



Paths to the Judiciary

Lessons from Candidates for Election and Appointment

April 26, 2019

Noon – 1 p.m. EDT

11 a.m. – Noon CDT

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- All attendees are in “listen only” mode
- You are listening via your computer’s speakers by default
- Prefer telephone? Select “Telephone” in the audio pane
- Submit text questions using the questions pane
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- This webinar is being recorded and will be available for later viewing.

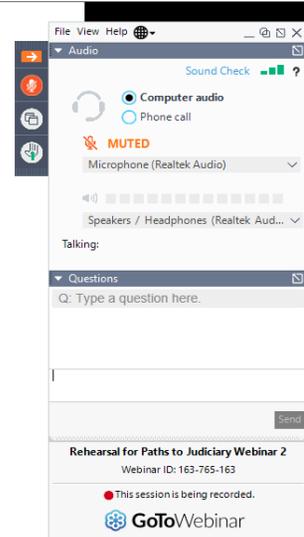


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The Election Path

- Hon. Nina Ashenafi
Richardson
Leon County Judge, Tallahassee
- Suzanne Van Wyk
Florida Division of Administrative Hearings,
Tallahassee

The Appointment Path

- Sara Peacock
Cortes Hodz, P.A., Tampa
- Monique Scott
State Attorney's Office, Tampa



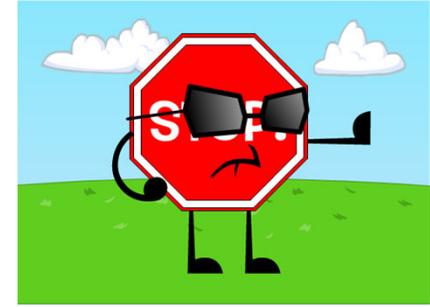
Paths to the Judiciary

Election

By Judge Nina Ashenafi Richardson
and ALJ Suzanne Van Wyk



Before You Do Anything



- Read Canon 7 and Major Interpreting Opinions
 - Talk with someone knowledgeable
 - Be willing to run under those restrictions
 - Judicial Ethics Advisory Council will provide training, but not until after qualifying
- Know Why You Are Running
 - What is your message?
 - Must be more than a desire to serve your community
 - Cannot make promises that run afoul of the Canons

Before You Run

- Talk to your family
 - If they are not on board, you should not run
 - Campaigning takes endless hours of door-to-door, attending community events, meeting with your advisors, working late nights.
 - You will be away from home most days; you will miss children's events; be realistic
 - Ideally, make them part of your team



Before You Run

- Assess your competition
 - Not just who has filed, but who is likely to?
 - Have they run before? Do they have name recognition?
 - What is their fundraising potential or track record?
 - Who is committed to supporting them? What are your realistic chances without that person's, or those persons', support?
 - Be mindful that many candidates run more than once before being elected. A run without realistic chances still offers an opportunity for name recognition for a future run.

Know the Rules

- Chapters 105 & 106, Florida Statutes – Filing and Qualifying
- Canon 7 of the Code of Judicial Conduct – communications, appearances, solicitations
- Florida Bar Rules of Professional Conduct, Chapter 4



Step 1: Filing to Run

- Section 106.021 – Filing to Run
 - Designate the office for which you are running (including group, district, or seat)
 - Appoint a campaign treasurer
 - Designate campaign repository (bank account)
 - Timing – “before qualifying to run”

- * Cannot solicit campaign contributions until you have filed – should dictate timing for your campaign

Selecting a Treasurer and Bank

- Treasurer's Experience Matters
 - Choose a CPA, or a CPA firm
 - Has previously served a JUDICIAL campaign
 - Preferably a firm or individual with resources to make pickups and deliveries
- Banking
 - Low or no fee account (many banks offer accounts for non-profits)
 - Yes, you'll need an FEID

Step 2: Qualifying

- Section 105.031 – Time of Qualifying, Filing Fee, Candidate Oath, Items to File
 - Qualifying period - between 120 and 116 days prior to the primary election **NOON!!!**
 - Qualifying Fee - three percent of the annual salary of the position sought + election assessment - one percent of the annual salary of the position sought
 - Oath - includes certification that you have resigned from any office, if applicable, pursuant to section 99.012
 - Items to File –
 - Full and Public Disclosure of Financial Interests (Form 6)
 - Loyalty Oath, pursuant to section 876.05
 - In addition to candidate oath and designation of treasurer

Qualifying by Petition

- 105.035 Petition Process in Lieu of Qualifying Fee
 - At Least one percent of total number of registered voters in the geographic area (county or circuit)
 - May not be obtained until candidate has FILED
 - Due BEFORE NOON of the 28th day preceding the first day of the qualifying period
 - To the Supervisor of Elections (SOE)(if running for circuit position, to each county supervisor within the circuit)
 - SOE shall certify no later than the 7th day prior to first date of qualifying period
 - Know the rules for solicitation
 - Gather your team
 - Get the reasons for rejection from SOE office
 - Watch people fill out the form and make sure it is complete before they walk away
 - Whether your help is paid or not, make sure they know the rules

Limitation on Public Employees

- Section 110.233(4)(a):
 - Authorizes career service employees to run for “local public office”
 - When authorized by her agency head AND approved by DMS
 - prohibits public employees from actively participating in a political campaign while on duty, or within regular working hours

Limitation on Public Employees

- Rule 60L-36.002 Political Activities
 - submit written request at least 45 days prior to qualifying deadline
 - agency head to issue written decision within 10 days; if approved forward to DMS
 - DMS to issue written decision in 10 days

Statutory Limitations

- Section 105.071 – Limitations on political activity for judicial candidates – prohibits:
 - Participating in any partisan political party activities (except registering to vote)
 - Campaign as a member of a political party
 - Publicly represent herself as a party member
 - Solicit or accept contributions from any party
 - Serve on political party committee
 - Contribute to political party funds
 - Make speeches on behalf or, or endorse, any candidate

Statutory Penalties



- Violations of Section 105.071 subject to a civil fine of up to \$1,000
- Enforced by the Florida Elections Commission

Canon 7

Canon 7(A)(3) governs judges and candidates

- Not be swayed by partisan interests
- Maintain dignity and act impartially, with integrity
- Prohibit employees from doing on the candidate's behalf what she is prohibited from doing

Canon 7

Canon 7C Specific to Judicial Candidates

- Cannot personally solicit contributions or “solicit attorneys for publicly-stated support”
- May not attend any political party function unless all the other candidates are invited
- Cannot be a fundraiser
- May speak only on behalf of her candidacy, a matter that relates to the law, improvement of the legal system, or administration of justice
- May not comment on her political affiliation or express a position on a political issue
- “Must avoid conduct that suggests or appears to suggest support of or opposition to a political party, a political issue, or another candidate.”

Canon 7 Violations

- If successful candidate:
 - Art. V, § 12(c)(1), Florida Constitution
 - The Florida Supreme Court upon recommendation from the JQC
 - Removal from office or “other appropriate discipline”
- Unsuccessful candidate
 - Subject to attorney discipline by the Florida Bar



Decided to Run? Build Your Team

- Committee of Responsible Persons
 - They must commit to support you no matter who else enters the race
 - Lawyers from all practice areas (criminal, civil, plaintiff, defense)
 - They must commit to raising money for you (or at least a good number of them)
 - The bigger the committee, the farther their reach
 - Include business people and other non-lawyers

Committee

- Committee Responsibilities

- Fundraising Chair
- Social Media
- Advertising (distribution of literature, yard signs)
- Volunteers
- If running circuit wide – committee chairs for circuit divisions
- Canvassing



Campaign Counsel

“He who represents himself has a fool for a client.” - Abraham Lincoln

- Hire experienced campaign counsel
- Are they partisan?
- Get a written compliance opinion on EVERYTHING – website, flyers, invitations
- Do not rush their work – need thorough reviews



Campaign Manager

- Do you need one?
- Professional? Student? Paid or volunteer?
- How much experience?
- Difference between a campaign manager and a public relations firm
- What exactly are her duties?
 - Campaign strategy – what are your target precincts and how to win them
 - Schedule of events you must attend (there will be overlap and decisions must be made)
 - Decisions on media buys
 - Decisions on contributions from campaign funds

Media Consultant

- Will you hire one?
- Likely biggest campaign expense – not just in fees, but also in other professionals he or she uses
 - Photographers
 - Videographers
 - Media outlets with which relationships are established
- Talk to candidates who previously engaged them
- What is their track record?
- Do their ads all look alike?



Line Up Your Money

- You cannot solicit contributions after your file, so do it before you file
 - Decide how much you need in your account immediately after filing to be taken seriously, intimidate the competition, etc.
 - Nail down a commitment from attorneys in key firms or practice areas
 - Set a target contribution amount from each person to reach the amount you need (\$1,000 is the limit per person per campaign; both the firm and each individual member may contribute \$1,000)
 - Ideally, get these people on your committee to keep raising money for you during the campaign
 - Get at least one event organized and ready to go as soon as you file (in addition to the money from individual contributions that will come in right after you file, this will get the names of your supporters out there in a public way)

Make a Calendar

- Comb community event calendars, the newspaper, websites of local clubs, and put on a master calendar
- Prioritize; attend everything you can even if only briefly.
- Decide when to begin canvassing and schedule each neighborhood or precinct
- Include all deadlines for qualifying and financial reporting

Prepare Your Pitch

- Elevator Speech and a Panel Presentation
- Write, get input, rewrite and PRACTICE
- Anticipate questions and be ready with answers
- Know your audience and modify your pitch
- Learn how to pivot, especially when presented with questions on political issues

Take Care of Yourself

- Know when to say no
- Get rest when you can
- Don't neglect your work
- Eat well
- Take deep breaths
- Door-to-door canvassing can be exercise
- Stick with your plan!!



Have fun!!

Questions?

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