RESPECT TO THIS ASSIGNMENT OF COMPLEX CASES. I WILL JUST VERY BRIEFLY READ TWO. THE FIRST COMMENT, THE OBVIOUS PROBLEM SCENARIOS I EVEN COUNTERIS HAVING A MULTIDEFENDANT -- I EVEN CONSIDER, IS HAVING A MULTIDEFENDANT TWO OR MORE WEEK COMPLEX CASE, WITH NO JUDGE ASSIGNED TO THE CASE, SO FIRST, IF WE NEED CONTINUITY MR. CHIEF JUSTICE

IF WE ARE GOING TO GIVE JUDGE FARINA SOME TIME --

ALL RIGHT. THANK YOU.

CHIEF JUSTICE: THANK YOU.

MAY IT PLEASE THE COURT. JUDGE JOE FARINA FROM MIAMI. JUSTICE LEWIS AND THE COURT, I SHARE EVERYONE'S CONCERN THAT PUBLIC US FROM AND CONFIDENCE IN THE -- THAT PUBLIC TRUST AND CONFIDENCE IN THE JUDICIARY IS A JOINT EFFORT BETWEEN BENCH , AND I DO NOT AGREE THAT THE CHIEF JUDGES AROUND THE STATE ARE TRYING TO CHARACTERIZE THIS AS WE VERSUS THEM. I HOPE NOT. IT IS TRUE. THAETS COMING DOWN. YOU SEE THERE IS AN ORGANIZED RESPONSE BY THE CHIEF JUDGES AGAINST THIS COMPLEX, AND THERE IS NO ALTERNATIVE SUGGESTIONS THAT I SEE COMING OUT IN ANY OF THE FILINGS, AND IT DOES, THEN, THRUST THAT KIND OF IMAGE TO THE PUBLIC.

I THINK IT MAY BE A MATTER OF PERCEPTION. I DON'T BELIEVE THAT IT WAS INTENDED TO BE SUCH, AND QUITE FRANKLY, IT MAY VERY WELL BE THAT THE VAST, IT IS TRUE THAT ALL OF THE CHIEF JUDGES ARE VERY CONCERNED ABOUT RECOMMENDATION NUMBER 11, BECAUSE IN THE VAST MAJORITY OF TIMES, THE PRESENT SYSTEM DOES WORK. WE, IN MIAMI, I HAVE ASKED THAT JUDGES NOT SERVE AS SENIOR JUDGES. I HAVE ASKED PEOPLE TO STEP DOWN. I HAVE PUT SENIOR JUDGE NAMES ON THE JUDICIAL BAR POLL, SO ALL LAWYERS WOULD BE ABLE TO REVIEW THEIR PERFORMANCE. I DO CHECK THEIR APPELLATE RECORD. MY FRIEND, HECTOR LAMBANA AND I HAVE TALKED ABOUT THINGS THAT WE CONTINUE TO TALK ABOUT, WHO IS SERVING.

IS THERE A MECHANISM, MS. McMULLEN IS RAISING, REALLY, SPECIFIC QUESTIONS, MORE HAVING TO DO WITH COMMENTS ABOUT, AS I UNDERSTAND THEM, SPECIFIC PROBLEMS IN SPECIFIC CASES. IS THERE A MECHANISM BY WHICH THESE COMPLAINTS CAN BE TAKEN TO THE CHIEF JUDGE IN THE CIRCUIT AND RESPONDED TO?

WELL THERE, CERTAINLY IS IN MIAMI-DADE COUNTY, AND I THINK THERE IS IN MOST, IF, HOPEFULLY IF NOT ALL OF THE CIRCUITS OF THIS STATE, AND QUITE FRANKLY, IF THERE IS A CONCERN, I AM SURE IT CAN BE EXPRESSED TO MEMBERS OF THIS COURT, AND INFORMALLY FROM THIS COURT THE CHIEF JUDGES.

I THINK THAT IS WHAT HAS HAPPENED, AND WE HAVE DEALT WITH IT INFORMALLY, AS WELL AS WE CAN AND THEN THIS ISSUE HAS COME UP, THEY HAVE SUGGESTED THAT WE FORM THIS COMMISSION, ANDSMISSION HAS LOOKED AT IT. LOOK, I HAVE BEEN A TRIAL JUDGE. I HAVE BEEN A CHIEF JUDGE. I KNOW THAT THE ABSOLUTE DISCRETION AFTER CHIEF JUDGE TO BE ABLE TO MAKE THOSE ASSIGNMENTS THAT ARE APPROPRIATE FOR THE EFFECTIVE AND EFFICIENT UTILIZATION OF THE COURT'S BUSINESS IS PRIMARY AND PARAMOUNT, BUT YOU KNOW, WE, HOW CAN WE DEAL WITH THIS PROBLEM THAT CONTINUES TO JUST AND IS JUST NOT DOING ANYTHING THE BEST THING?

RESPECTFULLY, FROM WHAT I HAVE HEARD, FROM WHAT I HAVE SEEN AND READ, THE PROBLEM IS VERY LIMITED IN SCOPE AND VERY SPECIFIC INNATE.

SHOULD WE, DO YOU RECOMMEND THAT WE TAKE SOME ACTION WITH THAT CHIEF JUDGE?

I THINK THAT YOU HAVE THE RESPONSIBILITY AND THE -- SPECIFIC IN NATURE.

SHOULD WE, DO YOU RECOMMEND THAT WE TAKE SOME ACTION WITH THAT CHIEF JUDGE?

I THINK THAT YOU HAVE THE RESPONSIBILITY AND THE POSITION. QUITE FRANKLY IN THE REST OF THIS STATE, WE DO NOT HAVE A COMPLEX AGENDA IN MIAMI OR DOCKET.

IN THOSE CASES, ARE JUDGES, REGULAR, NONSENIOR JUDGES TRYING THOSE CASES IN MIAMI-DADE REGULARLY?

IN MIAMI, IF A, IF ANY CASE IS MORE THAN TEN DAYS, TEN TRIAL DAYS IN LENGTH, THEY HAVE AN OPPORTUNITY TO BE REFERRED TO A SENIOR JUDGE.

THAT IS WITH THE CONCEPT OF THE PARTIES?

IT MAY OR MAY NOT BE WITH CONSENT OF THE PARTIES. IT MAY VERY WELL BE THE TRIAL JUDGE TRYING TO BALANCE THE TRIAL JUDGE'S DOCKET, AS TO WHAT THE TRIAL JUDGE HAS IN ADVANCE. RIGHT NOW, FOR INSTANCE, IF YOU WERE TO ASK FOR A TRIAL IN MIAMI A TRIAL SETTING MIGHT BE FROM FOUR-TO-NINE MONTHS IN ADVANCE. IF YOU WOULD ASK FOR A SENIOR JUDGE, IT WOULD BE ASSIGNED TO A SENIOR JUDGE TO TRIAL WITHIN 30-TO-60 DAYS ON A DATE CERTAIN, WITH A SPECIFIC JUDGE.

SO THE POLICY IN MIAMI-DADE IS, IF A CASE IS IN EXCESS OF TEN-TO-TWELVE DAYS, THE TRIAL JUDGE HAS THE ABILITY TO SEND THAT CASE TO A SENIOR JUDGE.

YES, AND IT GOES TO THE ADMINISTRATIVE JUDGE OF THE GENERAL JURISDICTION OF THE MATTER, AND THAT JUDGE THEN SITS DOWN AND BRINGS IN THE TRIAL ATTORNEYS WITH THEIR BOOKS AND DISCUSSES WHAT IS THIS CASE ABOUT? DO WE HAVE THE EXPERTISE TO HANDLE THIS CASE? IS THERE A JUDGE AVAILABLE THAT CAN HANDLE THIS CASE, AND IT IS DONE ON A CASE-BY-CASE BASIS, RIGHT THEN AND THERE.

SO IT MIGHT BE THAT, IF THE PARTIES OBJECT THAT, IT GOES BACK TO --

YES THAT, IS A POSSIBILITY. YES. I DON'T KNOW WHAT THE NUMBERS ARE, QUITE FRANKLY, JUSTICE PARIENTE. BUT THERE ARE TRIAL JUDGES IN MIAMI HANDLING COMPLEX CASES. DIVISION TRIAL JUDGES. THEY DO NOT ALL GO INTO ONE POT.

HOW DO YOU VIEW THIS 1991 MEMORANDUM ON THE USE OF SENIOR JUDGES? IT SEEMS TO HAVE ALREADY BEEN IN PLACE AND DISCOURAGES THEIR USE IN EXACTLY THIS CIRCUMSTANCE.

QUITE FRANKLY, I AM NOT FAMILIAR WITH IT.

NOR WAS I.

NOR HAS IT BEEN BROUGHT TO MY ATTENTION BY ANYBODY WHO IS A TRIAL ATTORNEY IN MIAMI, SO I BELIEVE THAT OUR SYSTEM, FOR THE MOST PART, IS WORKING, AND WE ARE WILLING TO IMPROVE IT, BUT I THINK WE CAN DO IT WITHOUT THIS REQUIREMENT.

I KNOW WHEN I WAS CHIEF JUSTICE -- I AM SORRY. THE LIGHT.

CHIEF JUSTICE: YOU GO AHEAD. IT IS YOUR LAST DAY, SO YOU CAN GO AHEAD.

THE CHIEF JUSTICE MET REGULARLY WITH THE CHIEF JUDGES, AND ISSUES OF THIS SORT WERE DISCUSSED FROM TIME TOE. IS THERE, AND I DON'T KNOW THAT, WHEN I WAS MEETING WITH YOU FOLKS, THAT THIS ISSUED SET WHERE IT IS RIGHT NOW, BUT DOUBTFUL THAT THERE IS ANY, I KNOW THAT CHIEF JUDGES HAVE ALL WRITTEN TO US, WITH THE EXCEPTION OF ONE OR TWO. IS THERE ANY PRESSURE THAT CAN BE BROUGHT TO BEAR FOR SENSITIVITY TO THIS ISSUE IN THAT

FORUM?

I AM CONFIDENT THAT, WITH THE CHIEF JUSTICE DESIGNATE COMING ONBOARD AND WITH THE CONFIDENCE OF CIRCUIT COURT JUDGES AND THE JUDICIAL ADMINISTRATION SECTION OF CHIEF JUDGES, WE CAN ACCOMPLISH THIS. THANK YOU ALL VERY MUCH.

THANK YOU.

CHIEF JUSTICE: ANY FURTHER COMMENTS, JUDGE GOSHORN?

VERY BRIEFLY, IF I MAY, RESPONDING TO ONE OF THE QUESTIONS ABOUT WHETHER THE PROBLEM WAS ISOLATED TO SOUTH FLORIDA, LET ME JUST SAY, NO, NOT ENTIRELY. AT ONE POINT, WHEN I WAS CHAIR OF THE JQC, THERE WAS ENOUGH OF A PROBLEM IN SEVERAL AREAS AROUND THE STATE, WHERE WE SPOKE TO JUSTICE KOGAN, WHEN HE WAS CHIEF JUSTICE, HOPING TO ADDRESS THE PROBLEM, SO THERE HAVE BEEN OTHER ISOLATED INSTANCES.

WHAT WERE THOSE KIND OF PROBLEMS? WERE THEY COMING FROM A REGULAR BLANKET ASSIGNMENT OF THE COMPLEX CASES?

NO, THEY WEREN'T COMING FROM BLANKET ASSIGNMENTS. THEY WERE COMING FROM INDIVIDUAL JUDGES WHO IT WAS FELT, PERHAPS, HAD SOME DIFFICULTY DEALING WITH CASES IN FRONT OF THEM.

SO THE COMPETENCY OF THE PARTICULAR JUDGE.

THAT'S CORRECT. THAT'S CORRECT. SECONDLY, I WOULD LIKE TO JUST COMMENT THAT THE REPORT EXPRESSLY RECOGNIZES THE AUTHORITY OF THE CHIEF JUSTICE IN THE ULTIMATE ASSIGNMENT AND CERTIFICATION OF SENIOR JUDGES. I DISAGREE WITH JUDGE BLACKWELL THAT RECOMMENDATION ELEVEN REQUIRES THE CONSENT OF THE ATTORNEYS. I THINK THAT IS, OR THE PARTIES. I THINK THAT IS JUST ONE AVENUE, AND FINALLY, I WOULD LIKE TO OBSERVE THAT I DON'T BELIEVE THAT RECOMMENDATION ELEVEN WOULD CAUSE ANY PROBLEM IN CIRCUITS LIKE JUDGE BLACKWELL HAS, WHERE EVERYBODY JUST GETS ALONG. YOJ THERE WOULD BE ANY -- I DON'T THINK THERE WOULD BE ANY CONCERN OR ANYH EONS THAT, I THINK I -- I THANK THE COURT.

ON THIS, JUDGE FARINA WAS MENTIONING THAT HE PUTS HIS SENIOR JUDGES ON ANY JUDICIAL POLL. HAS THAT QUESTION COME UP, AS FAR AS RECOMMENDATIONS TO ENCOURAGE THAT TO BE DONE, OR DO YOU KNOW, WAS THAT DISCUSSED AT ALL?

THAT WAS NOT DISCUSSED IN OUR COMMITTEE, AND I AM NOT AWARE OF ANY WIDESPREAD USE OF THAT.

CHIEF JUSTICE: THANK YOU, JUDGE GOSHORN, AND THANK YOU, EACH AND EVERYONE WHO HAS COME TO COMMENT AND HELP THE COURT WITH THE CONSIDERATION OF THIS VERY IMPORTANT MATTER.