IN THE SUPREME COURT OF FLORIDA

ROBERT M. ERVIN and
DAVISSON F. DUNLAP,

Petitioners,

vs. **CASE NO.**

THE FLORIDA LEGISLATURE;
JEFF ATWATER, AS PRESIDENT
OF THE FLORIDA SENATE;
LARRY CRETUL AS SPEAKER OF
THE FLORIDA HOUSE OF
REPRESENTATIVES, CHARLIE CRIST,
AS GOVERNOR OF FLORIDA AND
MEMBER OF THE FLORIDA CABINET;
BILL MCCOLLUM AS ATTORNEY
GENERAL AND MEMBER OF THE
FLORIDA CABINET; ALEX SINK AS
CHIEF FINANCIAL OFFICER AND
MEMBER OF THE FLORIDA CABINET;
CHARLES BRONSON, AS COMMISSIONER
OF AGRICULTURE AND MEMBER OF THE
FLORIDA CABINET; THE FLORIDA
CABINET AS HEAD OF THE DEPARTMENT
OF REVENUE, THE FLORIDA CLERKS OF
COURT OPERATIONS CORPORATION
("FLCCOC"), a Florida Corporation;
DEPARTMENT OF REVENUE, CLERKS
OF THE COURT TRUST FUND ("COCTF"),
AND FLORIDA ASSOCIATION OF COURT
CLERKS, INC., ("FACC") a Florida Non-Profit Corporation,
THE EXECUTIVE COUNCIL of the FLORIDA
CLERKS OF COURT OPERATIONS
CORPORATION ("FLCCOC"); BOB INZER as
MEMBER OF THE EXECUTIVE COUNCIL of the
FLORIDA CLERKS OF COURT OPERATIONS
CORPORATION ("FLCCOC"); TIM SANDERS as

MEMBER OF THE EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC"); MARSHA EWING as MEMBER OF THE EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC"); JOHN CRAWFORD as MEMBER OF THE EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC"); RICHARD WEISS as MEMBER OF THE EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC"); HARVEY RUVIN as VICE-CHAIR of the EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC") AND HOWARD FOREMAN as CHAIR of the EXECUTIVE COUNCIL of the FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC");

Respondents.

_____/

APPLICATION FOR WRIT OF QUO WARRANTO AND IN THE ALTERNATIVE, WRIT OF MANDAMUS AND IN THE ALTERNATIVE, APPLICATION FOR CONSTITUTIONAL WRIT AND ALL WRITS NECESSARY TO ENJOIN RESPONDENTS FROM ENGAGING IN CONTINUING UNCONSTITUTIONAL ULTRA VIRES ACTIONS

Petitioners, ROBERT M. ERVIN and DAVISSON F. DUNLAP, by undersigned counsel, pursuant to Article V, Section 3(b)(8) and Rule 9.030(a)(3), Fla. Rules of Appellate Procedure, petition the Court for the entry of a Writ of

Quo Warranto and in the alternative, Writ of Mandamus and in the alternative, Application for Constitutional Writ and All Writs Necessary to Enjoin the Respondents from Engaging in Continuing Unconstitutional ultra vires Actions and state in support the following:

NATURE OF THE RELIEF SOUGHT

1. This is an original action seeking the entry of a Writ of Quo Warranto or in the alternative, Writ of Mandamus and in the alternative, Application for Constitutional Writ and All Writs necessary to enjoin the Respondents from engaging in continuing unconstitutional ultra vires actions denying the constitutional rights of the Petitioners and all persons similarly situated who have paid "user fees" for access to the courts protected by Article I, Section 21 and Article I, Section 22, guaranteeing the right of trial by jury, and Petitioner's invoke the following constitutional provisions:

A) Article I, Section 21 guaranteeing access to courts and Article I, Section 22, guaranteeing the right of trial by jury;

B) The separation of powers limitation set forth in Article II;

C) Article V, Section 2(a) providing exclusive administrative supervision of all courts in the Supreme Court of Florida;

D) Article VII, Section 1 (c) providing that no money shall be drawn from the treasury except in pursuance of appropriation made by law;

E) Article VII, Section 1 (d) providing that provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period;

F) Article I, Section 2 providing for equal protection of law; and

G) Article III, Section 19 providing for the creation of trust funds under the state budgeting, planning and appropriations processes and protecting their fiduciary purposes.

2. Court related "user fees" collected by Clerks of Court are divided into three portions:

A) The first portion ("one third") of the user fees is retained by Clerks of Court to defray initial costs of operating the Clerks offices.

B) The second portion ("two thirds) is sent by the Clerks to the Clerk of Courts Trust Fund. The Executive Council of the Clerks (FLCCOC) then determines how much additional "user fees" are needed to fund deficiencies in Clerks office operations. Additional "user fees" are sent to them to meet these deficits.

C) The last portion is the residual of the "user fees" that are left over after the deficits in the Clerk's operations are paid.

D) This last portion of "residual user fees" is required by law, (Section 28.37(2), F.S.) to be diverted directly into the General Revenue Fund to be appropriated by the Florida Legislature.

E) There is no discretion involved in remitting the "residual user fees" into the General Revenue Fund. That is a ministerial task provided by Section 28.37(2), F.S.

3. Petitioners assert that this ministerial task of sending "residual user fees" to the General Revenue Fund unlawfully converts these residual user fees into an unconstitutional tax.

4. Petitioners also assert that appropriation by the Florida Legislature from the General Revenue Fund of these "residual user fees" constitutes an unconstitutional tax.

5. Petitioners assert that once collected as "user fees", the subsequent appropriation of these funds must be restricted to court-related purposes as well.

6. Petitioners assert that any appropriation of these "residual user fees" by the Legislature on purposes other than operation of the Court system is an unconstitutional tax.

7. Accordingly, Petitioners seek the following relief:

A) Enjoin the ultra vires unconstitutional ministerial act of transferring "residual user fees" into the General Revenue Fund pursuant to Section 28.37(2), F.S.

B) Enjoin the Legislature from appropriating "residual user fees" transferred into the General Revenue Fund to non-court-related purposes.

II. BASIS FOR INVOKING THE JURISDICTION OF THE COURT

8. This action is brought pursuant to Article V, Section 3(b)(8) of the 1968 Florida Constitution and Rule 9.030(a)(3) of the Florida Rules of Appellate Procedure.

9. Quo Warranto is the proper remedy to challenge these alleged ultra vires actions that are beyond the authority granted to a public official or state agency. Martinez v. Martinez, 545 So.2d 1338 (Fla. 1989); State ex rel Smith v. Jorandby, 498 So.2d 948 (Fla. 1986). Article V, Section 3(b)(8), Fla. Constit. provides that the Supreme Court shall have jurisdiction to issue Writs of Quo Warranto to state officers and state agencies and the Respondents in this case are state officers and state agencies Chiles v. Phelps, 714 So.2d 453, 457 (Fla. 1998).

For these reasons jurisdiction to issue a Writ of Quo Warranto lies in the Supreme Court.

10. Quo Warranto is the proper remedy since the duty to transfer "residual user fees" collected by the Clerks of Court to the General Revenue Fund constitute unconstitutional ultra vires acts. Furthermore, the appropriation by the Legislature of "residual user fees" to non-court-related purposes (e.g. prisons) constitutes unconstitutional ultra vires action by a state officer and agency.

11. Alternatively, this Court has jurisdiction to issue a Writ of Mandamus under Article V, Section 3(b)(8), Fla. Constit. and Rule 9.030(a)(3) of the Florida Rules of Appellate Procedure.

12. Mandamus is the proper remedy since the duty to transfer "residual user fees" collected by the Clerks of Court to the General Revenue Fund under Section 28.37(2), Florida Statutes is a ministerial duty. This Court has the jurisdiction to order a state officer and state agency not to perform a ministerial duty which denies constitutional rights and is ultra vires. House of Representatives v. Martinez, 555 So.2d 839 (Fla. 1990); Florida Senate v. Graham, 412 So.2d 360 (Fla. 1982); Brown v. Firestone, 382 So.2d 654 (Fla. 1980); Dade County Classroom Teachers Association, Inc. v. The Legislature, 269 So.2d 684 (Fla. 1972).

13. The Supreme Court of Florida is vested with inherent power to declare statutes constitutionally invalid and enjoin government taxing measures or expenditures which violate specific constitutional limitations on the taxing and spending power set forth in the 1968 Florida Constitution. Department of Administration v. Horne, 269 So.2d 659, 663 (Fla. 1972) and Alachua County v. Scharps, 855 So.2d 195, 198 (Fla. 1st DCA 2003).

14. Pursuant to Chapter 86.091, Florida Statutes, the Florida Attorney General is being served with a copy of the instant Petition.

15. The issues presented herein are of an urgent nature which are of great public importance because of the significant adverse impact of these ultra vires actions on the citizens of the entire State of Florida. Pet. Apx. Vol. II, Tab 20, pgs. 289-297; Tab 22, Pgs. 304-306; Tab 24, pgs. 307; Tab 25, pgs. 31-311; Tab 26, pgs. 312-317; Vol. III, Tab 29, pgs. 351-424. The ultra vires actions of the Respondents in diverting 80 million dollars of "user fees" for non-court-related functions in the 2008 Legislative Session, is unconstitutional conduct capable of immediate repetition (in the current Legislative now in session), yet evading immediate review. This case of first impression involves one of those rare occasions upon which this Court has accepted jurisdiction in original proceedings

rather than requiring the issues to be heard initially by the Circuit Court. In Chiles v. Phelps, 714 So.2d 453, 457 (Fla. 1998), this Court stated:

> "We have stated that under ordinary circumstances, the constitutionality of a statute should be challenged by way of a Declaratory Judgment action in Circuit Court Moreau v. Lewis, 648 So.2d 124, 126 (Fla. 1995). However, we have accepted jurisdiction in original proceedings where the functions of government would be adversely affected absent an immediate determination by this Court Id: Dickinson v. Stone, 251 So.2d 268 (Fla. 1971). Because the issue in these Petitions creates uncertainty for those required to enforce these laws, as well as for those who may be subject to their reach, we believe that an immediate determination is required. Accordingly, we exercise our jurisdiction to consider the instant Petitions."

16. Moreover, given the constitutional questions presented herein, this case would in all likelihood ultimately be decided by this Court. Therefore, the interests of judicial economy favor an immediate resolution. Chiles v. Phelps, 714 So.2d at 457fn6.

III. PARTIES

17. Petitioner, Robert M. Ervin, is a resident and citizen of Tallahassee, Leon County, Florida and is a taxpayer of the State of Florida. For the past fifty (50) years, Petitioner, Robert M. Ervin, of Ervin, Kitchen & Ervin, has enjoyed a distinguished career as a past President of the Florida Bar (1965-1966) and as a practicing trial lawyer is a "user" of the Florida Court System. In the past 50 years, Petitioner, Robert M. Ervin has paid many thousands of dollars into various Florida court clerks in "user fees" (filing fees, court costs, service fees, recording fees, etc.) with the expectation of receiving court services in exchange for the "user fees."

18. Petitioner, Davisson F. Dunlap, is a resident and citizen of Tallahassee, Leon County, Florida and is a taxpayer of the State of Florida. For the past fifty (50) years, Petitioner, Davisson F. Dunlap has been a practicing trial lawyer and is a "user" of the Florida Court System. In the past 50 years, Petitioner, Davisson F. Dunlap has paid many thousands of dollars into various Florida court clerks in "user fees" (filing fees, court costs, service fees, recording fees, etc.) with the expectation of receiving court services in exchange for the "user fees."

19. The Florida Legislature is established under Article III of the 1968 Florida Constitution. The Florida Legislature is composed of a Senate and a House

of Representatives pursuant to Article III section 1. The Legislature has the power to enact taxing and spending laws. The Florida Legislature is a proper party before this Court. See, Chiles v. Phelps, 714 So. 2d 453, 457 (Fla. 1998); Dade County Classroom Teachers Association Inc. v. The Legislature of the State of Florida, 269 So. 2d 684 (Fla. 1972).

20. Respondent, JEFF ATWATER, is President of the Florida Senate. As President of the Senate, Respondent ATWATER is empowered to convene the Legislature by joint proclamation with Speaker of the House of Representatives pursuant to Section 11.001, Fla. Stats. The legislative organization procedures and staffing is set forth in Chapter 11, Fla. Stats. Respondent ATWATER is a proper party to this taxpayer lawsuit challenging the constitutionality of the taxing and spending power exercised by the Florida Legislature. See, Chiles v. Phelps, 714 So. 2d 453, 457 (Fla. 1998); The Florida Senate v. Robert Graham Governor of Florida, 412 So. 2d 360 (Fla. 1982); J. Hyatt Brown v. Firestone, 382 So. 2d 654 (Fla. 1980).

21. Respondent, LARRY CRETUL, is Speaker of the Florida House of Representatives as set forth in Article III section 2 of the 1968 Florida Constitution. Respondent CRETUL is a proper party before this Court. See, Chiles v. Phelps, 714 So. 2d 453, 457 (Fla. 1998); House of Representatives v.

Martinez, 555 So. 2d 839 (Fla. 1990). The Speaker of the House of Representatives is empowered to initiate, defend or otherwise participate in any suit on behalf of the House which is of significant interest to the House pursuant to Rule 2.7(b) of the Rules of the House of Representatives.

22. Respondent, CHARLIE CRIST, is the elected Governor of the State of Florida and vested with the powers set forth in Article IV of the 1968 Florida Constitution. Pursuant to Article IV, Section 4, Fla. Constit., the Governor participates in decisions of the Florida Cabinet. The Governor is a proper party to this action. See, Chiles v. Phelps, 714 So. 2d 453, 457 (Fla. 1998); House of Representatives v. Bob Martinez, 555 So. 2d 839, 843 (Fla. 1990); Coalition for Adequacy v. Lawton Chiles, 680 So. 2d 400, 403 (Fla. 1996); Elvin Martinez v. Bob Martinez, 545 So. 2d 1338, 1339 (Fla. 1989); The Florida Senate vs. Robert Graham, Governor, 412 So. 2d 360 (Fla. 1982).

23. Respondent, BILL MCCOLLUM, is the Attorney General of Florida pursuant to Article IV, Section 10, of the 1968 Florida Constitution. Pursuant to Article IV, Section 4, Fla. Constit., the Attorney General is a member of the Florida Cabinet.

24. Respondent, ALEX SINK, is the Chief Financial Officer of Florida who also sits on the Florida Cabinet pursuant to Article IV, Section 4, of the 1968

Fla. Constit. Respondent SINK, as Chief Financial Officer, serves as the chief fiscal officer of the State and settles and approves accounts against the State and keeps all state funds and securities pursuant to Article IV, Section 4(c), Fla. Constit.

25. Respondent, CHARLES BRONSON is Florida Commissioner of Agriculture pursuant to Article IV, Section 4(d), Fla. Constit. Respondent BRONSON also sits as a member of the Florida Cabinet pursuant to Article IV, Section 4, Fla. Constit.

26. Respondent, THE FLORIDA CABINET, is composed of the Attorney General, Chief Financial Officer, and Commissioner of Agriculture pursuant to Article IV, Section 4, Fla. Constit. Together with the Governor, the Cabinet acts as head of the Department of Revenue, pursuant to Section 20.21(1), Fla. Stats. As the head of the Department of Revenue, the Governor and Cabinet are empowered by Section 28.37(2), Fla. Stats., to cause "user fees" in the Department of Revenue Clerks of Court Trust Fund (COCTF) to be diverted to the General Revenue Fund or a ministerial act.

27. Respondent, FLORIDA CLERKS OF COURT OPERATIONS CORPORATION ("FLCCOC") is a public corporation organized and existing pursuant to Chapter 28.35, Florida Statutes. All of the Clerks of the 67 Florida

Circuit Courts are members of the corporation and hold their position and authority in an ex-officio capacity. The 67 Florida Court Clerks select and approve an Executive Council which performs the functions assigned to the corporation pursuant to a plan of operation adopted by the Court Clerks themselves unencumbered by any statutory standards, guidelines or regulations.

28. Respondent, FLORIDA ASSOCIATION OF COURT CLERKS, INC. ("FACC, Inc.") was organized as a Florida non-profit corporation on November 16, 1978. The principal address of FACC, Inc. is 3544 Maclay Blvd., Tallahassee, Florida 32312. The Registered Agent for service of process is Fred W. Baggett, 101 E. College Avenue, Tallahassee, Florida 32302. The FACC receives a portion of "user fees" as provided by law. (See e.g. eq sec F.S. 61.181(2)(b)).

29. Respondent, DEPARTMENT OF REVENUE, CLERKS OF THE COURT TRUST FUND ("CCTF"), is a public trust fund established under Chapter 28.37(2), Florida Statutes to receive fines, fees, service charges and costs remitted to the State by the Florida Court Clerks. The Department of Revenue is an agency of the Executive Branch of Florida Government organized and existing pursuant to Chapter 20.21, Florida Statutes. The head of the Department of Revenue is the Governor and Cabinet. The Department of Revenue also may process taxes, fines or license or regulatory fees for the benefit of any other state agency pursuant to a

written agreement between the department and the agency requesting this service (Chapter 20.21(5), Florida Statutes).

30. The EXECUTIVE COUNCIL OF THE FLORIDA CLERKS OF THE COURT OPERATIONS CORPORATION ("FLCCOC") is created pursuant to Section 28.35(1)(a), Florida Statutes. The functions assigned to the FLCCOC "shall be performed by an Executive Council pursuant to the plan of operation approved by the Members." The Executive Council of the FLCCOC is composed of eight (8) clerks of the court elected by the clerks of the court for a term of two (2) years pursuant to Section 28.35(1)(b), F.S.

31. Respondent, BOB INZER, is Clerk of the Circuit Court in and for Leon County, Florida and is a Member of the Executive Council of the FLCCOC.

32. Respondent, TIM SANDERS, is Clerk of the Circuit Court in and for Madison County, Florida and is a Member of the Executive Council of the FLCCOC.

33. Respondent, MARSHA EWING, is Clerk of the Circuit Court in and for Martin County, Florida and is a Member of the Executive Council of the FLCCOC.

34. Respondent, JOHN CRAWFORD is Clerk of the Circuit Court in and for Nassau County, Florida and is a Member of the Executive Council of the FLCCOC.

35. Respondent, RICHARD WEISS, is Clerk of the Circuit Court in and for Polk County, Florida and is Secretary-Treasurer of the Executive Council of the FLCCOC.

36. Respondent, HARVEY RUVIN, is Clerk of the Circuit Court in and for Dade County, Florida and is Vice-Chair of the Executive Council of the FLCCOC.

37. Respondent, HOWARD FOREMAN, is Clerk of the Circuit Court in and for Broward County, Florida and is Chair of the Executive Council of the FLCCOC.

IV. GENERAL ALLEGATIONS OF FACTS RELIED ON FOR THE RELIEF SOUGHT

THE DUAL ROLE OF THE FLORIDA COURT CLERKS UNDER ARTICLE V (JUDICIARY) AND ARTICLE VII (LOCAL GOVERNMENT)

38. The Florida Court Clerks serve a dual role in Florida State Government. The first role of the Florida Court Clerks is to discharge ministerial constitutional duties as Clerks of the Circuit Courts under Article V, Section 16 of

the 1968 Florida Constitution. The ultimate judicial administrative power rests with the Supreme Court of Florida.

39. The Florida Court Clerks are constitutionally empowered to discharge court-related functions only under the direct supervisory authority of the Florida Supreme Court.

40. The Court Clerks also have constitutional authority and may have specific statutory authority to function as a County Officer in the role of auditor, accountant, custodian of county funds and official recorder.

41. These dual roles as Constitutional Administrative Court Officer and Constitutional County Administrative Officer are set forth in Article V, Section 16 of the Florida Constitution and Article VIII, Section 1(d).

42. The constitutional, administrative ministerial court-related functions of the Clerk of the Circuit Courts are provided by law in Chapter 28, Florida Statutes. The Court Clerks' ministerial duties do not elevate them into a fourth separate branch of government. Instead, the Court Clerks act only in a ministerial role to assist the judiciary in its functions as one of the three recognized branches of government. The Court Clerks have always been subject to orders of the Court in discharging their ministerial duties as Article V officers.

V. FUNDING OF THE OPERATION OF FLORIDA COURTS PRIOR TO THE CONSTITUTIONAL AMENDMENT IN ARTICLE V, SECTION 14 (REVISION SEVEN)

43. Prior to 2004, the operations of the Florida Court System and the Clerk of Court offices were funded predominately from local government (county and municipality), legislative appropriations, together with fines, fees, service charges and costs ministerially collected by the Clerk of Courts pursuant to law, as well as supplemental monies appropriated by the Florida Legislature from the general revenue to the Florida Court System. This method of funding the Florida Court System operations led to wide variations of inconsistency and instability, especially in times when the general revenue of the State of Florida was economically restricted. Furthermore, the system which provided that some Judge's salaries were derived from fines and penalties imposed by the Judge was criticized as "Cash Register Justice."

44. Prior to the 2004 statutory changes, it was no uncommon for the Chief current judge and the Circuit Court Clerk to jointly request budget appropriations from the County Commissions. This promoted harmony (and cooperation) between the Court and the Clerks. In this "old funding system", the Supreme Court of Florida held the same supervisory administrative power over the court

system, including power over its clerks that the Supreme Court holds today but never found it necessary to intervene in the process.

FUNDING THE OPERATION OF THE FLORIDA COURTS AFTER THE ADOPTION OF REVISION 7, ARTICLE V, SECTION 14 OF THE FLORIDA CONSTITUTION

45. In 1998, the Florida Constitution Revision Commission adopted Revision 7 amending Article V, Section 14 and introducing a three-part plan to fund the judicial system using state and county funding, in addition to a system funded by user fees and costs.

46. Revision 7 provided in part that funding for the state court system, state attorneys' offices, public defenders' offices, and court appointed counsel would be provided from state revenues appropriated by General Revenue. The effect of the revision was to clearly and substantially shift the burden of the funding of the state court system from the counties to the state. Commentary to Article V, Section 14, FSA.

THE DUAL SYSTEM OF ARTICLE V COURT FUNDING AFTER REVISION 7

47. After the adoption of Revision 7 by the voters of Florida, the Legislature adopted a dual system of funding the court clerks operations and the remaining court system operations.

48. First the Legislature adopted a system of funding operation of the Court Clerks' offices. This was accomplished through a system of "user fees" paid by users of the court system by paying fines, fees, service charges and costs collected by the court clerks of Florida. Sections 28.35, 28.36 and 28.37, F.S. Pet. Apx. Vol. III, Tab 28 (pgs. 329-424).

49. Second, the Legislature adopted Chapter 29 providing for funding of the state courts system, the state attorney offices, the public defender offices, the offices of criminal conflict and civil regional counsel, and other court appointed counsel from state revenues appropriated by general law. Chapter 29, F.S.

50. The state court system for purposes of Chapter 29, Florida Statutes ("Court System Funding") includes Judges; Jurors (compensation); Court reporters; Capital improvements; Foreign language interpreters; Expert witnesses; Judicial assistants; General and special magistrates and masters; Court administration; J. Case management; Mediation and arbitration; Legal materials not the equivalent of a law library; The Judicial Qualifications Commission (JQC); and Offices of appellate clerks, marshals, and appellate law libraries.

V. INVALID DELEGATION TO FLCCOC/FACC/COCTF

OF LEGISLATURES' NON-DELEGABLE POWER TO APPROPRIATE, TAX AND SPEND IN VIOLATION OF SEPARATION OF POWERS DOCTRINE

51. As part of the 2004 implementation of Revision 7, the Legislature enacted Florida Statute, Section 28.35 creating the Florida Clerks of Court Operations Corporation ("FLCCOC") as a public corporation organized to perform the functions of the Clerks of the Circuit Courts. The FLCCOC is considered a political subdivision of the state, is exempt from corporate income tax, is not subject to the procurement provisions of Chapter 287, and is not subject to the provisions of the Florida Administrative Procedures Act, Chapter 120, F.S. Section 28.35(1)(c), F.S. Pet. Apx. Vol. II, Tab 22 (p.303).

52. The functions of the Florida Clerks of Court Operations Corporation ("FLCCOC") are assigned to an "Executive Council" pursuant to a plan of operation approved by the members. Nowhere in the legislative enactment are any standards, rules or guidelines set forth to create a "plan of operation" of FLCCOC. Enactment of the "plan of operation" is solely at the capricious whim of the 67 Florida Court Clerks.

53. The legislative enactment of FLCCOC Executive Council does not contain any standards, guidelines or rules for its operation. The Executive Council is composed of eight (8) Clerks elected by the Clerks of the Courts for a term of two (2) years. Section 28.35(1)(b), F.S. Pet. Apx. Vol. IV, Tab 30 (pgs. 425-539).

54. The legislative scheme of the FLCCOC provides that the duties of the

corporation include making recommendations to the legislature about changes in the fines, fees, service charges and court costs collected, developing a uniform system of performance standards for Court Clerks, and reviewing proposed budgets submitted by court clerks. Pet. Apx. Vol. II, Tab 18 (pgs. 282-287).

55. In creating the FLCCOC, the Legislature has retained no power to override, overrule or veto, amend, modify or reject any of the decisions of the FLCCOC, including the establishment of their plan of operation or the Clerks' budgets. The FLCCOC simply "shall certify" to the President of the Senate, Speaker of the House and Chief Financial Officer, the "amount of the proposed budget certified for each clerk." Pet. Apx. Vol. II, Tab 21 (pgs. 298-302).

56. The FLCCOC has the unbridled, unregulated discretion to make the following appropriations, taxing and spending decisions which are the nondelegable authority of the legislature, including:

A) The amount of the proposed budget certified for each Court Clerk;

B) The revenue supporting each Clerk's budget;

C) The list of each Clerk eligible to retain some or all of the state's share of fines, fees, service charges and costs;

D) The amount to be paid to each Clerk from the Clerks of Court

Trust Fund;

E) The performance, measures and standards approved by the FLCCOC for each clerk;

F) Certification of the performance of each Clerk and meeting performance standards set in the absolute discretion of the FLCCOC, Section 28.35(3)(a), F.S.

57. The budgets of each Court Clerk in the 67 counties are submitted to the FLCCOC who is vested with the unbridled discretion to determine the following:

A) Whether the proposed budget is balanced such as the total of the estimated revenues available equal or exceeds the total of the anticipated expenditures;

B) Whether the projected revenues from fines, fees, service charges and costs for court-related services are insufficient to meet the anticipated expenditures;

C) Whether a revenue deficit exists;

D) Whether a Clerk is authorized to retain revenues from the FLCCOC Trust Fund in an amount necessary to fully fund projected revenue deficits.

E) Whether the Department of Revenue Clerks of the Court Trust Fund should release funds "appropriated" to resolve projected revenue deficits;

F) What funds it may direct the Department of Revenue to release as sufficient amounts to each Clerk certified by the FLCCOC to have a revenue deficit;

G) Legislation it proposes to the Governor, President of the Senate and Speaker of the House of Representatives about its operations (Section 28.36(7), F.S.).

H) The Legislature also vested in the Clerks of Court the unbridled discretion in Section 28.37, F.S. to determine the cumulative excess of all fees, service charges, court costs and fines not necessary for operation of the Court Clerks' offices and to remit the cumulative excess to the Department of Revenue for deposit into the General Revenue Fund. There are no statutory rules, guidelines or regulations governing the Clerks' decision to the "amount needed to meet the approved budget" or the amount which constitutes an excess above that budget.

This unbridled discretion without sufficient rules, standards and guidelines, has been declared by this Court to be ultra vires and violative of the separation of powers doctrine (Article III, Section 8), Fla. Const. in Chiles v. Children, 589 So.2d 260 (Fla. 1991). The unbridled delegation of legislative power in other comparable statutory schemes has also been held to be constitutionally impermissible. See Askew v. Crosskeys Waterways, 372 So.2d 913 (Fla. 1978) ("Under the fundamental document adopted and several times ratified by citizens of this state, the legislature is not free to redelegate to an administrative body so much of its lawmaking power as it may deem expedient" (372 So.2d at 924); or Orr v. Trask, 464 So.2d 131 (Fla. 1985) (It is "…necessary that the legislature furnish ascertainable minimal criteria and guidelines on how the selection was to be made." 464 So.2d at 134-35); Lewis v. Bank of Pasco County, 346 So.2d 53, 54 (Fla. 1976) ("Statute invalidated for attempting to grant to the comptroller the power to say what the law shall be"); Florida Home Builders v. Division of Labor, 367 So.2d 219 (Fla. 1979) (Delegation to an agency to approve architects apprenticeship programs "upon a determination of need" was unlawful delegation); Dickinson v. State ex rel. Bryant, 227 So.2d 36 (Fla. 1969) (Unbridled discretion to an agency to determine "need" for a cemetery was an exercise of discretion of a whim and without accountability); Delta Truck Brokers, Inc. v. King, 142 So.2d

273 (Fla. 1962) (Commission granted the unbridled discretion to determine what was in the "public interest" which constituted an invalid delegation of authority; Sarasota County v. Barq, 302 So.2d 737 (Fla. 1974); Connor v. Joe Hatton, Inc., 216 So.2d 209 (Fla. 1968) (Delegation of the discretion and power to say what the law shall be is an unconstitutional, unlawful delegation); D'Alemerte v. Anderson, 349 So.2d 164, 169 (Fla. 1977) (Delegation to Ethics Commission to give its opinion of permissible conduct constitutes unlawful delegation of legislative authority).

58. The FLCCOC and FACC conduct internal audits of budgets and operations. Pet. Apx. Vol. I, Tab 10 (pgs. 15-65), Tab 11 (pgs. 66-142). The State Department of Financial Services conducts a budget review pursuant to F.S. 28.35 of the FLCCOC budget. The Clerks' activities as constitutional county office "non court operations related" is audited by the Auditor General pursuant to F.S. 218.39(2), but that audit does not include the Court Clerks' constitutional activities for the operation of the courts. Pet. Apx. Vol. II, Tab 13 (pgs. 232-243); Tab 14 (pgs. 244-259); Tab 15 (pgs. 260-271); Tab 16 (pgs. 272-279).

DIVERSION OF COURT-RELATED "USER FEES" INTO GENERAL REVENUE

59. Pursuant to Section 28.37(2), F.S., one-third of all fines, fees, service charges and costs collected by the Clerks of Court during the prior month for the

performance of court related functions, shall be remitted to the Department of Revenue, Clerks of the Court Trust Fund ("CCTF") by ministerial act.

60. The remaining two-thirds of all fines, fees, services charges and costs collected by the Clerks of Court on a monthly basis are retained by the Court Clerks in the Clerks of Court Operations Corporation ("FLCCOC") and the Florida Association of Court Clerks, Inc. ("FACC") and in financial institutions containing accounts and controlled by the 67 Clerks of Court. Pet. Apx. Vol. I, Tabs 1-9 (pgs. 1-11).

61. The Clerks of Court Operations Corporation ("FLCCOC"), through its executive committee, and the Florida Association of Court Clerks, Inc. ("FACC") and the Court Clerks, thereafter unilaterally without any authority recommendation or approval of the Florida Supreme Court, exercise unbridled discretion to determine how much of the remaining two-thirds of the receipts are necessary for the efficient operation of the 67 Court Clerks' offices in Florida.

62. Thereafter, the FLCCOC, FACC and Court Clerks "redistribute" such monies to the Court Clerks as they feel is necessary to operate the Court Clerks' offices. The Respondents take surplus money generated by Court Clerks whose budgets generate surpluses and the Respondents transfer those surplus monies to Court Clerks whose operations generate "deficits" in their budgeted operations.

63. The Executive Council of the Respondent, Court Clerks Operations Corporation ("FLCCOC"), is the sole arbitrator of how much money is retained by the Court Clerks from the remaining two-thirds receipts not ministerially transferred by the Clerks to the Department of Revenue, Clerks of the Court Trust Fund ("CCTF") (i.e. the first one-third of fines, fees, service charges and costs collected by the Clerks of Court during the prior month for the performance of court-related functions). Pet. Apx. Vol. II, Tab 27, (pgs. 318-327).

64. The Executive Council of the Clerks of Court Operations Corporation ("FLCCOC") is also the sole arbitrator of the amount of remaining funds that are not needed to resolve clerk of the court revenue deficits and which are ministerially transmitted to the General Revenue Fund pursuant to Section 28.37(2), Florida Statutes. The Executive Council of the Respondent, Court Clerks Operations Corporation ("FLCCOC"), directs the Department of Revenue to ministerially transfer funds in the Department of Revenue Clerks of the Court Trust Fund ("CCTF") to the General Revenue Fund.

65. The decision of the Executive Council of the Respondent, Clerks of Court Operations Corporation ("FLCCOC") in determining the amount of money to be ministerially paid by the Department of Revenue Clerks of the Court Trust Fund ("CCTF") to the General Revenue Fund is not controlled by or directed in

any way by the Supreme Court or the Legislature. Nor has the Legislature delineated any rules, regulations or standards to be followed by the Executive Council of the FLCCOC in making the determination of how much money is to be ministerially remitted by the CCTF into the General Revenue Fund. That decision is made in the unbridled discretion of the Executive Council of the FLCCOC.

COURT CLERKS SET THEIR OWN SALARIES, THE SALARIES OF THEIR STAFF AND DEPUTY CLERKS AND EMPLOYEE BONUSES WITHOUT INDEPENDENT OVERSIGHT BY THE SUPREME COURT

66. The Supreme Court of Florida does not have the authority to set its own salaries. Article V, Section 14(a) of the 1968 Florida Constitution provides:

> "All justices and judges shall be compensated only by state salaries fixed by general law."

However, the Florida Court Clerks not only set their own salaries, but also those of the deputy clerks, employees and even establish bonuses for employees without any oversight or control by the Florida Supreme Court, which is the exclusive administrative constitutional officer in charge of the entire court system. Article V, Section 2(a) Florida Constitution.

VI. ARGUMENT IN SUPPORT OF PETITION

"USER FEES" PAID FOR ACCESS TO COURTS MAY NOT BE DIVERTED FOR USE OUTSIDE THE COURT SYSTEM

67. “User fees”, including filing fees and costs collected by the Court Clerks and deposited in the Florida Court Clerks Operations Corporation (“FLCCOC”), the Clerks of the Court Trust Fund (“COCTF”) and the Florida Association of Court Clerks, Inc. (“FACC”) are paid by users of the court system for the sole purpose of providing access to the courts guaranteed by Article 1, Section 21 of the 1968 Florida Constitution which provides:

> Section 21 – Access to courts
>
> The Courts shall be open to every person for redress of any injury and justice shall be administered without sale, denial or delay.

68. Any citizen of the state, including the Petitioners, Robert M. Ervin and Davisson F. Dunlap, who pay a filing fee to the Court Clerks, are entitled to receive constitutional access to courts in direct exchange for the filing fee. Users of the court system who pay “user fees” are entitled to expect that these “user fees” are not diverted outside the court system and appropriated for other police power uses (health, safety and general welfare).

69. It is a lawful exercise of the Legislature’s taxing and spending powers to levy “user fees” upon users of Florida’s court system provided they restrict them to a trust fund for sole use by the court system.

70. However, the ministerial diversion of court operations "user fees" collected by the Court Clerks and diverted to General Revenue Fund activities violates the constitutional guarantee to access to courts and converts the "user fee" into an unlawful "tax" violative of the constitutional guarantee of access to courts Flood v. State ex rel Homeland Co., 117 So. 385 (Fla. 1928). See also, Farabee v. Board of Trustees, 254 So. 2d 1 (Fla. 1971).

71. Once the court-related "user fees" are ministerially diverted to the "General Revenue Fund" the conversion of the "user fees" into an unlawful "tax" is complete, notwithstanding any subsequent efforts by the Legislature to redirect these "taxes" back into the court system through a general appropriations statute.

The unlawful ministerial diversion of court-related "user fees" into unlawful "taxes" through diversion into the General Revenue Fund also denies the users' rights to equal protection of law guaranteed by Article 1, Section 2 of the 1968 Florida Constitution.

72. The equal protection guarantee protects the class of "Court System Users" who pay court user fees from being treated differently than the class of "non-users" of the court system who did not pay the user fees in the first instance.

73. There is no rational basis for the "users" of the court system who pay user fees from being denied the expected court services while part of the user fees

are being ministerially diverted from General Revenue to benefit the "non-users" who never paid the user fees and have no right to expect to receive any state benefits from fees they never paid. See State v. Lee, 356 So.2d 276 (Fla. 1978) ("fee charged to ticketed bad drivers given to 'good' drivers declared unlawful").

74. In 2008, approximately Eighty Million Dollars ($80,000,000.00) of "court-related user fees" ministerially diverted to General Revenue pursuant to section 28.37, Florida Statutes were directly appropriated by the Legislature to a class of "non users" of the court system comprising the Florida Department of Corrections. All persons who paid court-related user fees totaling approximately Eighty Million Dollars ($80,000,000.00) in 2008 were denied the court-related services they expected by paying the fees. The "users" of services provided by the Department of Corrections received a "windfall" of unlawfully diverted court-related user fees. This disparate treatment of persons paying court-related "user fees" constitutes a denial of equal protection of law guaranteed by Article I, Section 2 of the 1968 Florida Constitution.

INSTABILITY IN FUNDING THE STATE COURT SYSTEM FROM UNLAWFUL DELGATION OF POWER TO THE COURT CLERKS AND RESPONDENTS

75. The unlawful delegation by the Legislature of power to the Florida Court Clerks and the Respondents, FLCCOC, FACC and the CCTF has caused instability in funding the state court system.

76. Litigants who pay "user fees" to obtain access to the court system are being denied the benefit of their bargain because of the unlawful ministerial diversion of the user fees to the General Revenue Fund and thereafter appropriated by the Legislature to non-court-related police power public purposes.

77. Litigants who pay the court "user fees" have suffered from an impairment and non-delivery of services through decreased administrative support services and lack of available trial time, lack of mediators, law clerks, hearing time, court room availability, access to records, lack of jurors and other court-related services that are promised in exchange for paying the court "user fees."

COUNT I

PETITION FOR WRIT OF QUO WARRANTO AND IN THE ALTERNATIVE, WRIT OF MANDAMUS, AND IN THE ALTERNATIVE, CONSTITUTUIONAL WRIT AND ALL WRITS NECESSARY TO ENJOIN RESPONDENTS FROM ENGAGING IN CONTINUING UNCONSTITUIONAL ULTRA VIRES ACTIONS

78. Petitioners reassert the allegations in paragraphs 1 through 77 as if fully set forth herein verbatim.

79. This is a Petition for Writ of Quo Warranto and in the alternative, Writ of Mandamus, and in the alternative, Constitutional Writ and All Writs necessary to enjoin Respondents from Engaging in Continuing Unconstitutional ultra vires Actions while invalidating Sections 28.35, 28.36 and 28.37, F.S. on their face and as applied to the case at bar as unconstitutional denials of the taxing and spending power guaranteed by the 1968 Florida Constitution.

80. Florida Statutes Section 28.35 establishing the Florida Clerks of Court Operations ("FLCCOC"), denies the following rights guaranteed by the 1968 Florida Constitution on its face and as applied including: Article I, Section 4 guaranteeing access to courts; The taxing and spending limitations in Article II, Sections 1 and 3(b), The separation of powers limitation set forth in Article II, Sections 1 and 3; Article V, Section 2(a) providing exclusive administrative supervision of all courts in the Supreme Court of Florida; Article VII, Section 1(c) providing that no money shall be drawn from the treasurer except in pursuance of appropriation made by law; Article VII, Section 1(d) providing that provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period; Article I, Section 2 guaranteeing equal protection of law; and Article III, Section 19 providing for the creation of fiduciary trust funds.

81. The statutory creation and implementation of the Court Clerks Operations Corporation ("FLCCOC") on its face and as applied to the case at bar violates the foregoing rights in the following particulars:

A) It is the Corporation, comprised of the Clerks of Circuit Court, which is making the budget decisions which should be made by the Legislature.

B) It is the Corporation that determines which Clerks are eligible to retain all or a portion of the state's share of the fines, fees, service charges and costs.

C) It is the Corporation that decides when and where it is appropriate to make allowances for deficit spending from one Clerk of Court to another.

D) It is the Corporation that calculates the maximum authorized annual budget pursuant to the requirements of Section 28.36 of the Florida Statutes.

E) It is the Corporation that identifies those proposed budgets exceeding the maximum annual budget pursuant to section 28.36(5) of the Florida Statutes, for the standard list of court-related functions.

F) It is the Corporation that identifies those Clerks' budgets that contain funding for items not included in the list of court-related functions.

G) The Legislature determined to fund the Clerks in the performance of court-related functions; however, it is the Corporation that defines and delineates what is actually included in those functions.

H) It is the Corporation that identifies those Clerks projected to have revenues insufficient to fund their anticipated expenditures and meets that deficit with surplus taken from the revenues of other Clerks of Court.

I) The Legislature has delegated its decision making authority to the Corporation with insufficient standards for the application of said decision making. The Legislature improperly delegated its authority and directed the Corporation to develop a uniform system of performance measures and applicable standards to determine the functions to be funded.

82. A portion of the Petitioners' filing fees for filing the instant action is being ministerially diverted by the Clerks of Courts Operations Corporation ("FLCCOC") to the General Revenue Fund of the State of Florida to be used for non-court related operations.

83. The unlawful actions of the Respondents complained of herein involve ministerial duties. As such, this Court has jurisdiction to enjoin them by Writ of Quo Warranto (State ex rel Smith v. Jorandby, 498 So.2d 948 (Fla. 1986), and alternatively by Writ of Mandamus (State Farm v. Judges, 405 So.2d 980 (Fla. 1981); (Judicial Nominating Commission v. Graham, 924 So.2d 10 (Fla. 1982).

WHEREFORE, Petitioners prays that the Court will:

A) Take jurisdiction of the parties and subject matter of this action;

B) Enter an alternative Writ commanding Respondents to Show Cause, if any they have, of Quo Warranto and in the alternative, Writ of Mandamus and in the alternative, Application for and all Writs necessary to enjoin Respondents from engaging in continuing unconstitutional ultra vires actions which will:

C) Declare that Sections 28.35, 28.36 and 28.37, F.S. are unconstitutional on their face and as applied to the Petitioners.

D) Declare that the actions of the Respondents Court Clerks Operations Corporations ("FLCCOC"), Department of Revenue Clerks of Court Trust Fund ("CCTF") and Florida Association of Court Clerks, Inc. ("FACC") in effecting a ministerial transfer of monies from the CCTF

into the General Revenue Fund of the State of Florida constitute constitutional violations of the Petitioners' rights set forth above;

E) Declare that the actions of the Executive Council of the Court Clerks Operations Corporation ("FLCCOC") determining the amounts to be paid to each Clerk from the Clerks of Court Trust Fund ("CCTF") and the decision and direction as to the amount of remaining funds to be ministerially transferred by the Department of Revenue Clerks of Court Trust Fund ("CCTF") to the General Revenue Fund constitute denials of Petitioners' constitutional rights set forth above and Article V, Section 2(a) providing that the Supreme Court of Florida has the exclusive power to make all final decisions over the administrative supervision and operation of the court system of Florida;

F) Make such other and further declaratory judgments as are necessary in the premises to clarify this controversy.

COUNT II

PETITION FOR WRIT OF QUO WARRANTO AND IN THE ALTERNATIVE, WRIT OF MANDAMUS, AND IN THE ALTERNATIVE, CONSTUTIONAL WRIT TO ENJOIN THE RESPONDENTS FROM DISBURSING ANY MONIES TO THE GENERAL REVENUE FUND OR TO ANY USE OUTSIDE COURT OPERATIONS PURPOSES

84. Petitioners reallege paragraphs 1 through 77 as if fully set forth herein verbatim and further alleges:

85. This is a Petition for Writ of Quo Warranto and in the alternative, Writ of Mandamus to enjoin the Respondents from causing ministerial disbursement of any "user fee" monies to the General Revenue Fund.

86. The ultra vires actions of the Respondents ministerially diverting "user fees" in the General Revenue Fund constitute irreparable injury to the rights of the Petitioners and of those similarly situated and the citizens of the State of Florida.

87. The Petitioners have no adequate remedy at law.

88. The balance of hardships and equities tips in favor of the Petitioners and against the Respondents who will suffer no special hardship if the taxpayer money is held in trust and required to be appropriated by the Florida Legislature solely on court-related purposes.

89. The public interest would be served better by the granting of the requested injunctive relief prohibiting Respondents from ministerially diverting "residual user fees" to the General Revenue Fund to be appropriated by the Legislature on activities that are non-court-related.

90. In the event preliminary relief is granted, the Respondents will not be adversely affected since they will be able to operate their offices from legal and constitutional appropriations by the Florida Legislature court related funds necessary to do so.

91. Petitioners are likely to succeed on the merits of their claims that the subject statutes are unconstitutional because they violate rights of the separation of powers and access to Courts and the actions of Respondents are ultra vires.

WHEREFORE, Petitioners pray that the Court will grant a Writ of Quo Warranto, and in the alternative, Writ of Mandamus, and in the alternative, Constitutional Writ and all Writs necessary to the complete exercise of the Court's jurisdiction which will:

A) Take jurisdiction of the parties and the subject matter of this action;

B) Enter an Alternative Writ commanding Respondents to show cause if there are disputed issues of fact alleged in the Petition and why the relief sought should not be granted;

C) After oral argument, find that the elements of a Writ of Quo Warranto, and in the alternative, Writ of Mandamus and in the alternative, Constitution Writ have been established;

D) Enter a Writ of Quo Warranto and/or Writ of Mandamus and/or

Constitutional Writ which will:

E) Enjoin the ultra vires unconstitutional ministerial act of transferring "residual user fees" into the General Revenue Fund pursuant to Section 28.37(2), F.S.

F) Enjoin the Legislature from appropriating "residual user fees" transferred into the General Revenue Fund to non-court-related purposes.

G) Enter such other and further relief as the Court deems just in the premises to ensure the complete exercise of its jurisdiction over this matter and the parties.

COUNT III

PETITION FOR WRIT OF QUO WARRANTO AND IN THE ALTERNATIVE, WRIT OF MANDAMUS, TO ENJOIN THE RESPONDENTS FROM DISBURSING RESIDUAL TRUST FUND MONIES WITHOUT AUTHORITY BY THE SUPREME COURT OF FLORIDA

92. Petitioner realleges paragraphs 1 through 77 as if fully set forth herein verbatim and further allege:

93. This is a Petition for Writ of Quo Warranto and in the alternative, Writ of Mandamus and in the alternative, Constitutional Writ from spending "user fees" without administrative supervision of the Florida Supreme Court

94. The Supreme Court of Florida is the sole constitutional administrative supervisor of the administration of all of Florida's courts.

95. The actions of the Respondents and the Clerks of Court in unilaterally budgeting and spending fines, fees, special assessments and costs collected by the Clerks of Court without supervision from the Florida Supreme Court denies Petitioners' constitutional rights set forth in Counts I and II above.

96. The ultra vires actions of the Respondents constitute irreparable injury of the rights of the Petitioners and those similarly situated and the citizens of the State of Florida.

97. The Petitioners have no adequate remedy at law.

98. The balance of hardships and equities tip in favor of the Petitioners but against the Respondents who will suffer no special hardship if the "residual monies" held in trust by the Respondents for the operation of the Florida Court System are spent under the administrative supervision of the Florida Supreme Court.

99. The public interest would be better served by the granting of the requested injunctive relief.

100. Petitioners are likely to succeed on the merits of their claims that the ministerial acts of Respondents are ultra vires and deny Petitioner's constitutional rights.

WHEREFORE, Petitioner prays that the Court will enter a Writ of Quo Warranto and/or Writ of Mandamus and/or Constitutional Writ which will:

A) Take jurisdiction of the parties and subject matter of this action.

B) Find that the elements of a Writ of Quo Warranto and/or Writ of Mandamus and/or Constitutional Writ have been properly alleged.

C) After hearing and oral argument enter a Writ of Quo Warranto or alternative Writs of Mandamus or Constitutional Writ which will:

1) Enter an Order that nothing shall preclude or prevent the Florida Court Clerks or the Respondents from continuing their labors to collect and remit to the FLCCOC and CCTF the initial "one third" of user fees (fines, fees, service charges and costs provided by law), provided however that the Respondents may not direct or cause any "user fees" to be spent on any non-court related purposes as administratively directed by the Florida Supreme Court.

2) Enter such other and further relief as the Court deems just in the premises.

Dated this ____ day of March 2009.

Respectfully submitted,

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EXHIBIT "A"

FILING FEE

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this Application for Writ of Quo Warranto complies with the font and type size requirements set forth in Florida Rule of Appellate Procedure 9.210 by using Times New Roman 14-point type.

_____

SIDNEY L. MATTHEW
Fla. Bar No.: 193496

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand delivery this 16th day of March 2009 to:

The Honorable Charlie Crist,
Governor
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Tallahassee, Florida 32399-0001

The Honorable Bill McCollum,
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The Honorable Charles H. Bronson,
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