OFFICE OF THE

STATE ATTORNEY

FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR PALM BEACH COUNTY

BARRY E. KRISCHER
STATE ATTORNEY

00-311

October 3, 2000

Mr. Thomas C. MacDonald, Jr.
100 N. Tampa Street, St. 2100
Tampa, FL 33602-5809

Dear Mr. MacDonald:

I am an assistant state attorney in the fifteenth judicial circuit and have been since 1992 after graduating from Nova Law School. Approximately one month ago I was interviewed by Mr. Bob Butler from the Judicial Qualifications Commission concerning an investigation of Judge Berman, Circuit Court Judge in the fifteenth circuit. The interview was informal, I was not under oath, nor were the contents of the conversation recorded. Mr. Butler took notes and, I assume, interpreted my statements as he put pen to paper. I recalled for Mr. Butler, at his request, an incident that occurred almost eight years ago when I first began my career as an assistant state attorney assigned to Judge Berman's division. I made it clear to Mr. Butler during that conversation, and I want it to be clear to you now, that I did not complain eight years ago about Judge Berman, and I am certainly not complaining now. I informed Mr. Butler that I did not feel harassed by Judge Berman eight years ago and have never felt harassed by Judge Berman during the entire time I have been practicing and working with him in this community. I telephoned Mr. Butler yesterday reference our past conversation as I had been hearing courtroom gossip that I had been named in the complaint as someone who has been harassed by Judge Berman. During this recent conversation, he agreed with me that the content of our conversation did not take on the flavor of a complaint in his opinion or that I ever said I felt harassed by Judge Berman. He seemed surprised when I informed him that the "confidential investigation" was being talked about and that I was being included as a possible complainant. He assured me that he would place a call to general counsel, I assume you, and find out what had taken place. I requested from him at that time a copy of whatever notes or synopsis he made of our conversation to which he said he would telephone me back.

I am writing you to inform you that I was stunned and in disbelief when I learned that I indeed was included in what is a four part complaint against Judge Berman. Prior to learning that I was listed in the complaint, I had been questioned by fellow attorneys as well as the press as to whether or not it was true that I had complained about Judge Berman - all of whom I informed that that was not true. I am amazed that was is supposed to be a confidential investigation of a judge is so talked about and that attorney's not even involved

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Thomas C. MacDonald, Jr. P.A.

knew more about the complaint that one who is actually listed in it. I am quite taken back that after making it clear that I was not complaining, that I did not feel threatened, and that I felt Judge Berman was an asset to the bench, that I end up as someone mentioned in the JQC complaint lodged against Judge Berman.

I spoke with Judge Berman's attorney, Mr. Sid Stubbs, who was kind enough to read me the contents of the complaint as it related to me. I corrected what I felt to be material conflicts in the written complaint versus my recollection of the incident as well as my conversation with Mr. Butler. I must inform you that I take offense at being included in a complaint of this nature without having been spoken to by the attorney drafting the complaint and without any sworn statements from those involved. For example, one of the last questions posed by Mr. Butler to me was whether or not when I was back in chambers, Judge Berman touched me. I informed Mr. Butler that it was possible that he either patted my back or knee in a non-sexual way in reference to my being concerned or distraught over having to miss court on occasion because of a sick spouse. I informed Mr. Butler during our conversation that I did not interpret the touching to be anything but concern and appropriate for whatever that situation posed some eight years ago. I also informed Mr. Butler that the only emotion I recall from that incident was embarrassment as I found myself locked out of Judge Berman's chambers and that as a new prosecutor I had hoped to make a good impression on the Judge, not one of foolishness. The only reason the situation came to light was because I was late for a meeting with my supervisor. I felt the need to explain my tardiness so I informed her of the incident. I was asked then if I felt threatened or uncomfortable and if I wanted to complain. I was clear then and I am today that I did not want to complain about the incident, nor did I feel threatened by Judge Berman.

I find it interesting that the positive things that I said about Judge Berman during my conversation with Mr. Butler were not documented and I feel sad that something that happened eight years ago is being highlighted into something that it was not. I ask that you remove my name from the complaint immediately and that this letter be included in your investigation. I have informed both Mr. Stubbs and my current supervisor of this letter and its contents. I look forward to speaking with you reference this situation and am sure that we can rectify what I believe is an inaccurate and unjust as it relates to me and my involvement in this investigation.

Thank you for your prompt attention in this matter. If you need to speak with me I can be reached at 561/355-7346.

Sincerely,

Shirley Delana
Assistant State Attorney

cc: Mr. Sid Stubbs
Mr. Bob Butler