

**IN THE SUPREME COURT OF FLORIDA**

CASE NO.: SC13-889

THE FLORIDA BAR RE: ADVISORY OPINION  
ACTIVITIES OF COMMUNITY ASSOCIATION MANAGERS

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**BRIEF IN REPLY TO PETITIONER RPPTL'S MOTION FOR LEAVE TO  
FILE REPLY BRIEF OF SEPTEMBER 15, 2014**

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## **STATEMENT OF THE CASE AND FACTS**

This is in response to the Motion of September 15, 2014 by Real Property and Trust Law Section of the Florida Bar “for leave to provide a supplemental brief.”

## **SUMMARY OF THE ARGUMENT**

On July 28, 2014 the Bar filed a modified opinion addressing the issues of recently passed legislation. Filing # 16397562 Electronically Filed 07/28/2014 11:00:39 AM BRIEF OF THE FLORIDA BAR.

Now the Bar comes, 49 days later, requesting additional time to present additional arguments that will do nothing to change the arguments, briefs and submissions already provided.

This untimely attempt to impose upon the authority and responsibility of the Florida legislature is unwarranted and should be dismissed.

The Real Property, Probate and Trust Law Section of the Bar originally requested the opinion of the Standing Committee on the Unauthorized Practice of Law of The Florida Bar March 28, 2012.

During the ensuing 30 months there have been enumerable testimonies, briefs, discussions, legislative initiatives, committee hearings and the resultant adoption of relevant amendments to Florida Statutes that bring us to the current circumstances.

Please forgive this reiteration of the history of this issue but even before and since The Florida Bar re: Advisory Opinion-Activities of Community Association Managers, 681 So.2d 1189 (Fla. 1996) there have been NO cases of community association manager unlicensed practice of law that have been prosecuted.

COMES NOW, Mark R. Benson, Community Association Manager, and moves for rejection of the RPPTL MOTION FOR LEAVE TO FILE REPLY BRIEF. and submits as follows according to the RPPTL numbered pleadings:

1. The evidence of legislative deliberation and the opportunity for testimony are reflected in the Bill history as follows:

Event	Time	Member	Committee
Chapter No. 2014-146	Friday, June 13, 2014 3:39 PM		
Approved by Governor	Friday, June 13, 2014 11:35 AM		
Signed by Officers and presented to Governor	Thursday, June 05, 2014 10:30 AM		
Ordered enrolled	Tuesday, April 29, 2014 11:34 AM		
In Messages	Tuesday, April 29, 2014 11:34 AM		
04/29/14 S CS passed; YEAS 36 NAYS 3 -SJ 786	Tuesday, April 29, 2014 10:58 AM		
04/29/14 S Read 3rd time -SJ 786	Tuesday, April 29, 2014 10:57 AM		
04/28/14 S Placed on 3rd reading	Monday, April 28, 2014 4:17 PM		
04/28/14 S Read 2nd time -SJ 737	Monday, April 28, 2014 4:10 PM		
04/28/14 S Substituted for CS/CS/SB 1466 -SJ 737	Monday, April 28, 2014 4:09 PM		
04/28/14 S Placed on Calendar, on 2nd reading -SJ 737	Monday, April 28, 2014 4:09 PM		
04/28/14 S Withdrawn from Regulated Industries; Judiciary -SJ 737	Monday, April 28, 2014 4:09 PM		Regulated Industries
04/25/14 S Received -SJ 713	Friday, April 25, 2014 9:31 PM		

04/25/14 S Referred to Regulated Industries; Judiciary -SJ 713	Friday, April 25, 2014 7:14 PM	Regulated Industries
04/25/14 S In Messages	Friday, April 25, 2014 6:17 PM	
CS passed as amended; YEAS 97, NAYS 15	Friday, April 25, 2014 12:49 PM	
Amendment 897265 adopted	Friday, April 25, 2014 12:39 PM	
Read 3rd time	Friday, April 25, 2014 12:37 PM	
Amendment 897265 filed	Friday, April 25, 2014 8:39 AM	
Added to Third Reading Calendar	Thursday, April 24, 2014 8:17 PM	
Placed on 3rd reading	Thursday, April 24, 2014 3:37 PM	
Amendment 831299 adopted	Thursday, April 24, 2014 3:37 PM	
Amendment 180789 Failed	Thursday, April 24, 2014 3:37 PM	
Amendment 346035 adopted as amended	Thursday, April 24, 2014 3:11 PM	
Amendment 133925 adopted	Thursday, April 24, 2014 3:09 PM	
Read 2nd time	Thursday, April 24, 2014 2:13 PM	
Amendment 133925 filed	Wednesday, April 23, 2014 4:48 PM	
Amendment 180789 filed	Wednesday, April 23, 2014 4:47 PM	
Amendment 831299 filed	Wednesday, April 23, 2014 12:21 PM	
Bill added to Special Order Calendar (4/24/2014)	Tuesday, April 22, 2014 5:54 PM	
Amendment 346035 filed	Tuesday, April 22, 2014 11:46 AM	
Added to Second Reading Calendar	Wednesday, April 09,	

	2014 9:38 AM	
Bill referred to House Calendar	Wednesday, April 09, 2014 9:38 AM	
1st Reading	Monday, April 07, 2014 6:46 PM	
CS Filed	Monday, April 07, 2014 3:51 PM	
Laid on Table under Rule 7.19(a)	Monday, April 07, 2014 3:51 PM	
Reported out of Judiciary Committee	Monday, April 07, 2014 2:53 PM	<u>Judiciary Committee</u>
Favorable with CS by Judiciary Committee	Friday, April 04, 2014 12:30 PM	<u>Judiciary Committee</u>
Added to Judiciary Committee agenda	Wednesday, April 02, 2014 4:14 PM	<u>Judiciary Committee</u>
Now in Judiciary Committee	Thursday, March 13, 2014 4:16 PM	<u>Judiciary Committee</u>
Referred to Judiciary Committee	Thursday, March 13, 2014 4:16 PM	<u>Judiciary Committee</u>
1st Reading	Monday, March 10, 2014 7:30 PM	
CS Filed	Monday, March 10, 2014 1:07 PM	
Laid on Table under Rule 7.19(a)	Monday, March 10, 2014 1:07 PM	
Reported out of Business & Professional Regulation Subcommittee	Monday, March 10, 2014 1:01 PM	<u>Business &amp; Professional Regulation Subcommittee</u>
1st Reading	Tuesday, March 04, 2014 11:50 PM	
Favorable with CS by Business & Professional Regulation Subcommittee	Tuesday, March 04, 2014 3:30 PM	<u>Business &amp; Professional Regulation Subcommittee</u>
Added to Business & Professional Regulation Subcommittee agenda	Friday, February 28, 2014 2:13 PM	<u>Business &amp; Professional Regulation</u>

		<u>Subcommittee</u>
Now in Business & Professional Regulation Subcommittee	Thursday, February 20, 2014 9:55 AM	<u>Business &amp; Professional Regulation Subcommittee</u>
Referred to Judiciary Committee	Thursday, February 20, 2014 9:55 AM	<u>Judiciary Committee</u>
Referred to Business & Professional Regulation Subcommittee	Thursday, February 20, 2014 9:55 AM	<u>Business &amp; Professional Regulation Subcommittee</u>
Filed	Monday, February 10, 2014 9:07 AM	<u>Civil Justice Subcommittee</u>

Now comes the Bar’s attempt to negate the authority of the legislature and overturn the democratic process that is the basis of law.

2. The Bar, on July 28, 2014, did as requested by the Court, June 26, 2014, by submitting, without reservation or qualification, a supplemental brief in response to the adopted legislation.

3. In the July 28, 2014 brief the Bar presented their opinions and arguments for and against the law as amended.

4. The Section in this regard is attempting to overrule and renounce the authority of the Committee.

a) To quote in part, “the committee failed.” The disclaimer by the Bar that their own submittals are lacking and incomplete can only serve to discredit their entire argument.

b) Again the Section discredits their own Committee’s assertions, “ the committee fails to consider.”

The assertion that the Court would benefit from additional “supplemental” information is an attempt at additional delay for this long overdue decision.

We submit that the Bar must address their arguments to the Legislature and allow Florida statutes to do as they are designed, to serve the best interests of the citizens.

Respectfully Submitted,

By: /s/Mark R. Benson

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## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via electronic mail and/or regular U.S. Mail on this 19th day of September, 2014 to the following:

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## **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the text herein is printed in Times New Roman,  
14-point font, in compliance with Fla. R. App. P.9.210

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