

**BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE,
THE HONORABLE SCOTT DUPONT,
No. 16-377

SC16-2103

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AMENDED NOTICE OF FORMAL CHARGES

TO: Hon. Scott DuPont
Circuit Judge, 7th Judicial Circuit
410 St. Johns Avenue
Palatka, Florida 32177

The Investigative Panel of the Florida Judicial Qualifications Commission, at its meetings of October 28, 2016 and August 11, 2017, by a vote of the majority of its members, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission and Article V, Section 12 (b) of the Constitution of the State of Florida, found that probable cause exists for formal proceedings to be instituted against you. Probable cause exists for the following formal charges:

1. While engaged in a contested election to retain judicial office, you had a campaign website created and maintained to assist in your election. On the homepage of that website you had a tab devoted to your opponent entitled, "About Judge DuPont's Opponent."

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If a viewer clicked on that tab, it took the viewer to a page where you posted the results of a search you obtained through an internet website, “Instant Checkmate.”

Before a search can be conducted on the “Instant Checkmate” website, a caution notice appeared. That notice stated in part, “Please BE CAREFUL when conducting a search....” At the bottom of this website’s initial page the disclaimer stated, **“The information available on our website may not be 100% accurate, complete or up to date, so do not use it as a substitute for your own due diligence, especially if you have concerns about a person’s criminal history.”**

In spite of those warnings, and instead of taking any steps to verify the scandalous information about your opponent found on the website, you recklessly posted the results of the search under the heading **“Do You Trust [your opponent’s name] to be your Circuit Judge?”** Those unsubstantiated and unverified entries included:

- a. A suggestion that your opponent employed aliases, when in fact you had no information that he did so.

- b. A suggestion that there existed “Imposter Information” about your opponent, which implied he had posed as an imposter. You did this with no information that would justify the inclusion of the listing for any other purpose than to impugn your opponent.

- c. Your posting of the entries stated that your opponent had received three parking tickets for parking in a handicapped zone, yet you never verified whether your opponent personally received the tickets or if it was a third party using his vehicle. In response to the 6(b) Notice of Investigation in this inquiry, you only produced two such tickets. To compound the inappropriate imputation, the heading of the entries listed “booking dates” that suggested there was an arrest associated with those entries, which was not accurate.

- d. You posted information that stated that your opponent’s wife had been arrested 3 times, and his daughter had been arrested 21 times. You did nothing to verify the accuracy of those statements and you posted this information in spite of not even knowing the identities of your opponent’s wife or children.

2. Your website implied that your opponent's legal name change was an attempt to hide his past by stating that he was managing member of HideYourPast.com in 2013, and then stating that he changed his legal name. Your opponent's name change was legally completed in 1990, but nowhere did you provide that information.

3. At a televised candidate forum, you asserted facts about your opponent's driving record that were not accurate, and you did nothing to verify the information. Rather, you relied on an e-mail from a person working on your campaign that suggested your opponent received a ticket for passing a school bus while it was loading or unloading children. In response to the 6(b) Notice of Investigation in this inquiry, you were unable to provide any documentation to substantiate your assertions.

4. During that same forum, you declared that your opponent had cheated during a straw poll administered by the Volusia County Bar Association, which was misleading in that you had no information your opponent had any personal involvement or knowledge of the alleged wrongdoing.

5. During the same forum, you announced your position that it is not the role of a circuit court judge to determine whether a given statute is

unconstitutional, because that would be “legislating from the bench.” You further stated that you have refused to find statutes unconstitutional and that “[i]f they don’t like the decision, they can appeal it.” In doing so you announced your position that you would not find any statute to be unconstitutional. Previously upon assuming your judicial office, you had sworn under oath to uphold the Constitution of the United States and the Florida Constitution.

6. Prior to making public the material critical of your opponent, you were advised not to publish the material by two judges, on two separate occasions. On one of the occasions, you were advised to be certain of the accuracy of the information.

7. You attended a required Judicial Ethics Advisory Committee training session at the outset of the 2016 judicial campaign. The session specifically included instruction that compliance with the law, the Code of Judicial Conduct, and the Election Code, were solely your responsibility, not that of campaign managers or others. Notwithstanding this instruction, you included in your response to the initial 6(b) investigation hearing notice that you relied on your campaign manager for guidance regarding the claims about your opponent.

8. You campaigned for election to the Circuit in 2010. In the course of that campaign, you engaged in a personal attack against your opponent and published misleading campaign material.

9. In the case of *City of Palm Coast, Florida v. The Group Golf of Palm Coast, LLC*, (Flagler County case # 2016-CA-000639), on May 31, 2017, hearings were noticed and scheduled for 11:00 a.m. and 11:15 a.m. At approximately 10:30 a.m. you were informed that counsel for Group Golf of Palm Coast were en route to the hearing but would be delayed by 10 to 15 minutes because of a traffic accident on the interstate. You agreed to wait for counsel to arrive. At 11:16 a.m. you took the bench and presided over both hearings before counsel for the Golf Group had arrived. You engaged with the City's counsel by asking questions, and allowing her to make arguments related to her motions. You ruled in favor of the City of Palm Coast on both motions and left the bench at 11:19 a.m. Golf Group's attorneys entered the courtroom at 11:22 a.m. and were informed that you had already conducted the hearing. You subsequently denied a request for Disqualification based on these facts.

10. In May 2016, you presided over first appearance hearings in Putnam County during the extended Memorial Day weekend. Your judicial assistant

circulated e-mails to court personnel advising that, for the three-day holiday period, first appearance hearings would commence at 7:00 a.m. on Saturday, 7:00 a.m. on Sunday and 6:30 a.m. on Monday. Your judicial assistant apologized in an e-mail to court personnel, explaining that Judge DuPont had “27 places to be in (4) counties over these (3) days or the early times would not be necessary.”

You were at the time campaigning for reelection inasmuch as your opponent had announced his intention to run against you for your circuit seat a month earlier.

On Saturday, May 28, you conducted the first appearance hearings at 6:30 a.m. instead of 7:00 a.m. as your judicial assistant had advised. When you conducted the hearings, there were no lawyers present for either the State of Florida or the Public Defender’s Office. You proceeded to handle all matters that morning without counsel. You significantly increased the bonds of some defendants without counsel.

11. In 2012, you presided over a domestic violence hearing prompted by petitions seeking injunctions for protection by each party against the other. After the evidentiary portion of the hearing, you ruled that an injunction for protection would lie in favor of one party but not the other. With respect to the

party who you determined was not responsible for domestic violence (the victim of the other party's behavior), you nevertheless ordered that party to undergo a psychological evaluation, and follow any treatment recommended by the provider. You further ordered the victim to comply with the Court's order or she would be jailed.

After a period of non-compliance by the victim, you issued an order of contempt. The victim later announced at a hearing that the cost of the evaluation was significant and that she was indigent. You engaged her in a dialogue about her ability to pay, asked if she had a cellular phone, who paid for it and if she could sell the beaded jewelry she was wearing at the hearing. You found her testimony to be not credible, found her in contempt of court, and ordered an indefinite period of incarceration if she did not seek the evaluation.

The Fifth District Court of Appeal reversed your decisions.

12. In 2011, you served over the family law division in Putnam County. A party appeared before you and asserted an inability to pay support. You ordered the deputy sheriff to search the individual to determine if there was anything of value on his person, and directed that the deputy seize the money that was in his possession.

The foregoing conduct, if proved as alleged, constitutes inappropriate conduct and violates Canons 1, 2A, 2B, 3A, 3B, 3E, 5A and 7A, of the Code of Judicial Conduct, and Article V, Section 13 of the Florida Constitution.

You are hereby notified of your right to file a written answer to these charges within twenty (20) days of service of this notice upon you. The original of your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court's requirements. Copies of your response should be served on the undersigned Counsel for the Judicial Qualifications Commission, and the General Counsel of the Commission.

Dated this 16th day of August, 2017.

BEDELL, DITTMAR, DeVAULT, PILLANS & COXE
Professional Association

Special Counsel

By: /s/Henry M. Coxe, III

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to Rutledge R. Liles, Esq., Liles Gavin, P.A. 301 W. Bay Street, Jacksonville, Florida 32202, rliles@lilesgavin.com, counsel for The Honorable Scott DuPont, this 16th day of August, 2017.

/s/ Henry M. Coxe, III

Attorney