



Upchurch Watson White and Max

DISCUSSES...

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A Newsletter Discussing Current Topics of Interest and Importance

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"Maintaining the integrity and impartiality of Florida's judges is critical to preserving the principles of democracy on which our country was founded. Non-partisan merit retention elections were established by the people of Florida to ensure that the rule of law, not popular thought or political view, is the basis for all judicial decisions."

[Frequently Asked Questions](#) about Merit Retention

[The Florida Bar ~ The Vote's In Your Court](#)

UWWM Discusses...MERIT RETENTION

Dear Colleague,

Welcome to the second installment of "UWWM Discusses...Merit Retention." In this issue we want to elaborate on The Republican Party of Florida (RPOF) Executive Committee's decision to actively oppose the merit retention of Justices Pariente, Quince and Lewis. Voters should know that many perceive the RPOF's position on merit retention to be an "end run" effort to accomplish what the Republican leadership of Florida was unable to do in the 2011 legislative session.

By way of background we provide you with the following information:

In 2011, Republican House Speaker, Dean Cannon, and Republican Governor, Rick Scott, made an unsuccessful attempt to "reform" the Florida Supreme Court. Speaker Cannon proposed legislation that would have increased the number of Supreme Court Justices from seven to ten and split the Court into Civil and Criminal Divisions with five justices in each. This bill also proposed a restructuring of the Judicial Nominating Commissions, giving the Governor almost complete control over the judicial nominating process. If passed, this legislation would have allowed Governor Scott to appoint three new justices and, in effect, "pack the court."

The "Reform Bill" proceeded successfully through the House but fortunately, the Florida Senate (including many Republicans) saw that this court-packing effort was not in the best interests of their constituents – the citizens of the State of Florida. The Senators understood the constitutional principle of "separation of powers" and recognized the judiciary as an independent and co-equal branch of our state government. The Senate insured that the bill never came to the Senate floor for a final reading and vote.

Now, in 2012, many perceive the RPOF's position on merit retention to be another attempt to restructure Florida's Supreme Court by targeting three Justices on the November ballot for a merit retention vote. Unfortunately, for the three Justices, "merit retention" in this election has nothing to do with their character, their judicial fitness, their diligence or their following and applying the rule of law. The criteria for retention is supposed to be based on the above and whether the Justices have remained impartial, ethical and qualified, not whether voters or any political party disagree with some of their opinions.

Many feel the real reason these Justices are being opposed is purely political. Justices Pariente, Quince and Lewis participated in a ruling against a ballot issue drafted by the Republican legislature and the Court has cases pending before it, which concern public pensions and privatizing prisons which are of great interest to some in the Republican Party. Many feel The Governor and the Executive Committee of The Republican

continued on page 2

Party of Florida are attempting to intimidate the Court on matters before it, and are attempting to remove those Justices and stack the Court to protect and promote their political agenda. Interestingly, it has recently surfaced that the majority of Republicans in Florida do not support the Republican Party Executive Committee's current and public stance on merit retention concerning these fine jurists.

Legal organizations and newspaper editorial departments all over the state are coming out in opposition to the unprecedented action taken by the RPOF. Please join UWWM and others in support of the merit retention process and the tenets upon which it was founded; a fair, impartial and depoliticized judiciary. Educate yourself about the history of merit retention in this state and come to your own conclusions about the propriety of the current movement to remove these three highly qualified Justices from Florida's Supreme Court. Of utmost importance however is that you simply cast your vote on Tuesday, November 6th because studies show that a full 30% of those voting in the presidential election leave the merit retention portion of the ballot absolutely blank. It may take some research and time to get this vote "right" in your mind but isn't it better to cast your vote the way you see fit rather than allow a vocal minority to make this important decision for you on election day?

[Robert A. Cole](#) is a mediation panelist at the firm of Upchurch, Watson, White & Max.

We invite you to review the following articles / blogs / editorials / commentaries regarding this discussion on **MERIT RETENTION** and we encourage all to actively join us in our efforts to maintain the non-partisanship of Florida's judicial elections.

[COURTS SHOULD BE OFF LIMITS TO PARTISAN POLITICS](#) - *The Gainesville Sun*, Oct. 4, 2012
Guest column by former legislator & House Speaker H. Lee Moffitt

[FLORIDA'S JUDICIARY AT STAKE](#)-- *Hernando Today*, Oct. 5, 2012.

Martin Dyckman states:....*"since 2001, the commissions have come under the thumbs of the governors, who now appoint all the members, and so there is no longer any assurance that replacements for the three targeted justices would even be qualified, much less ethical and nonpolitical."*

[DOES POLITICS BELONG IN MERIT-RETENTION VOTE?](#)-- *Daytona Beach News-Journal*, Oct. 7, 2012.
Sandra C. Upchurch, *"Partisanship imperils judicial integrity"*

[DON'T LET POLITICS SPOIL MERIT RETENTION](#) - *Florida Times-Union*, Opinion/Editorial, October 14, 2012