

VERIFIED SWORN EMERGENCY PETITION AND AFFIDAVIT FOR IMMEDIATE DISQUALIFICATION OF JUDGE MICHAEL GENDEN

COMES NOW Barbara Stone (“Petitioner”) and files under information and belief this Verified Emergency Petition and Affidavit for Immediate Disqualification of Judge Michael Genden, 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. Michael Genden is a circuit judge in the 11th 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 Genden provided by rules, statute and by the Code of Judicial Conduct.
 - a. Genden has violated Canons 1, 2, 3 and 6 as set forth in Exhibit 4 enclosed herein.
 - b. Genden has violated Statutes
 - c. Genden has violated Rules
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.
 - (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 of Judge Genden under Rule 2.330

(d) including but not limited to:

i. A member of the Florida Bar has alleged that Michael Genden 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.

- ii. The allegations against Michael Genden contained in the attached criminal complaint (Exhibit 2) Petitioner has filed against Michael Genden with law enforcement creates bias and prejudice against Petitioner and causes an appearance of impropriety and deny due process and procedure, impeding fair and impartial adjudication by Judge Genden as he is the alleged perpetrator of the criminal acts. 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.
- iii. The 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 and procedure and impede fair and impartial adjudication by Judge Genden.
- iv. The allegations against Michael Genden contained in the attached letter filed by Petitioner with the Judicial Qualifications Commission complaining of criminal acts and breach of judicial canons and ethics by Michael Genden including the issuance of an unlawful Rule to show cause and Order to show cause unlawfully issued on the basis of fraudulent Petitions (Exhibit 4) creates bias and prejudice against Petitioner and cause an appearance of impropriety and deny due process and procedure and impede

fair and impartial adjudication by Judge Genden. The reasons the Rule to show cause and Order to show cause are unlawful, retaliatory, without merit and issued on the basis of fraud and perjury are set forth in Paragraph A. 2. of the attached complaint against Michael Genden filed with the Judicial Qualifications Commission.

- v. Michael Genden is acting outside his jurisdiction and his orders are void and must be stricken. Michael Genden is a disqualified judge who has not relinquished his unlawful jurisdiction.
- vi. Michael Genden has a personal interest to be adverse to Petitioner because Petitioner has filed a criminal and other complaints against Michael Genden.
- vii. Petitioner has been viciously retaliated by Michael Genden retaliates against Petitioner by denying her access to his corrupt court in one manner or another and removing another of her rights.
- viii. Michael Genden has repeatedly retaliated against Petitioner and shown favoritism against her. Michael Genden has never ruled once in her favor in any Petitions filed by her or the “guardians” in his Court.
- ix. Michael Genden is an accomplice to aggravated abuse and massive financial fraud of an elderly person.
- x. A prior Federal Lawsuit was filed against Michael Genden and another Federal lawsuit is pending filing immediately which both have Michael Genden 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.

(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 Genden is and will be a material witness for Petitioner in this case regarding the allegations in the criminal complaint relating to this case.

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 receipt of the affidavit from the Florida Bar member described in Paragraph 4 (1) i above.

This Motion is being made within 10 days from Petitioner's receipt of the "Rule to show cause" and "Order to show cause" described Paragraph 4 (1) iv and Exhibit 4, the letter to the Judicial Qualifications Commission.

Both of the foregoing are grounds for Judge Genden's disqualifications as described herein and in the attachments to this Motion.

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 Genden should have already entered an order of disqualification on his own initiative according to Judicial Canons, Statutes and Rules when he became aware that disqualification was mandated of him but refused to do so on the repeated requests of Petitioner. If for any reason Judge Genden finds this Motion legally insufficient for any reason, Judge Genden must disqualify himself on his 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.

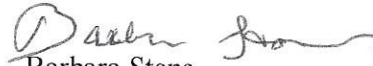
Petitioner has supplied a legally sufficient Affidavit herein.

WHEREFORE, the Petitioner requests that Judge Genden 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 25th day of April, 2015

Respectfully Submitted,


Barbara Stone

244 Fifth Avenue – B296

New York, NY 10001

Telephone. 212.994.5482 Fax: 212.994.5481

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 25th day of April, 2015.



Barbara Stone

STATE OF FLORIDA

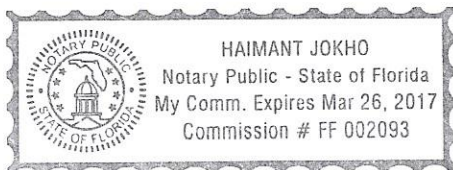
COUNTY OF BROWARD

Sworn to or affirmed and subscribed before me this 25th day of April, 2015 by Barbara Stone who is known to me or produced the following identification. FL DC

NOTARY PUBLIC

Print name of Notary: Haimant Jokho

Stamp



My commission expires: 26 March 2017

AFFIDAVIT

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

Barbara Stone

Barbara Stone

April 25, 2015

STATE OF FLORIDA

COUNTY OF BROWARD

Sworn to or affirmed and subscribed before me this 25th day of April, 2015 by Barbara Stone who is known to me or produced the following identification FL DC

Notary Public

Print name: Haimant Jokho

Stamp

My commission expires: 26 March 2017

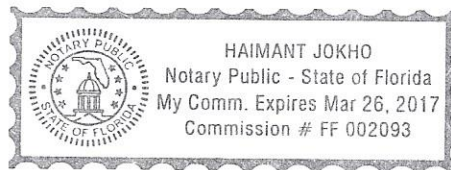


EXHIBIT 1

Notarized Affidavit dated April 15, 2015 by a Florida Bar member attesting to retaliation against her by the person identified as Michael Genden