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December 2, 2008

Executive Office of the Governor
ATTN: Carly Hermanson, Assistant General Counsel
400 S. Monroe Street, Room 209
Tallahassee, FL 32399-0001

Re: Jorge Labarga
Circuit Court Judge of the Fifteenth Judicial Circuit

Dear Governor:

I am writing this letter to formally state my objection to the appointment of Jorge Labarga to any appellate court judgeship. I believe that, in part, I am obligated to report the following to you and other authorities pursuant to Rule 4-8.3(b) of the Rules Regulating The Florida Bar which states:

A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

I was unable to submit this letter at an earlier date because my client had directed that I do not do so because of his pending criminal case.

PERCEIVED VIOLATIONS

I believe the conduct I am reporting in this letter violates Canons 2.A, 3.B(4), 3.B.(5) and 3.E.(1)(a) of the Code of Judicial Conduct. More specifically, I believe that the judge in question has announced his intent should I ever appear in front of him in the future that he will not "perform judicial duties without bias or prejudice" and he has announced by his words that he has manifested bias and prejudice in the performance of his judicial duties with regard to me. Further, Judge Labarga has announced that he harbors resentment towards lawyers who have disagreed with his rulings and later issues rulings to achieve vengeance.

In addition, but for the fact that I obtained the recording which is attached to this letter, I would have never known the extent of the bias and prejudice against me which would have precluded me from seeking to disqualify this judge in future proceedings. In fact, this judge stated that he regretted not retaining jurisdiction over this matter so that he could have "fun" with me during the remainder of the proceedings. Transcript at p.8, lines 16-18. In addition to the enclosed copy of the CD recording I have enclosed a transcript of the relevant portions of that recording.

FACTUAL BACKGROUND

On May 23, 2007, I appeared in front of Fifteenth Judicial Circuit Judge Jorge Labarga. The case is State of Florida v. Alan Roth, Case no. 502007CF0038162B. I had only one prior case with this judge. That case was eventually resolved with a plea. See State of Florida v. Thomas Caiazzo, Palm Beach case number 03CF014883A02. I believe that Judge Labarga was displeased because I had sought a writ of prohibition against him in that case in the Fourth District Court of Appeal, case number 4D04-1360.

Judge Labarga was a former law partner of David Roth, Esq., who was representing the codefendant Hetty Palant. As common practice by Judge Labarga, he routinely disqualifies himself in all of Mr. Roth's cases. Mr. Roth is not a relative of the defendant Alan Roth. Transcript at p. 2.

While this disqualification normally occurred administratively by the Clerk's Office, it had not in this case. Accordingly, when we appeared on that morning at 8:57:25 a.m., Judge Labarga disqualified himself. Transcript at p. 2, line 24 through p. 3, line 1. After that disqualification the assistant state attorney complained of a potential speedy trial problem and I perceived that Judge Labarga was going to instruct the in-court clerk to take special action with regard to the case. See p. 3. See also Florida Rule of Judicial Administration 2.330(f) and *Grandview Palace v. City of North Bay Village*, 974 So.2d 1170 (Fla. 3rd DCA 2008). Therefore, I objected and Judge Labarga proceeded to react in an offensive manner because of my objection by stating "I appreciate you coming here and educating me. I'm just a country little guy and I just got here off the boat a few months ago." Transcript at p. 3, lines 16-18. In fact, Judge Labarga told me that he intended to do the same. Transcript at 3, lines 21-23.

Judge Labarga then directed me to leave the courtroom. I complied at 8:59:20 a.m. I believe this conduct violated Canons 2.A and 3.B.(4).

Because of my concern about his reaction to my objection I ordered a copy of the recording of court proceedings from the appropriate office. Unfortunately, the recording sent to me was for the wrong date and the recording of the correct date was eventually provided to me. This entire process took many months.

When the correct date's recording was delivered I tried to play it on my computer but my software advised me that I needed a special code to decode the recording known as a "codec." I contacted the recording office which never responded to my inquiries. Fortunately, a lawyer friend from Palm Beach County explained to me the process and software needed to play the recording.

The first episode of the prejudice occurred at 10:24 a.m., about an hour and twenty minutes after I left the courtroom. The judge accidentally recalled the case of the codefendant and then told the personnel in the courtroom that I always picked fights with him and that I was a "Broward" lawyer. Transcript at p. 7, lines 20-21. In addition to everything else, I perceive that I had been "hometowned." In other words, I believe I was treated differently because I am a non Palm Beach County lawyer. I believe his actions violated Canon 2.(A).

At 10:32 a.m. when the court was apparently in recess but the recorder was still running, the judge, in open court, advised an attorney who was entering into private practice about billing methods and noted that his former law firm, the one where he was in practice with the codefendant's

lawyer, did not accept time payments. Transcript at p.7. The judge also explained to the persons in the courtroom that he would grant continuances to certain lawyers so that the lawyers would be able to collect their entire fees. Transcript at p. 7, lines 6-11. I believe the judge's actions violated Canon 2.A. by demonstrating a lack of integrity and impartiality by explaining to an attorney in open court how to bill clients and by granting continuances for certain lawyers in order for those lawyers to collect fees.

An unidentified prosecutor in the courtroom then asked the judge how David Roth ever became associated with "that lawyer." Transcript at p. 7, lines 18-19. The judge then announced many statements of prejudice against me. The especially heinous remarks was that he, as well as other judges, remember attorneys who they do no favor and then get even with them in the future when they have to rule on a matter personally involving the attorney like when the attorney seeks fees. He stated that he would avoid a direct criminal contempt action against the attorney in favor of getting future revenge and promoted the idea of the adage: "Revenge is a dish best served cold." Transcript at p. 7, lines 20-25 through p. 8, lines 1-18. Lastly, Judge Labarga regretted the fact that he had disqualified himself in my case because it would have been much fun to have played with me (toyed with me) during the remainder of the proceedings in the case. Transcript at p. 8, lines 16-18.

I believe those statements violated Canons 2.A. and 3.E.(1)(a) His statements establish that he has presided over matters where he has personal bias or prejudice concerning a lawyer and also demonstrated a lack of integrity and impartiality.

I await your response.

Sincerely yours,

GARY KOLLIN, ESQ.