

IN THE CIRCUIT COURT IN AND FOR THE SEVENTEENTH JUDICIAL CIRCUIT,  
BROWARD COUNTY, FLORIDA

BARBARA STONE

Plaintiff

vs

CASE NO: CACE 15-6431

Jacqueline Hertz, individually and in any official capacity

Blaire Lapides, individually and in any official capacity

Roy Lustig, individually and in any official capacity.

Angel Care Management, a Florida corporation

Alan Stone, individually and in any official capacity

Eddie Burzinski, individually and in any official capacity

REGENT PARK of AVENTURA, a nursing facility

REQUEST FOR JURY TRIAL

**VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR  
IMMEDIATE DISQUALIFICATION OF JUDGE CYNTHIA IMPERATO**

COMES NOW Barbara Stone ("Petitioner") and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Disqualification of Judge Cynthia Imperato, pursuant to Fla R. Admin P. 2.330 and section 38.10, Florida Statutes, for the following grounds and reasons:

1. Rule 2.330 (a) **Application**. This rule applies only to county and circuit judges in all matters in all divisions of court. Judge Cynthia Imperato is a circuit judge in the 17th Judicial Circuit.
2. Rules 2.330 (b) **Parties**. Any party, including the state, may move to disqualify the trial judge assigned to the case on grounds provided by rule, by statute, or by the Code of Judicial Conduct. Petitioner, a party to the case moves to disqualify trial judge Imperato provided by rules, statute and by the Code of Judicial Conduct.
  - a. Judge Imperato has violated Canons 1, 2 and 3 as set forth in Exhibit 4 enclosed herein.
  - b. Judge Imperato has violated Rules of Professional Conduct.
3. Rules 2.330 (c) **Motion**. A motion to disqualify shall:
  - (1) be in writing.

This Motion is in writing.

(2) allege specifically the facts and reasons upon which the movant relies as the grounds for disqualification.

This Motion specifically alleges specific facts and reasons upon which the movant relies as the grounds for disqualification as set forth herein.

(3) be sworn to by the party by signing the motion under oath or by a separate affidavit.

Petitioner is acting pro se and has no attorney and therefore Petitioner has sworn to and signed this Motion for Disqualification under oath and before a notary as required by Rule 2.330 (c)

(4) include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions.

There has been no previously granted motions to disqualify in this case filed under Rule 2.330

(4) The attorney for the party shall also separately certify that the motion and the client's statements are made in good faith. In addition to filing with the clerk, the movant shall immediately serve a copy of the motion on the subject judge as set forth in Florida Rule of

4. Rule 2.330 (d) **Grounds.** A motion to disqualify shall show:

(1) that the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge.

That Petitioner fears that she will not receive a fair trial or hearing because of the following specifically described prejudice or bias or appearance of impropriety of Judge Imperato under Rule 2.330 (d) including but not limited to:

- i. Judge Imperato is married to Gabriel Imperato who is an attorney at Broad and Cassel. Broad and Cassel represents Alan Stone who is a party to a Federal Lawsuit filed by Petitioner and related to the matter that appears before this Court.

- ii. It appears this Judge may have been hand selected by Roy Lustig and/or Michael Genden who are also parties to the lawsuit. This requires Judge Imperato's disqualification pursuant to 2.330 (2) set forth below.
- iii. In addition, other parties to the lawsuit include Michael Genden and Roy Lustig who Petitioner alleges are criminally responsible for the grave harm that has come to her mother. A member of the Florida Bar has alleged that Michael Genden and/or Roy Lustig has intimidated her by threatening to file a bar complaint against her that would destroy her legal career, remove her livelihood and destroy her ability to earn a living (Exhibit 1). This threatening phone-call not only extorted the threatened Florida Bar member but it also viciously retaliated against Petitioner and her mother as it denied their due process and obstructed their justice as immediately after receiving this threatening phone call, the Florida Bar member withdrew as counsel for Petitioner's mother placing Petitioner and her mother in grave danger without counsel. This Florida Bar member also alleged ex parte communication between Michael Genden and Roy Lustig. The Florida Bar member stated she felt threatened by Judge Genden's actions. The threatened member of the Florida Bar thought it was outrageous that Petitioner could not see her own mother. Threatening an officer of the state is a state crime and denies due process and obstructs justice, creating bias and prejudice against Petitioner and impedes fair and impartial adjudication by Judge Genden.
- iv. There are additional allegations against Michael Genden and/or Roy Lustig contained in the attached criminal complaint (Exhibit 2) Petitioner has filed against Michael Genden with law enforcement creates bias and prejudice against Petitioner. This causes an appearance of impropriety and deny due process and procedure, impeding fair and impartial adjudication. Included in that Petition are allegations that Michael Genden is involved in human trafficking, crimes against humanity, theft of the estate assets of Helen Stone and money laundering of such stolen assets.



- v. There are allegations against Michael Genden contained in the whistleblower action filed with Florida Supreme Court Judges and others (Exhibit 3) by Petitioner who is an attorney and a member of the Florida Bar acting as an attorney whistleblower has exposed the corruption and criminal activity in Michael Genden's court. The criminal acts and ethical violations alleged against Michael Genden in the whistleblower complaint create bias and prejudice against Petitioner and cause an appearance of impropriety and deny due process.
- vi. Roy Lustig has a personal interest to be adverse to Petitioner because Petitioner as a result of these criminal complaints filed by Petitioner against him.
- vii. Petitioner has been viciously retaliated by Roy Lustig who is holding her mother hostage and colluding with Michael Genden to disable
- viii. Roy Lustig and Michael Genden is an accomplice to aggravated abuse and massive financial fraud of an elderly person. Petitioner fears they have poisoned this Court.
- ix. A prior Federal Lawsuit was filed against Michael Genden and Roy Lustig and another Federal lawsuit is pending filing immediately which both have Michael Genden and Roy Lustig as a defendant. This creates adversity and conflict between Petitioner and Judge Genden and impedes impartiality and precludes Michael Genden from acting as Judge. It is unknown if Michael Genden reported these liabilities as he is required to do acting in his judicial role to all and any liability companies and bonding companies. It appears he has not reported these liabilities as an insurance company and/or bonding company would likely not allow him to continue to act as a judge in this matter and would have removed him from the bench in this matter.
- x. Petitioner fears Michael Genden and Roy Lustig have poisoned this Court.
- xi. Roy Lustig should be precluded from acting as counsel to any party and therefore not able to file for disqualifying any judge.
- xii. In conflict with his disqualification to act in any capacity, Roy Lustig filed for the disqualification of Judge Perlman to whom this matter was assigned because she was appalled



xiii. by the actions of Roy Lustig and Blaire Lapides, sympathetic to Petitioner and recommended Petitioner seek whistleblower status.

xiv. Petitioner fears Judge Imperator was hand selected because of her existing charges by the Florida Bar and is beholden to the Florida Bar, thus having an appearance of impropriety.

(2) That the judge before whom the case is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the third degree, or that said judge is a material witness for or against one of the parties to the cause.

Judge Imperato's husband as a member of Broad and Cassel is interested in the result of this matter as Alan Stone's counsel at Broad and Cassel is attempted to extort fees from Petitioner's mother's assets by way of a fraudulent agreement that Alan Stone's counsel at Broad and Cassel coerced Petitioner to sign.

5. Rule 2.330 (e) **Time.** A motion to disqualify shall be filed within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the motion and shall be promptly presented to the court for an immediate ruling. Any motion for disqualification made during a hearing or trial must be based on facts discovered during the hearing or trial and may be stated on the record, provided that it is also promptly reduced to writing in compliance with subdivision (c) and promptly filed. A motion made during hearing or trial shall be ruled on immediately.

This Motion is being made within 10 days from Petitioner's discovery of the relationship between Judge Imperato and her husband who is a Broad and Cassel attorney.

This motion is being made within 10 days of Petitioner's discovery of the possible hand selection learning of Judge Imperato by Roy Lustig and or Michael Genden.

6. (f) **Determination** — Initial Motion. The judge against whom an initial motion to disqualify under subdivision (d)(1) is directed shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.

Petitioner states that the Motion is legally sufficient under Rule 2.330.

7. (g) **Determination** — Successive Motions. If a judge has been previously disqualified on motion for alleged prejudice or partiality under subdivision (d)(1), a successor judge shall not be disqualified based on a successive motion by the same party unless the successor judge rules that he or she is in fact not fair or impartial in the case. Such a successor judge may rule on the truth of the facts alleged in support of the motion.

Petitioner states there have been no Successive Motions.

8. (h) **Prior Rulings**. Prior factual or legal rulings by a disqualified judge may be reconsidered and vacated or amended by a successor judge based upon a motion for reconsideration, which must be filed within 20 days of the order of disqualification, unless good cause is shown for a delay in moving for reconsideration or other grounds for reconsideration exist.

Petitioner seeks that upon disqualification of Judge Genden, that all prior factual or legal ruling be vacated by the successor judge due to the alleged criminal acts and civil torts against Petitioner and her mother.

9. (i) **Judge's Initiative**. Nothing in this rule limits the judge's authority to enter an order of disqualification on the judge's own initiative.

Petitioner states that Judge Imperator should have already entered an order of disqualification on her own initiative according to Judicial Canons, Statutes and Rules when she became aware that disqualification was mandated of her because of her relationship under Rule 2.330 (2). If for any

reason Judge Imperato finds this Motion legally insufficient for any reason, Judge Imperato must disqualify herself on her own initiative as set forth under this rule 2.330 (i).

10. (j) **Time for Determination.** The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.

Petitioner demands due to the EMERGENCY NATURE of this case where claims have been made that Petitioner's mother is in life threatening condition due to the abusive Guardianship that this Disqualification be made instantly as it is legally sufficient. Delays could cause the death of Petitioner's mother which would result in charges of Murder against those complained of in the attached Exhibits.

11. Florida Statutes 38.10 - Disqualification of judge for prejudice; application; affidavits; etc.—  
Whenever a party to any action or proceeding makes and files an affidavit stating fear that he or she will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of that court against the applicant or in favor of the adverse party, the judge shall proceed no further, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes in which the presiding judge is disqualified. Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists and shall be accompanied by a certificate of counsel of record that such affidavit and application are made in good faith.

Petitioner has supplied a legally sufficient Affidavit herein.



WHEREFORE, the Petitioner requests that Judge Imperato immediately disqualify as this is a legally sufficient pleading.

Under Penalties of perjury, I swear under oath and affirm that I have read the foregoing and the facts alleged are made in good faith and are true to the best of my knowledge and belief.

Dated this 7<sup>th</sup> day of May, 2015

Respectfully Submitted,

*Barbara Stone*  
Barbara Stone

244 Fifth Avenue – B296

New York, NY 10001

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bstone575@gmail.com

**CERTIFICATE OF SERVICE**

Petitioner does hereby certify that the foregoing Petition was served on all parties by e-file with the clerk of the court this 7<sup>th</sup> day of May, 2015.

*Barbara Stone*

Barbara Stone

STATE OF FLORIDA

*Palm Beach*

COUNTY OF BROWARD

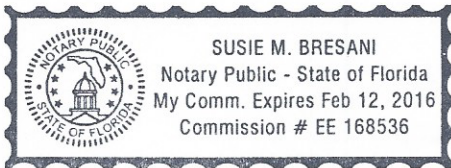
Sworn to or affirmed and subscribed before me this 7th day of May, 2015 by Barbara Stone who is known to me or produced the following identification. FL.D.L

NOTARY PUBLIC

Print name of Notary: Susie Bresani

Stamp

My commission expires: 02/12/2016



**AFFIDAVIT**

Affiant, Barbara Stone hereby states under oath that the attached Verified Emergency Petition and Affidavit for Immediate Disqualification of Judge Cynthia Imperator is true and correct to the best of her knowledge and belief

Barbara Stone

Barbara Stone

May 7, 2015

STATE OF FLORIDA  
Palm Beach  
COUNTY OF BROWARD

Sworn to or affirmed and subscribed before me this 7th day of May, 2015 by Barbara Stone who is known to me or produced the following identification FL.D.L

Notary Public

Print name: Susie Bresani

Stamp

My commission expires: 02/12/2016

