

>> ALL RISE.
HEAR YE HEAR YE HEAR YOU,
SUPREME COURT OF FLORIDA NOW IN
SESSION.
IF YOU HAVE ATTENTION, YOU SHALL
BE HEARD.
GOD SAVE THE UNITED STATES,
GREAT STATE OF FLORIDA AND THIS
HONORABLE COURT.
LADIES AND GENTLEMEN, SUPREME
COURT OF FLORIDA, PLEASE BE
SEATED.

>> BEFORE WE PROCEED, GOOD
MORNING, WELCOME TO THE FLORIDA
SUPREME COURT.
FIRST AND FOREMOST, JUSTICE
PAULSON IS UNABLE TO PARTICIPATE
IN TODAY'S ORAL ARGUMENT.
HE WILL PARTICIPATE IN THE
DECISION OF ALL CASES EARLIER
TODAY.

SECONDLY, PRESENT TODAY ARE
LAWYERS PARTICIPATING IN
PRACTICING BEFORE THE COURT
SEMINAR.
THE SEMINAR WE HOLD EVERY YEAR
BEFORE LAWYERS COME TO OUR
BUILDING AND WE HAD A SEMINAR IN
CONTRACTORS BEFORE THIS COURT.
IT WOULD BE FOLKS TAKING THAT
SEMINAR, PLEASE STAND.

THANK YOU.
THANK YOU FOR FILLING UP THE
COURT ROOM FOR US.

[LAUGHTER]

>> WITH THAT DONE, THE FIRST
CASES THE LAW OFFICE OF HUSSEIN
AND HUSSEIN VERSUS THE UNITED
STATES AUTOMOBILE ASSOCIATION.

>> GOOD MORNING MEMBERS OF THE
COURT.
IF IT PLEASE THE COURT, MY NAME
IS LAURA UDELL, I REPRESENT
RUBEN HUSSEIN WHO IS WITH ME
ALONG WITH HIS LAW FIRM.
IN ONE WORD, I THINK THIS CASE
CAN BE SUMMED UP WITH A TERM
THAT WAS USED RECENTLY, OPTICS.
THIS CASE COMES BEFORE THIS
COURT BECAUSE OF THE VIOLATION

OF THE CODE OF JUDICIAL CONDUCT BY THE COURT, THE TRIAL COURT. IT IS OUR POSITION THIS CASE -- THIS CASE CAME BEFORE THE TRIAL COURT IN OCTOBER 2016 WHEN MY CLIENT FILED A MOTION RELATED TO WITNESS TAMPERING CONCERNING ONE WITNESS, THE CHIEF ARCHITECT OF THE NEGOTIATIONS BETWEEN MY CLIENT AND USA RESPONDENT, THE PREVIOUS TRIAL COURT SPECIFICALLY ORDERED TWO SPECIFIC EVIDENTIARY HEARINGS ON WITNESS TAMPERING ISSUE. SUBSEQUENT TO THAT, USAA HIRED A MORE TO REPRESENT MISS TORME PERSONALLY AND THEN MOVED THE WITNESS TAMPERING HEARING, MOVED THE CASE TO THE COMPLEX BUSINESS SYSTEM OF THE 11TH CIRCUIT. JUDGE BUTCHGO WAS ACTING AS ADMINISTRATIVE JUDGE AT THE TIME, THEN BECAME THE JUDGE ON THE CASE. THE LAWYER FOR MISS TORME ARGUED AT THAT HEARING ADVOCATING TO MOVE THE CASE TO COMPLEX BUSINESS. THE FIRST THING THE COURT DID WAS ELIMINATE THE EVIDENTIARY HEARING ON WITNESS TAMPERING, THE FIRST THING THE COURT DID. EVEN THOUGH THEY PREVIOUSLY AGREED TO APPEAR FOR THAT TWICE, SUBSEQUENTLY IN JUNE 2017, WE HAVE A HEARING DEALING WITH A MOTION TO DISMISS SPECIFICALLY MY CLIENT INDIVIDUALLY. AND THE COURT DENIED THE MOTION TO DISMISS AND WE ADVISED THE COURT, BECAUSE OF THIS ISSUE MY CLIENT INTENDS TO AMEND THEIR COMPLAINT AND THESE CORPORATE INDIVIDUALS, ACTING FRAUDULENTLY, INDUCING THIS CONTRACT. >> LET ME ASK YOU A QUESTION. WOULD YOU AGREE THE WORD FRIEND IS COMMONLY UNDERSTOOD, REFERS TO A SPECTRUM SOMEWHERE BETWEEN

A CLOSE RELATIONSHIP AND
ACQUAINTANCE IN GENERAL.

>> I WOULD AGREE WITH THAT.

>> ARE YOU SUGGESTING WE SHOULD
RESEED FROM MCKINSEY OR IT WAS
DECIDED INCORRECTLY THE HOLDING
OF THAT CASE BEING MERE
FRIENDSHIP AS IT IS COMMONLY
UNDERSTOOD IS NOT, DOES NOT
WARRANT RECUSAL?

>> I AM SUGGESTING IN THIS CASE.

>> YOU ARE NOT SUGGESTING.

>> FACEBOOK FRIENDSHIP IS
DIFFERENT FROM THE WORD
FRIENDSHIP.

FACEBOOK FRIENDSHIP.

>> YOU ACCEPT WE SHOULDN'T
RECEIVE --

>> FRIENDSHIP IS FRIENDSHIP.

>> FACEBOOK FRIENDSHIP IS ALSO A
SPECTRUM THAT RUNS FROM CLOSE
FRIENDSHIP, BUT RUNS FURTHER TO
SOMEONE YOU DON'T RECOGNIZE ON
THE STREET OR MIGHT NOT KNOW.

>> ANALYTICALLY HAVING A HARD
TIME WRAPPING MY MIND AROUND THE
ARGUMENT, THAT MY FRIENDSHIP IS
NOT ENOUGH.

A SPECTRUM IN THE DIRECTION OF I
HAVE NO CONNECTION WITH THIS
PERSON, WOULD SOMEHOW RESULT IN
RECUSAL OR DISQUALIFICATION.

>> FRIENDSHIP IN THE FACEBOOK
SENSE IS ACTUALLY MORE.

I KNOW A LOT MORE ABOUT SOMEONE
WAY DOWN THE SPECTRUM THEN I
WOULD KNOW OTHERWISE.

THE PENTAGON THE PROCLIVITY FOR
POSTING AND COMMENTING.

>> YOU ARE TELLING ME IT MEANS
THE RELATIONSHIP IS CLOSER.

WITH SOMEONE WHO IS AN
ACQUAINTANCE THAT COULD POSSIBLY
BE WITH SOMEONE WHO WOULDN'T
RECOGNIZE ON THE STREET.

>> AS A FACEBOOK FRIEND, WITH
THE JUDGE, THE OTHER SIDE DOES
NOT HAVE THAT.

>> IT COULD BE, IT SEEMS
SPECULATIVE.

WHAT DO WE KNOW ABOUT THE
FACEBOOK FRIENDS OF THE JUDGE.
DOES THE RECORD REFLECT THE
NUMBER OF FACEBOOK FRIENDS?

>> IT DOES NOT.

NO RECORD EVIDENCE AS TO THAT
ISSUE.

>> YOU MIGHT HAVE A SITUATION,
IF THE JUDGE HAS FOUR FACEBOOK
FRIENDS, THREE OF THEM CLOSE
RELATIVES, THE OTHER ONE IS A
LAWYER IN THE CASE.

>> THAT MIGHT BE SOMETHING TO
LOOK AT.

THE FACT THAT IT IS SUCH A
NARROW NUMBER OF FRIENDS IS
INDICATIVE OF SOMETHING IN THE
CHOICE OF THE LAWYER TO BE ONE
OF THOSE BUT WE HAVE NO
SUGGESTION OF THE CIRCUMSTANCE
LIKE THAT.

YOU ARE TELLING ME YOU HAVE NOT
MADE A RECORD THAT PRESENTS
THAT.

>> CORRECT.

>> THE ISSUE WE ARE HERE ABOUT,
THE CONFLICT ISSUE.

YOU WERE SUGGESTING AS YOU TOLD
THE SEQUENCE OF EVENTS THAT
THERE WAS MANIPULATION IN FRONT
OF THIS PARTICULAR JUDGE AND A
SERIES OF ADVERSE RULINGS
AGAINST WHAT PREVIOUSLY
OCCURRED, NO EVIDENTIARY HEARING
ETC..

WE ARE HERE, AS I UNDERSTAND IT
ON THESE OTHER ISSUES, WHETHER
THE ALLEGATION OF FACEBOOK
FRIENDS STANDING ALONE IS
SUFFICIENT TO WARRANT RECUSAL
AND LOOKING AT YOUR MOTION, YOU
SAY THEY ARE FACEBOOK FRIENDS
AND BASED ON THAT YOU HAVE A
FEAR THAT THE LAWYER HAS
INFLUENCE ON THE JUDGE AND
CANNOT BE IMPARTIAL.

JUSTICE KENNEDY AND JUSTICE
LAWSON, THAT IS THE CONCERN.

I WOULD AGREE THAT FACEBOOK AND
THIS WHOLE FRIENDSHIP THAT GOES

ON IS FRAUGHT THROUGH JUDGES
WITH DANGER.
BUT WITH THIS ALLEGATION, AND
SOMEONE IS A FRIEND ON FACEBOOK,
COULD BE HUNDREDS OR TWO OR
THREE AND THE JUDGE USING THE
FACEBOOK PAGE TO CONVEY
IMPORTANT INFORMATION THE
ADMINISTRATION OF JUSTICE, HOW
DO YOU RESPOND, AND AUTOMATIC
RECUSAL.

>> THE LAW AND THE LAND, A
LEGALLY SUFFICIENT REASON FOR
DISQUALIFICATION.

>> YOU ARE TALKING THE FOURTH
DISTRICT CASE.
I AM CONCERNED THERE WERE ETHICS
OPINIONS OUT TO SAY DON'T DO
THIS.

AND NOT NECESSARILY THE RECUSAL.
>> I WOULD SAY WHEN YOU HAVE THE
ETHICS COMMISSION WHICH IS
LEGISLATIVE CREATIVE BODY
DESIGNED TO ADVISE JUDGES OF THE
PITFALLS OF NEGOTIATING THE CODE
OF ETHICS.

THEY INSTRUCT JUDGES DO NOT DO
THIS, YOU SHOULD NOT DO THIS AND
THE FOURTH DISTRICT COURT OF
APPEAL COMES OUT AND SAYS WE
AGREE WITH THE ETHICS OPINION,
DO NOT DO THIS.

IN THE STATE OF FLORIDA AND
APPELLATE COURT DISREGARDS AND
ETHICS OPINION.

>> IF WE DECIDE WHAT THEY SAID
IS NOT CONSISTENT WITH THE LEGAL
FRAMEWORK WE PREVIOUSLY HAD IN
PLACE --

>> YOU UNDERSTAND THESE OPINIONS
ARE NOT BINDING.

>> IF THEY ARE NOT BINDING, IF A
COURT AND TRIAL JUDGE IS FACED
WITH THIS ISSUE, CANNOT USE THE
ETHICS OPINIONS AS EVIDENCE OF
GOOD FAITH.

>> THE SAME PERSON NOT ON
FACEBOOK TOGETHER, THEY KNOW
EACH OTHER, EVEN OCCASIONALLY
MAY HAVE LUNCH TOGETHER, WOULD

YOU FILE THE SAME MOTION.
ALL THE PROBLEMS SEEM TO BE
WHERE IS THE DIFFERENCE,
>> THE SPECIFIC ACKNOWLEDGMENT,
THIS PERSON IS A FRIEND.
>> ISN'T THAT OUR PUBLIC
ACKNOWLEDGMENT, BECAUSE WE HAVE
SOME KIND OF RELATIONSHIP.
>> THAT IS NOT FOREVER
EMBLAZONED IN THE ELECTRONICS OF
THE WORLD THAT ANYONE IN THE
WORLD CAN SEE ACCEPT -- IF YOU
ARE NOT ON FACEBOOK, IF THE
JUDGE IS NOT FRIENDS WITH THAT
PARTY OR LITIGATOR OR WHERE?
>> RELYING ON AN ETHICAL OPINION
THAT IS NOT BINDING BUT THE
ETHICAL OPINION SPECIFICALLY
SAYS THAT THE CONDUCT MAY NOT
QUALIFY A JUDGE FOR
DISQUALIFICATION BUT MAY AT THE
SAME TIME VIOLATE THE CODE OF
JUDICIAL CONDUCT.
I WOULD HAVE THOUGHT AFTER THESE
OPINIONS, JUDGES WOULD NOT HAVE
LAWYERS -- JUST ME THINKING THIS
HAD BEEN A CAMPAIGN, FACEBOOK
PAGE, WE DON'T KNOW.
AND THAT IS A DIFFERENT ISSUE
WHETHER THERE COULD HAVE BEEN AN
ETHICAL VIOLATION AND AS TO
WHETHER JUST THE MERE ALLEGATION
OF THE FACEBOOK FRIENDSHIP
SHOULD DISQUALIFY SOMEBODY FROM
PROCEEDING IN A TRIAL.
>> AT THE TIME THE MOTION WAS
FILED IN MY CLIENT'S EYES, THAT
WAS THE STATE OF THE LAW, THAT
IS WHY THE MOTION IS FILED,
OTHER THAN THE TWO ISSUES WE
RAISED.
>> TELL ME ABOUT THE FIFTH
DISTRICT.
>> IT WAS THE CHASE CASE, A
DIVORCE CASE WHERE THE JUDGE --
BEFORE THE CASE.
>> UNDERSTAND THE ARGUMENT THAT
IT WAS A DIFFERENT ISSUE THERE.
SEEMS TO ME THE COURT, THE TRIAL
COURT WAS BOUND BY THE FOURTH

DISTRICT OPINION.

AND FOR REASONS TO THIS
DISCUSSION.

MAYBE THAT IS BECAUSE PART OF
THEIR ANALYSIS, WHAT THE TRIAL
COURT SHOULD BE DOING AND IT IS
ALONG THE PATH OF
DECISION-MAKING TO GET TO THE
BOTTOM LINE.

>> I DON'T THINK SO.

>> I DON'T KNOW IT MAKES A
DIFFERENCE.

>> THEY SAY THE TRIAL COURT WAS
BOUND JUST LIKE OUR CASE, WE
BELIEVE THE TRIAL COURT WAS THE
ISSUE ON POINT.

FACEBOOK FRIENDS WITH A LAWYER
OR LITIGANT, THE JUDGE ATTEMPTED
TO FRIEND THE WIFE ON ADVICE OF
COUNSEL WHO DID NOTHING.

HAMMERED BY THE TRIAL JUDGE.

>> ON THE CONFLICT ISSUE, THE
QUESTION OF LAW, THE FOURTH DCA
OR JCA, NOT PERSUASIVE.

THE FACT THEY SAID WHAT THEY
SAID HAS NO RELEVANCE TO OUR
DECISION.

AND IT IS NOT PERSUASIVE AT ALL,
I EXPLAINED TO YOU WHY, AND THE
PERSUASIVE CASE THAT
DISQUALIFICATION SHOULD BE
REQUIRED UNDER THESE
CIRCUMSTANCES.

>> THAT IS WHAT WE ARE GETTING
FROM THE COURT.

A JUDGE SHOULD AVOID THE
APPEARANCE OF IMPROPRIETY IN ALL
THINGS.

>> IS IT IMPROPER OR IMPROPER AT
ALL FOR A JUDGE TO MAKE KNOWN A
PERFECTLY PROPER RELATIONSHIP,
SHOULD A JUDGE WHO HAS AN
ACQUAINTANCE WHO IS A LAWYER
ONLY GO TO LUNCH WITH THEM IN A
PRIVATE SETTING SO NO ONE CAN
SEE?

IT IS IMPROPER IF THEY DO IT
NEAR THE COURTHOUSE AT LUNCHTIME
WHERE OTHER ATTORNEYS CAN SEE
THEM?

>> I'M RUNNING INTO MY REBUTTAL TIME.

TO ANSWER YOUR QUESTION, THE ISSUE THE COURT HAS GRASPED IS FACEBOOK FRIENDSHIP AND REGULAR FRIENDSHIP.

AND FACEBOOK CHOOSES FRIENDS, THAT IS NOT CORRECT.

YOU MAKE THE ACTIVE ENGAGEMENT, THIS IS MY FRIEND, THE PERSON ACCEPTS IT.

>> THE RELATIONSHIP BETWEEN FACEBOOK FRIENDSHIP AND REGULAR FRIENDSHIP --

>> FOR PURPOSES OF COMPLYING WITH THE CODE OBJECTIVE SOCIAL ETHICS.

AND ELECTRONS IN BLAZING IN THE WORLD, FOR ANYONE TO SEE ACCEPT THE OTHER SIDE.

>> I KNOW SOMETHING ABOUT IT FROM READING THE CASE, THE MATERIALS HERE.

FROM WHAT YOU PRESENTED.

IT SEEMS TO ME THE REALITY OF FACEBOOK FRIENDSHIP IS FACEBOOK FRIENDS ARE FRIENDS OF FRIENDS OF A FRIEND OF A FRIEND, THIS NETWORK EXTENDS OUT AND SOMEHOW PARTICIPATING IN THAT NETWORKING ARRANGEMENT SOMEHOW ESTABLISHES THE KIND OF RELATIONSHIP WITH ANYBODY WHO HAPPENS TO COME INTO IT THAT WOULD RESULT IN DISQUALIFICATION IS NOT CONSISTENT WITH WHAT CASE LAW SAID ABOUT TRADITIONAL FRIENDSHIP.

>> THAT IS THE DIFFERENCE.

IT IS DIFFERENT.

NOT TRADITIONAL FRIENDSHIP.

>> THE FOLLOW-UP OPINION FROM THE JEAC THE QUESTION WAS POSED, SOMETHING LIKE IF THE JUDGE POSTS IN THEIR PROFILE THEY ARE A JUDGE AND THEY ARE INDISCRIMINATE IN ACCEPTING FRIENDS AND WILL ACCEPT ANYONE WITH WHOM THEY HAVE A CONNECTION REMOTELY AND THE FACT THAT

SOMEONE IS A FACEBOOK FRIEND
DOESN'T MEAN THEY WOULD KNOW
THEM.

IF THAT IS PART OF THE FACEBOOK
PAGE, WHY WOULD NOT THE JEAC SAY
THAT.

WHY WOULDN'T IT CURE THE PROBLEM
THAT YOU PERCEIVE?

FOR SOMEONE WHO DOESN'T
UNDERSTAND FACEBOOK AND HOW IT
WORKS?

>> IT IS THE VERY IMPLICATION
AND SELECTION TO THE EXCLUSION
OF OTHERS.

IF ANYONE COULD FRIEND THE JUDGE
AND THE JUDGE COULD FRIEND
ANYONE THEN YOU ARE CORRECT BUT
THAT IS NOT WHAT THE CASE WAS.
AT THE TIME THE MOTION WAS FILED
AND IT WAS A FRIENDSHIP OFFER
ACCEPTANCE DEAL.

THE OTHER SIDE HAD NO KNOWLEDGE.

>> YOU SAID IT IS NOT TRUE THAT
ANYONE COULD FRIEND A JUDGE AND
THE JUDGE COULD FRIEND ANYONE
BUT THAT IS THE WAY FACEBOOK
WORKS.

>> CORRECT BUT YOU HAVE TO MAKE
THAT CONNECTION.

THE POINT IS TO AVOID THE
APPEARANCE OF IMPROPRIETY YOU
CANNOT MAKE THAT CONNECTION TO
THE EXCLUSION OF THE OTHER SIDE.

>> I WILL GIVE YOU SOME TIME,
YOU HAVE A LITTLE MORE TIME.

>> GOOD MORNING, MAY IT PLEASE
THE COURT?

I AM SUZANNE LEBRIT AND I
RECOGNIZE AMY VESSEL WHO WORKED
ON THE BRIEF.

I WORK FOR USAA TODAY.

WE BELIEVE THE DCA PROPERLY HELD
THE FACT THAT A JUDGE IS
FACEBOOK FRIENDS WITH A LAWYER
FOR A WITNESS OR POTENTIAL PARTY
WITHOUT MORE DOES NOT PROVIDE
BASIS FOR DISQUALIFICATION.

>> LET ME ASK ABOUT GOING TO
LUNCH WITH A LAWYER.

WHEN I WENT ON THE BENCH, I HAD

AN APPELLATE JUDGE WHO TOOK ME TO LUNCH AND SOMEBODY CAME OVER AND HAD A QUESTION ABOUT SOME LEGAL MATTER AND I WAS ABOUT TO ANSWER IT AND YOU ARE IN A DIFFERENT POSITION.

GOING OUT TO LUNCH WITH LAWYERS IS CERTAINLY NOTHING YOU WOULD PROHIBIT, BUT I'M PRETTY SURE LAWYERS, WHEN THEY KNOW THEY ARE GOING TO BE APPEARING BEFORE A JUDGE WILL AVOID THAT KIND OF PUBLIC, THEY ARE HAVING LUNCH IN THE CASE.

WE AGREE THAT DURING THE CASE WE WOULDN'T WANT LAWYERS APPEARING FOR THE JUDGE TO GO OUT TO LUNCH.

CORRECT?

>> YES.

>> THERE IS SOMETHING DIFFERENT ABOUT WHAT MAY HAPPEN BEFORE CASE AND WHAT HAPPENS DURING A CASE.

WE LOOKED AT ALL THE DIFFERENT STATES, WHAT JUDGES SHOULD DO. CALIFORNIA TALKS ABOUT IN OKLAHOMA, LAWYERS THAT ARE REGULARLY APPEARING BEFORE THE COURT, THAT IS A DIFFERENT SITUATION.

SOMEONE'S CORPORATE LAWYER HAVING A FRIEND WHO IS DIFFERENT, SO DO YOU AGREE ALTHOUGH THERE MAY NOT BE A HARD AND FAST RULE THAT THIS FACEBOOK FRIENDSHIP IS NOT AS SIMPLE AS SOMEONE MIGHT HAVE THOUSANDS OF FRIENDS SO IT IS NOT AN ISSUE FOR JUDGE TO HAVE LAWYERS AS FRIENDS, IS MY QUESTION.

>> I AM FOLLOWING YOUR QUESTION. I AGREE WITH THE START POINT, AND APPEARING BEFORE THE COURT, I SHOULD NOT HAVE LUNCH WITH YOU AFTER THIS ARGUMENT, THAT WOULD PROBABLY NOT BE A GOOD THING AND I UNDERSTAND WHAT YOU ARE SAYING ABOUT THE FACT THE FACEBOOK RELATIONSHIP WOULD INDICATE

THERE IS A POSSIBILITY TO HAVE AN ELECTRONIC LUNCH IF YOU WILL. I WOULD RESPOND TO THAT BY POINTING TO THE ANALYSIS OF THE THIRD DCA THAT HE TALKS ABOUT, TYING THAT TO WHAT JUSTICE KENNEDY RAISED IN THE DISCUSSION EARLIER.

WE DON'T HAVE ANY RECORD OF WHAT THE JUDGE'S FACEBOOK ACCOUNT LOOKED LIKE AND PEOPLE HAVE HUNDREDS OF THOUSANDS AND MAY NOT KNOW WHO YOUR FRIENDS ARE.

>> A VERY GOOD OPINION, SOLID OPINION.

YOU MAY GET THOUSANDS OF FRIEND REQUESTS BUT THERE IS AN AFFIRMATIVE DECISION AS TO WHETHER YOU WILL ACCEPT THE FRIEND REQUEST.

AM I CORRECT?

>> YES.

I ALSO POINT TO THE COURT AND THIS IS RECITED IN JUDGE LOGAN'S OPINION, FACEBOOK HAS BEEN AROUND LONGER THAN 10 YEARS. A LOT OF JUDGES HAVE COME ON THE BENCH SINCE THEN.

I'M NOT FACEBOOK LITERATE MYSELF BUT I UNDERSTAND THAT YOU CAN RANDOMLY, FACEBOOK DOES MAKE SUGGESTIONS AS JUDGE LOGAN TOLD US, ABOUT PEOPLE YOU KNOW AND I BELIEVE IN OUR RECORD, THE PRINTOUT OF THIS JUDGE'S FACEBOOK PAGE, SHOWS WHOEVER POOLED THAT PRINTOUT HAD TEN MUTUAL FRIENDS WITH THE JUDGE. WE KNOW THE JUDGE HAD AT LEAST WE CAN FRIEND AND A FEW MORE THAT ARE SHOWN ON THAT PAGE.

I DON'T THINK THAT PEOPLE NECESSARILY WHEN THEY FOR EXAMPLE ARE APPOINTED OR ELECTED TO THE BENCH WOULD PARTICULARLY IF THEY ARE SOMEONE WHO HAD THOUSANDS OF FRIENDS WOULD NECESSARILY THINK I HAVE TO GO BACK AND DELETE --

>> THAT IS SOMETHING DIFFERENT

BECAUSE THERE ARE A LOT OF ETHICAL OPINIONS TO TALK ABOUT, CONNECTICUT DOES, A JUDGE WHO MIGHT HAVE HAD THOUSANDS OF FRIENDS WHEN SHE WASN'T A JUDGE GOES ON THE BENCH, YOU DON'T THINK THERE'S AN OBLIGATION TO LOOK AT YOUR FACEBOOK PAGE TO SEE WHO THESE FRIENDS ARE? THERE WAS AN ETHICAL OPINION, FOURTH DISTRICT CASE THAT YOU ARE ON MORE SOLID GROUND SAYING THIS ALLEGATION THAT A FACEBOOK FRIEND COULD BE ANYTHING FROM A DISTANT ACQUAINTANCE TO A LONG-LOST RELATIVE TO PART OF YOUR HIGH SCHOOL CLASS TO SOMEBODY THAT YOU ARE CLOSE WITH, IS NOT ENOUGH.

>> I WOULD RESPOND IN TWO WAYS. JUSTICE LAWSON ASKED THE RIGHT QUESTION WHICH IS IF YOU ARE GOING TO CHANGE TO RULE YOU WOULD NEED TO RECEIVE FROM MCKINSEY.

>> JUSTICE ALBERTSON, WHETHER IT WAS MACKENZIE, TALKS ABOUT HOW IN SMALL COUNTIES, FRIENDS THAT ARE LAWYERS, PART OF THE SAME BAR ASSOCIATION, THE REALITY OF THE FACEBOOK WORLD IS THE JUDGE HAS THE CHOICE TO NOT HAVE A FACEBOOK PAGE AND NOT HAVE LAWYERS AS FRIENDS AND ALL THE JUDICIAL ETHICS ADVISORY COMMITTEE OPINION SAID.

I'M STILL CONCERNED THAT A JUDGE IN LIGHT OF THAT IS OPPOSED TO SEEKING A CHANGE IN THE OPINION, WOULD CONTINUE TO HAVE A FACEBOOK PAGE WHEN THEY BECOME A JUDGE, WITH LAWYERS THAT MIGHT APPEAR BEFORE THEM.

AND ON SOLID GROUND, I AM NOT -- I'M MORE CONCERNED THAN YOU SEEM TO BE BECAUSE THE JUDGE CAN DO CERTAIN THINGS TO ASSURE WHAT IS ON THEIR PAGE DOES NOT HAVE LAWYERS AS FRIENDS.

>> ONE THING, NOT TO BE

CONTENTIOUS, WHAT I DIDN'T SEE IN THE DECISIONS FROM 29, AND 2010, WAS AN ACKNOWLEDGMENT A REQUIREMENT THAT A JUDGE, TO DELETE THEIR FACEBOOK ACCOUNT. TO POLICE IT TO ENSURE THE ONLY PEOPLE THEY ARE FRIENDS WITH OUR NONLAWYERS.

AND THE PRACTICAL EFFECT, AND ACCEPTING THE POSITIONS AND I'M NOT SURE WHICH JUSTICE ASKED THIS QUESTION, JUSTICE QUINCE, IF WE ACCEPT THE PROSECUTION THAT FACEBOOK FRIENDSHIP RANGES FROM A GOOD FRIEND, YOUR BEST FRIEND IN LIFE, TO LEBRON JAMES AND I ARE FRIENDS ON FACEBOOK. HE COULDN'T PICK ME OUT IN A LINEUP.

IF WE ACCEPT THAT PROPOSITION, WE HAVE TO THINK IN TERMS OF WHAT IS A REAL FRIEND.

>> POST ANYTHING AFTER THE GAME LAST NIGHT?

>> MISSED THE GAME.

IF YOU ACCEPT THE PROPOSITION THAT FRIENDS IN REAL LIFE ARE ON THAT CONTINUUM, ANYTIME MOVEMENT FOR DISQUALIFICATION ALLEGES THE JUDGE IS FRIENDS WITH A LAWYER AND THE JUDGE DID SOMETHING ELSE OF WHICH WE HAVE OTHER THINGS WE HAVEN'T SPOKEN OF.

WE HAVE TO GET BEHIND THAT, THAT WOULD RESULT IN WHAT JUSTICE BURKE HAD.

AND HER CONCURRENCE.

WE ARE CHOKED WITH INFINITE MOTIONS TO DISQUALIFY BASED ON THE FACT A LAWYER MAY BE FRIENDS.

>> YOU LIVE IN A COMMUNITY AND PEOPLE WHO ARE NOT LAWYERS. AND ONE DAY, YOU HAVE THOSE PEOPLE, THE PLAINTIFF OR THE DEFENDANT, IT SEEMS TO ME THIS RULE WOULD EXTEND, IF WE ACCEPT THE RULE, AN AUTOMATIC DISQUALIFICATION THAT THE JUDGE, FACEBOOK FRIENDS, WOULDN'T IT

FOLLOW THE JUDGE WOULD ALSO HAVE TO BE DISQUALIFIED IF SOME FRIEND, AND THAT BEING A LITIGANT.

>> EXCELLENT QUESTION AND IT HAS BEEN SPOKEN TO SEVERAL TIMES, THE LAW FIRM, AND THEY READ IT. I LOOKED AT NAR ARTICLE. AND IMPOSSIBLE TO MANAGE.

>> IT DEPENDS.

IT DEPENDS.

WE START WITH THE PROPOSITION, BEING A FRIEND ON FACEBOOK BY ITSELF, STANDING ALONE MAY NOT BE SUFFICIENT FOR RECUSAL.

IT DEPENDS ON HOW THE CONVERSATIONS ON FACEBOOK ARE USED.

SAY I AM ON FACEBOOK, MY WIFE WOULD NOT ALLOW IT.

I HAVE 500 FRIENDS.

ONE DAY I SAY I AM A CIRCUIT COURT JUDGE, AND SO ON AND ON.

I CAN'T STOP THAT FROM HAPPENING.

TELLING ME THE APPROVAL PEOPLE HAVE ON WHAT I DID.

IT CAN GET TO A POINT IT HAS SOME IMPACT.

>> WE CAN ANSWER THAT IN A GENERAL, WELL ESTABLISHED PRECEDENT OF THIS COURT.

IT IS RECITED IN MACKENZIE OPINION AND MULTIPLE DECISIONS AS ISSUED FOR DISQUALIFICATION.

THE BOTTOM LINE IS THIS COURT MUST AND DOES ASSUME, ABIDING BY THEIR OATH THAT THEY WILL FOLLOW THE CANONS OF JUDICIAL CONDUCT AS THEY HAVE SWORN TO DO AND PERFORM THEIR DUTIES IMPARTIALLY AND INTELLIGENTLY.

WE CAN'T HAVE A SYSTEM BASED -- OPERATES BASED ON SUSPICIONS OF THE OUTLIERS.

>> WE MUST HAVE, SHOULD WE NOT HAVE AS A SYSTEM THE PARAMETERS WITHIN WHICH HUMAN JUDGES MUST OPERATE INCLUDING, CREATING IMPRESSIONS ON OTHER FOLKS.

THOSE WHO ARE FREQUENT
CONTRIBUTORS, WHICH I AM NOT.
THEY VIEW IT ONE WAY, IT IS NO
BIG DEAL.

THOSE WHO DO NOT PARTICIPATE
BECAUSE THEY FEAR EXACTLY WHAT
HAPPENED TODAY, THEY HAVE AN
IMPRESSION CREATED WHICH IS
ABSOLUTELY 100% BASED IN FACT
BUT BASED ON THE ENCOUNTERS IN
ACTION.

WHAT IS WRONG WITH DRAWING LINES
WHERE THERE IS SOMETHING THAT IS
SO NEBULOUS THAT DEEPENS THAT WE
NOT HAVE, MORE BRIGHT LINES IN
CONNECTION WITH THIS.

>> THAT IS CERTAINLY WITHIN THE
PURVIEW PROVINCE OF THIS COURT'S
AUTHORITY TO MAKE THOSE TYPES OF
RULES.

>> IF ALL JUDGES WERE SAINTS, WE
WOULD NOT HAVE ALL THE CASES
FROM THE JQC.

IT WAS ON A WEEKLY BASIS.

>> IT SEEMS TO ME ALSO THAT THE
JUDGE THAT NEEDS TO MINIMIZE THE
OPPORTUNITIES OF BEING
DISQUALIFIED.

>> ON FACEBOOK OR MEDIAS THAT I
AM NOT FAMILIAR WITH.

AND YOU THEN RUN THE RISK OF
DISQUALIFICATION.

IF THIS MOTION HAD MORE IN IT
THAN THE JUDGE AND THE LAWYER
WERE FACEBOOK FRIENDS BUT ALSO
ON FACEBOOK SAID SUCH AND SUCH
TO EACH OTHER, WHATEVER IT MIGHT
HAVE BEEN.

IF YOU RUN THE RISK, MULTIPLE
MOTIONS FOR DISQUALIFICATION FOR
ANY NUMBER OF PEOPLE.

>> THE REAL-LIFE ANALOGY OF
LAWYER FRIENDS, WE WOULD SAY
THAT JUDGE BUTCHKO WAS HAVING
LUNCH WITH MR. RAY US.

6 MONTHS BEFORE THE HEARING,
WHAT HAPPENED HERE, THEY WERE
CONVIVIAL AND ENJOYING
THEMSELVES BUT THAT IS ALL THEY
KNEW.

WOULD THAT BE ENOUGH TO DISQUALIFY JUDGE BUTCHKO IF INSTEAD OF STAYING FACEBOOK FRIENDS, I SAW THEM 6 MONTHS AGO HAVING LUNCH.

>> YOU SAID YOU HOPE OR YOU EXPECT JUDGES TO FOLLOW ETHICAL RULES, IN 2009 THE JEAC SAID THE ISSUE IS NOT WHETHER THE LAWYER ACTUALLY IS IN A POSITION TO INFLUENCE THE JUDGE BUT WHETHER IDENTIFICATION OF THE LAWYER AS A FRIEND IN A SOCIAL NETWORKING SITE INVADES THE IMPRESSION THE LAWYERS IN A POSITION TO INFLUENCE THE JUDGE WAS THE COMMITTEE CONCLUDE SUCH IDENTIFICATION IN A PUBLIC FORUM OF A LAWYER WHO MAY APPEAR BEFORE THE JUDGE DOES CONVEY THE IMPRESSION AND IS NOT PERMITTED. THAT IS 2009.

IN 2012 THE FOURTH DISTRICT SAID UNEQUIVOCALLY IT IS GROUNDS FOR RECUSAL.

WE ARE TALKING ABOUT LIFE HAS CHANGED, FACEBOOK ALTHOUGH IT IS CERTAINLY IN THE NEWS FROM THE VARIOUS REASONS.

AND TO ASSURE THEY ARE OUT IN THE PUBLIC, THIS JUDGE AND HIS LAWYER IS OPERATING AT THE TIME UNDER THE ETHICAL OPINIONS OF THE JEAC AND CASE LAW OF THE FOURTH DISTRICT.

TAKING ISSUE WITH THE COMMENT THAT JUDGES ACT ETHICALLY AT THE TIME, AT THE TIME OF THIS CASE IT WASN'T IMPROPER FOR SOMEONE TO HAVE LUNCH WITH THE JUDGE 6 MONTHS BEFORE BUT IT WAS IMPROPER FOR THEM TO BE FACEBOOK FRIENDS AT THIS TIME.

HOW WOULD YOU ANSWER THAT?

>> IT WAS COULD JUSTICE KENNEDY, JUSTICE LAWSON.

THE JEAC ADVISORY OPINION MIGHT HAVE GIVEN A BASIS FOR AN ETHICAL VIOLATION AND TECHNICAL ETHICAL VIOLATION.

IT WOULD NOT NECESSARILY PROVIDE BASIS FOR DISQUALIFICATION.

>> I AGREE THE JEAC DOESN'T IN ITSELF PROVIDE THAT SOMEBODY HAS VIOLATED THE CODE BUT STRONG EVIDENCE.

I KNOW WHEN I READ THIS IN 2009 I UNDERSTOOD THAT I HAVE NOT HAD A FACEBOOK PAGE FOR THIS VERY REASON.

IT IS FRAUGHT WITH DANGER.

>> I APOLOGIZE.

I LOST MY TRAIN OF THOUGHT.

>> IT DOESN'T MEAN -- MIAMI-DADE HAS A LOT OF JUDGES AND LAWYERS. MAYBE ALL OF THEM ARE FRIENDS WITH ONE ANOTHER ON FACEBOOK, WE DON'T KNOW IT BUT THE BETTER PART OF DISCRETION WOULD HAVE BEEN IN MY VIEW TO HAVE DISQUALIFIED HERSELF.

BECAUSE OF EVERYTHING WE SAID TODAY, IT DOES CONCERN ME THAT THIS OCCURRED.

>> I WANTED TO ANSWER, GOT LOST IN THE DIALOGUE.

THE QUESTION THAT IS RELEVANT THAT YOU ARE CONCERNED WITH, IT IS STANDING JUST NOW, THE JEAC OPINION DOES NOT FORM THE BASIS OF THE REQUIREMENTS.

ONE OF YOU EARLIER POINT OUT WE KNOW NOTHING ABOUT THIS CASE. WE DON'T KNOW ENOUGH TO KNOW WHAT KIND OF FRIEND IF ANY IT WAS.

I AM ACCEPTING YOUR PREMISE THAT BEING A FACEBOOK FRIEND COULD ITSELF UNDER THE JEAC OPINION, WHAT GREW BETWEEN THE 2009, AND 2010 OPINION, THAT WE -- IT IS IMPOSSIBLE TO DISTINGUISH BETWEEN A REAL-LIFE FRIEND, THEY WERE MORE ATTENUATED IN GENERAL AND WE DON'T KNOW WHETHER THIS ONE WAS ACCEPTED 1000 FRIENDS FROM SIX YEARS AGO.

SO UNLESS THE COURT IS GOING TO ESSENTIALLY RECEIVE FROM MCKINSEY OR UNDERCUT THE NOTION

THAT JUDGES CAN BE FRIENDS IN REAL LIFE WITH PEOPLE, THE ONLY WAY JUDGES CAN FOR SURE KNOW THAT THEY ARE NOT ABLE TO HAVE A FACEBOOK ACCOUNT OR IF THEY ARE, IT CAN ONLY BE WITH THEIR FAMILIES WHO HOPEFULLY DON'T HAVE ANY LAWYERS WHO MIGHT APPEAR IN FRONT OF THAT JUDGE AFTER THE 3RD ∞ OF CONSEQUENCE, CERTAINLY THAT IS SOMETHING THIS COURT CAN DO, BUT IS IT SOMETHING THAT WOULD MAKE SENSE AND WOULD ALLOW A LAWYER IN 2018 OR IN THE FUTURE FOR LAWYERS TO PRACTICE IN FRONT OF JUDGES AND NOT HAVE A WHOLE COURT DEDICATED TO DISQUALIFICATION MOTIONS ON FACEBOOK FRIENDSHIPS? THAT IS OUR POSITION.

>> I AM MISSING THAT.

WOULD YOU SAY THAT AGAIN?

YOU ARE PAINTING A PORTRAIT OF DOOMSDAY, WHAT THAT LAST STATEMENT WAS.

CAN YOU IMAGINE YOU CAN'T TRY CASES BECAUSE YOU ARE TRYING A DISQUALIFICATION.

WHY IS THAT?

>> UNLESS YOU MAKE A BRIGHT LINE RULE THAT JUDGES CAN HAVE NO FACEBOOK ACCOUNTS, THAT THE SCENARIO OF THE WAY IT DEPENDS, BECOMES, AND FRIENDS IN REAL LIFE IN THE MCKINSEY OPINION.

>> GIVING THE IMPRESSION THAT HAVING A FACEBOOK FRIEND AS A LAWYER WOULD BE PROHIBITED.

>> LAWYERS THAT ARE POSSIBLY LIKELY TO APPEAR BEFORE THE JUDGE, THERE IS NOTHING TO HIM AS A JUDGE FROM IT AND YOU ARE MISSING THE POINT THAT FACEBOOK CAN HAVE SOME VERY INTIMATE DETAILS, SHE IS IN A COWBOY HAT AND WHAT YOU ARE SAYING IS SINCE YOU AGREE IT IS NOT ENOUGH THAT YOU ARE GOING TO PUT A BURDEN ON THE LAWYER TO SEARCH INTO THE PRIVATE FACEBOOK PAGE OF THE

JUDGE OR PUBLIC FACEBOOK PAGE TO COME OUT WITH WHETHER THIS IS SOMEONE WHO HAS 1000 FRIENDS WERE HUNDRED FRIENDS, TO LOOK AT WHAT SHE HAS POSTED AND THAT TO ME SEEMS MORE INTRUSIVE THAN HAVING A BRIGHT LINE REMOVAL.

>> TO ANSWER YOUR QUESTION ABOUT LOOKING INTO THE JUDGE'S PERSONAL LIFE, JUDGES WHO HAVE FRIENDS IN REAL LIFE ALSO HAVE OPPORTUNITIES TO TALK ABOUT VACATIONS, WHERE CASUAL CLOTHES AND FACEBOOK DOESN'T CHANGE THAT AND THEY HAVE THE OPPORTUNITY TO COMMUNICATE PRIVATELY SO THERE ISN'T REALLY, I SUBMIT RESPECTFULLY, ANY DIFFERENCE BETWEEN THAT AND I CLOSE BY SAYING I KNOW THIS IS WHAT THE JEAC WAS CONCERNED ABOUT, THAT THERE'S A SELECTION PROCESS. THERE IS A SELECTION PROCESS FOR BEING FRIENDS IN REAL LIFE TOO. WE ASK THE COURT TO ADOPT THE DECISION OF THE THIRD DCA AND DENY THE PETITION.

THANK YOU.

>> I WILL GIVE YOU AN EXTRA TWO MINUTES.

>> A COMMENT IS MADE THAT THERE WAS NO RECORD FOR THE COURT TO DISTINGUISH.

WE COULDN'T GET A RECORD BECAUSE WE KNOW WE ARE NOT FACEBOOK FRIENDS WITH THE JUDGE.

WE CANNOT GET THAT INFORMATION AS A NON-FACEBOOK FRIEND WHEREAS THE OTHER SIDE, THE OTHER LAWYER HAS THAT INFORMATION SO WE COULDN'T DEVELOP A RECORD AND IF WE WANTED TO DEVELOP THE RECORD, DOLLARS TO DONUTS, DISCOVERY WOULD BE SERVED TRYING TO GET THE INFORMATION WHICH EXPOSES THE COURT TO ADDITIONAL BURDEN WHICH THEY SHOULDN'T HAVE.

WE ARE NOT SAYING JUDGES CANNOT BE ON FACEBOOK ALTHOUGH NONE OF YOU ARE, NO JUSTICE HERE IS,

DON'T KNOW ABOUT JUSTICE PAULSON
BUT I ASSUME HE IS NOT.

JUST DON'T BE FACEBOOK FRIENDS
WITH LAWYERS WHO APPEAR IN FRONT
OF YOU.

IT GOES BACK TO THE WORD I CAME
UP WITH IN THE BEGINNING WHICH
IS OPTICS.

IT JUST DOESN'T LOOK RIGHT.

>> WHAT WOULD HAPPEN IF A
LAWYER, A PERSON ASKED THE JUDGE
TO BE FRIENDS AND DID NOT
IDENTIFY THEMSELVES AS A LAWYER
AND THE JUDGE ACCEPTED THEM AS A
FRIEND, NOT KNOWING THAT THE
PERSON WAS A LAWYER, WHERE WOULD
THAT LEAD US?

>> THE JUDGES HAVE TO BE
VIGILANT ON PROTECTING THEIR
ONLINE IDENTITY.

THEY HAVE TO MANAGE THAT JUST
LIKE ANYBODY ELSE DOES BUT
JUDGES ARE HELD TO A HIGHER
STANDARD BECAUSE OBVIOUSLY THE
APPEARANCE OF IMPROPRIETY IS
BEDROCK IN THE LAW AND IF THAT
IS EXPOSED, THEN MY CLIENT HAS
NO ABILITY TO GET A FAIR TRIAL
WHEN HE HAS THAT IN HIS MIND.

>> YOU COULDN'T FIND ANYTHING
OUT ABOUT HIS FACEBOOK PAGE BUT
ATTACHED YOUR MOTION, PAGE THAT
SHOWED --

>> THE ONLY THING WE COULD FIND
IS THE FACT THAT THEY WERE
FACEBOOK FRIENDS BASED ON HOW IT
WAS DISCLOSED BY THE JUDGE BUT
COULD NOT DETERMINE WHETHER
THERE WERE COMMUNICATIONS
BETWEEN THE TWO.

>> DID YOU DETERMINE HOW MANY
FRIENDS SHE HAD?

IF YOU HAVE A FACEBOOK PAGE, IF
YOU ARE A FACEBOOK USER, CAN YOU
LOOK AT OTHER PEOPLES FACEBOOK
PAGE?

>> IT DEPENDS BECAUSE DEPENDING
ON THE PRIVACY SETTINGS CERTAIN
PEOPLE HAVE, NO ONE CAN SEE WHO
MY FRIEND IS THERE ANYBODY CAN

SEE WHO MY FRIEND IS SO IT LEADS TO A QUAGMIRE OF INFORMATION, AT THE TIME, WHAT HAPPENED AT THE TIME, AT THE TIME WE FILED THE MOTION, THE STATE OF THE LAW WAS THIS WAS A LEGALLY SUFFICIENT GROUND FOR DISQUALIFICATION JUST LIKE IN MCKINSEY, RULED ON THE ISSUE.

AND THAT WENT TO THE SUPREME COURT, TAKE A DIFFERENT VIEW BUT AT THE TIME THE TRIAL JUDGE WAS CORRECT AND SHOULD HAVE DISQUALIFIED THEMSELVES, THE TRIAL JUDGE DID NOT DISQUALIFY.
>> IT WAS PARTIALLY HYPOTHETICAL.

THE TRIAL JUDGE IN ORLANDO, MOST OF THE TIME A DCA JUDGE, I RAN IN A RUNNING GROUP THAT WAS NOT LAWYERS BUT THERE WERE A COUPLE LAWYERS, IT WOULD BE 50 OR 60 PEOPLE, IN DOWNTOWN ORLANDO. ONE OF THESE LAWYERS MIGHT COME UP AND CHAT FOR A FEW MINUTES AND GO OFF AND CHAT WITH SOMEBODY ELSE, BUT IT WAS PRETTY PUBLIC BECAUSE PEOPLE WOULD BE LEAVING WORK LATE, IT WENT TOO LONG BECAUSE I WAS DOING THAT FOR YEARS.

PEOPLE KNEW OR COULD FIND OUT THAT LAWYER WHO MIGHT APPEAR IN FRONT OF ME, ON A REGULAR BASIS. THERE IS A CONNECTION, THE NON-ELECTRONIC WORLD, YOU HAVE AN OPPORTUNITY TO DISCOVER THE REST OF THE RELATIONSHIP.

>> I DON'T BELIEVE SO.

>> HOW IS THAT DIFFERENT --

>> THAT IS THE DISCUSSION.

FACEBOOK FRIENDSHIP, AND THE FACT THAT TIME THE MOTION WAS FILED THAT WAS THE STATE OF THE LAW, MY CLIENT HAD A RIGHT TO RELY ON THAT WHEN HE FILED THE MOTION.

THE COURT WILL CREATE A NEW RULE WHICH IS OKAY, IT IS NOT GROUND FOR DISQUALIFICATION.

I DON'T THINK MY CLIENTS SHOULD
BE PENALIZED FOR RELYING ON THE
LAW.

>> IT IS CONCEIVABLE WHAT WE
WILL SAY IS MCKINSEY REQUIRES A
RESULT THAT IS ADVERSE TO YOU.
THE RULE FLOWS OUT OF MCKINSEY.
IT IS NOT CONSISTENT WITH WHAT
OTHER PEOPLE HAVE SAID THAT
FLOWS OUT OF MCKINSEY.

>> IT IS DIFFERENT THAN
FRIENDSHIP AND THAT IS THE ISSUE
FOR THE COURT.

ASKED THE COURT TO GRANT THE
PETITION FOR MY CLIENT, THANK
YOU.

>> THANK YOU FOR THE ARGUMENTS.