IN THE SUPREME COURT OF FLORIDA

LEAGUE OF WOMEN VOTERS OF FLORIDA, INC., COMMON CAUSE, PATRICIA M. BRIGHAM, JOANNE LYNCH AYE, and ELIZA McCLENAGHAN,

Petitioners,

vs. Case No. SC18-1573

HON. RICK SCOTT, in His official capacity as Governor of Florida, FLORIDA SUPREME COURT JUDICIAL NOMINATING COMMISSION, And JASON L. UNGER, in His official capacity as Chair of the Florida Supreme Court Judicial Nominating Commission,

Respondents.

THE FLORIDA SUPREME COURT JUDICIAL NOMINATING COMMISSION AND JASON L. UNGER'S JOINT RESPONSE TO EMERGENCY PETITION FOR QUO WARRANTO

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INTRODUCTION

This (premature) petition seeks a writ of quo warranto prohibiting the Florida Supreme Court Judicial Nominating Commission ("Commission") from nominating candidates to fill the vacancies left by three retiring justices until "January 8 or 9, 2018" (petition at 2). Petitioners' argument contradicts the language of the Florida Constitution; the goal that the language furthers, and which this Court has acknowledged, of filling judicial vacancies as quickly as possible; and the unbroken, decades-long tradition of nominating replacements for retiring judges and justices before the vacancy occurs.

STATEMENT OF RELEVANT FACTS

The judicial nominating process articulated in article V, section 11 of the Florida Constitution was intended to remove, or at least minimize, the injection of politics into the selection of judges. *See In re Advisory Opinion to Governor*, 276 So. 2d 25, 30 (Fla. 1973) (noting that the purpose of the judicial nominating commission is "to take the judiciary out of the field of political patronage and provide a method of checking the qualifications of persons seeking the office of judge"); *Spector v. Glisson*, 305 So. 2d 777, 783 (Fla. 1974) (describing the judicial nominating process as "a restraint upon the governor' as to "the 'pork barrel' procedure of purely political appointments without an overriding consideration of qualification and ability"); *Pleus v. Crist*, 14 So. 3d 941, 943-44

(Fla. 2009) (affirming the judicial nominating commission process as a constitutional restraint on the governor's appointment power). Consistent with that purpose, the judicial nominating commissions ("JNC" or "JNCs") independently solicit and accept applications, vet applicants, and submit their work—a distillation of three to six names of qualified candidates to fill each vacancy—to the governor for consideration.

The appointment of judges, and the screening of judicial applicants, are executive functions. *In re Advisory Opinion to Governor*, 276 So. 2d at 29. Thus, a JNC is technically considered part of the Executive branch. *Id.* at 29-30. In nominating candidates, the JNCs act in an advisory capacity to aid the governor in the conscientious exercise of the executive appointive power. Art. V, § 11(a), Fla. Const. And the Executive Office of the Governor offers administrative support to the JNCs. *See* § 43.291(7), Fla. Stat. (2018).

Despite this relationship, however, JNCs operate independently. For example, although the Governor makes the appointment, the pool of candidates is limited to the list of three to six candidates submitted by the JNC. Art. V, § 11(a), Fla. Const.; *see also Pleus*, 14 So. 3d at 946 (holding that the governor had a mandatory duty to fill the judicial vacancy with an appointment from the JNC's certified list). JNCs may also adopt uniform rules to govern their operations at each level of the court system—without approval or interference from the

governor. Art. V, § 11(d), Fla. Const. A JNC member may only be suspended for cause. § 43.291(5), Fla. Stat. (2018). And to preserve their independent decision making, the JNCs' deliberations are not open to the public. Art. V, § 11(d), Fla. Const. Moreover, under their respective rules, commissioners cannot contact the governor to influence the ultimate decision; nor may they rank or otherwise disclose any preference among nominees. *See* Rule IX, Supreme Court Jud. Nom. Comm. R. P.; Rule VIII, Uniform R. P. District Courts of Appeal Jud. Nom. Comm.; Rule VIII, Uniform R. P. Circuit Jud. Nom. Comm.

To minimize the disruption resulting from judicial vacancies, JNCs have historically nominated replacements as soon as practicable. In fact, since the adoption of the merit selection and retention process, for every vacancy arising from a Supreme Court justice's mandatory retirement, the Commission submitted its nominations before the outgoing justice had vacated office. This is true for the three retiring justices—two of whom were also appointed by the outgoing governor before the office they were assuming was vacated.[1]

[1] Justice Pariente was nominated on October 10, 1997, and appointed on December 10, 1997, to replace Justice Stephen Grimes, mandatorily retired effective November 17, 1997. (JNC App. 11, 15) Justice Lewis was nominated on October 12, 1998, and appointed on December 7, 1998 by outgoing Governor Lawton Chiles, to replace Justice Gerald Kogan, who retired effective December 31, 1998, but was subject to mandatory retirement on January 4, 1999. (JNC App. 11, 22). Justice Quince was nominated on October 26, 1998, and appointed on December 11, 1998 by Governor Chiles, to replace Justice Ben F. Overton, retired effective

Pertinent to the issue presented, the Florida Constitution provides that "nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days." Art. V, § 11(c), Fla. Const. This framework imposes the responsibility to submit nominations within the constitutional timeframe squarely on the JNCs. *See generally* Art. V, § 11, Fla. Const.; § 43.291, Fla. Stat. (2018). The governor has no right to convene or control a JNC.

On September 12, 2018, Jason Unger, as Chair of the Commission, issued a call for applications to fill the vacancies resulting from the imminent retirements of Justices R. Fred Lewis, Barbara Pariente, and Peggy Quince (App. 12).[2] The notice included instructions for submitting applications and imposed a deadline of 5:00 p.m. on October 8 (*id.*). It also informed interested parties that one seat must be filled by a qualified applicant from the Third Appellate District while the remaining two may be filled by applicants from anywhere in the state. The notice was issued after Governor Rick Scott requested the Commission to convene and provide nominations for the outgoing Justices (App. 9). His letter to the Commission noted that the deadline "for completion of this undertaking is

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January 4, 1999. (JNC App. 10, 11, 17). *See* Section II.C. below for greater detail on the timing of Supreme Court nominations since 1986.

[2] "App. #" refers to the page number of Petitioners' appendix; "JNC App. #" refers to the page numbers of the Florida Supreme Court Judicial Nominating Commission and Jason L. Unger's Joint Appendix, submitted with this response.

Saturday, November 10, 2018. The deadline is final as it includes the discretionary 30-day extension authorized by Article V, Section 11 (c) of the Florida Constitution." *Id.*

At this time, it is unknown how many candidates will apply for the vacancies and when and where the interviews will occur. Likewise, the date and time for the Commission's deliberations to select its nominations has not been set.

ARGUMENT

I. The Petition for Writ of Quo Warranto is not Ripe for Consideration Because the Commission has not yet Taken any Action that Petitioners would deem Unlawful.

Quo Warranto is an extraordinary writ whose purpose is to determine whether "a state officer or agency has improperly *exercised* a power or right derived from the State." *League of Women Voters of Fla. v. Scott,* 232 So. 3d 264, 265 (Fla. 2017) (emphasis in original) ("*League I*"). The nature of the writ requires a party to wait until the government official has acted. The writ is inappropriate to consider hypothetical future actions. *Id.* Where this Court has considered petitions for quo warranto, official action had already occurred. *See Fla. House of Representatives v. Crist,* 999 So. 2d 601, 607 (Fla. 2008) (after the governor had signed a gaming compact, holding that he lacked authority to execute a compact that would change existing law); *Whiley v. Scott,* 79 So. 3d 702 (Fla. 2011) (after the governor had suspended rulemaking through

an executive order, considering whether he had exceeded his authority); *Chiles v. Phelps*, 714 So. 2d 453, 455 (Fla. 1998) (after the Legislature voted to override a gubernatorial veto, considering a petition for writ of quo warranto challenging the Legislature's authority to override the veto while in regular session); *State ex rel. Butterworth v. Kenny*, 714 So. 2d 404, 406 (Fla. 1998) (after the Capital Collateral Regional Counsel filed a federal civil rights suit, issuing writ of quo warranto prohibiting it), *receded from on other grounds in Darling v. State*, 45 So. 3d 444 (Fla. 2010). Here, the Commission has not yet submitted nominations to the Governor and there is no indication that it will act in a constitutionally inappropriate manner.

In *League I*, this Court dismissed a petition for writ of quo warranto effectively seeking to prohibit the Governor from "filling any judicial vacancies on Florida's appellate courts that occur due to terms expiring in January 2019." 232 So. 3d at 264-65. Because no appointments had been made, the Court concluded that "to review an action which is merely contemplated but not consummated" would depart from the historical application of the writ. *Id.* at 266. When a writ is sought for action that is conjectural or hypothetical, judicial consideration is tantamount to an impermissible advisory opinion. *Id.* at 265.

Here, the Commission has not submitted its nominations to the Governor. Indeed, the *only* action it has taken is to issue, through its chair, a call for

applications (App 12). And Petitioners concede that "nothing in the Florida Constitution prevents a JNC from starting its process before the vacancy, ..." Petition at 20. Therefore, the Commission has taken no action that Petitioners argue is unconstitutional. Instead, Petitioners seek to prohibit the Commission from taking *prospective* action by transmitting nominations to the Governor before January 2019. *League I* clearly counsels against the issuance of a writ in situations such as this where the state official or agency has not yet acted.

Petitioners rely on *Lerman v. Scott*, No. SC16-783, 2016 WL 3127708 (Fla. June 3, 2016). Petition at 5. But *Lerman* considered whether a circuit-court vacancy occurring in the middle of a six-year term should be filled by appointment or election (election, the Court held). This Court's "decision without published opinion" does not explain whether the governor had already acted, except to say that a writ of quo warranto "is the proper means for inquiring into whether a particular individual *has improperly exercised* a power or right derived from the State." *Id.* at 1 (emphasis added). *Lerman* provides no authority for the argument that the writ can be issued *before* the alleged unlawful exercise of power.

Petitioners' argument that the Commission will submit its nominations to the Governor before November 10 to thwart or hamstring selection by the Governor-elect is unsupported. *See* Petition at 16-17. Petitioners instead ask this Court to

presume that the Commission will act in such a manner and ask the Court prohibit it from doing so.

At this time, the only Commission action is a call for applications to be submitted by October 8. That deadline could foreseeably be extended if the Commission decides that the applicant pool is insufficient to provide the Governor with three to six nominations for each vacancy, including three to six names from the Third Appellate District. Until the pool of applicants is known, final details for vetting and interviewing applicants cannot be finalized. Any contention that the Commission will provide its nominations to the Governor before November 10 is speculative.

Petitioners assert that the Commission "has demonstrated its view that it can complete its task by setting the deadline for applications roughly 30 days before making its nominations." Petition at 20. They fail to explain or otherwise support this statement. The Commission has not indicated that 30 days will be sufficient to complete the substantial task of vetting an as-yet-undetermined number of candidates and nominating 9-18 of them. In fact, no JNC in recent memory has had to nominate candidates to fill three simultaneous vacancies on the Court.

The submission of nominations to the Governor requires substantial time and effort on the part of the Commission. The process of distilling numerous applications down to three to six nominations involves closely reviewing the

applications, reviewing the background reports from the Florida Bar and the Florida Department of Law Enforcement, and intensive vetting and interviewing of each applicant. It is reasonable to assume that there will be a greater number applicants to fill three vacancies, significantly increasing the Commission's workload. The review of these applicants will take a considerable amount of time.

The Governor's request to receive the nominations by a date certain does not require the Commission to do so. Its authority to vet and nominate candidates does not depend on the Governor, except that the Governor may extend the deadline. *See* Art. V, § 11(c), Fla. Const. ("The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days."); *cf.* Article V, § 11(d) (establishing separate judicial nominating commissions and granting authority to adopt rules, subject to repeal by general law or a vote of five justices of the supreme court). While the Commission's activities will necessarily be coordinated with the Governor's office, they are not controlled by it. Therefore, the fact that the Governor's requested nominations by a certain date is not a mandate.

Petitioners' speculation that the Commission *may* act in a way they argue could be improper is an insufficient basis for a writ of quo warranto. As it did in *League I,* this Court should dismiss the Petition.

II. If This Court Considers the Merits, it Should Deny the Petition.

If this Court reviews the merits of the Petition, it should nevertheless deny it because (A) the plain meaning of "within" includes actions taken both before and after a certain event; (B) such a reading is consistent with the goal of filling judicial vacancies as quickly as possible; and (C) for decades JNCs have nominated replacements for retiring judges and justices before vacancies occur.

A. In the context of filling judicial vacancies, the meaning of "within" includes actions taken both before and after a vacancy occurs.

The Florida Constitution requires that "[t]he nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days." Art. V, § 11(a), Fla. Const. The question in this case is whether "thirty days from the occurrence of a vacancy" establishes only an outer limit or—as Petitioners argue—it means thirty days *after* the vacancy occurs.

This Court has observed that the term "within" is subject to varying meanings. *Barco v. Sch. Bd. of Pinellas Cty.*, 975 So. 2d 1116, 1122 (Fla. 2008). In *Barco*, this Court catalogued the meanings of "within," noting that it could mean "not later than," "any time before," "at or before," "at the end of," "before the expiration of," "not beyond," "not exceeding," "being inside," "not longer in time than," and "before the end or since the beginning of," among potential usages. 975

So. 2d at 1122. To divine the proper usage in the context of a specific rule of civil procedure, this Court looked to the purpose behind the Rules of Civil Procedure and the rule at issue. *Id*. at 1123.

Constitutional provisions should "be construed as a whole in order to ascertain the general purpose and meaning of each part; each subsection, sentence, and clause must be read in light of the others to form a congruous whole." *Bush v. Holmes*, 919 So. 2d 392, 407 (Fla. 2006). In this case, the first sentence directs the actions of the JNCs to be conducted "within thirty days *from* the occurrence of a vacancy." But the second sentence directs the governor's actions to be completed "within sixty days *after* the nominations have been certified to the governor." Art. V, § 11(c), Fla. Const. (emphasis added). Plainly, the drafters were familiar with the preposition "after," but chose to use "from" to describe the period for the JNCs to complete their tasks.[3] The use of different words in those two sentences signifies a different meaning. *See Maddox v. State*, 923 So. 2d 442, 446 (Fla. 2006) ("the legislative use of different terms in different portions of the same statute is strong evidence that different meanings were intended."); *W. Fla. Reg'l*

[3] A related statute adds insight into different uses of the term "within." Florida law requires the Commission to nominate candidates for regional counsel to fill vacancies in the Office of Criminal Conflict and Civil Regional Counsel in each appellate district "within 6 months *after* the date of the vacancy." *See* § 27.511(3)(b), Fla. Stat. (2018) (emphasis added). In contrast to the constitutional provision involved here, the statute's clear language requires the Commission to submit nominations *after* the vacancy in the office of regional counsel occurs.

Med. Ctr., Inc. v. See, 79 So. 3d 1, 9 (Fla. 2012) (explaining that constitutional construction follows "principles that parallel those of statutory interpretation"). Given the juxtaposition of the two sentences, "within thirty days *from* the occurrence of a vacancy" must delineate only an outer limit for nominations to be submitted.

Even if this Court adopts Petitioners' premise that "within" means a time fixed in *both* beginning and end, however, the beginning point need not be the occurrence of a vacancy. "Within thirty days from the occurrence of a vacancy" is reasonably interpreted to encompass thirty days *before* and *after* the vacancy occurs, and which may be increased to sixty days if so extended by the governor. This interpretation would be most consonant with the preposition "from" and the myriad of ways in which vacancies may occur, some of which are planned and known months or years in advance—such as mandatory retirements—as well as sudden unforeseen departures from office.

B. Interpreting the term "within" to allow JNCs to nominate candidates before a vacancy occurs fulfills the goal of filling judicial vacancies as quickly as possible.

This Court has noted that vacancies in judicial office are to be minimized. *In re Advisory Opinion to the Governor (Judicial Vacancies)*, 600 So. 2d 460, 462 (Fla. 1992). As this Court said in *Judicial Vacancies*,

> Vacancies in office are to be avoided whenever possible. We are confident that the framers of article V intended that the nominating

> and appointment process would be conducted in such a way as to avoid or at least minimize the time that vacancies exist. Judges are encouraged to and do submit their resignations, to be effective in the future, at a time that permits the process to proceed in an orderly manner and keep the position filled.

600 So. 2d at 462. *See also Advisory Op. to the Governor re Judicial Vacancy Due to Mandatory Ret. (Mandatory Retirement)*, 940 So. 2d 1090, 1095 (Fla. 2006) (noting that "it is in the interest of the people of Florida that such vacancies be filled as quickly as possible.") (Cantero, J., concurring).

Interpreting the term "within" as permitting the JNCs to nominate candidates before a vacancy actually occurs remains faithful to the constitution's plain language while fulfilling the purpose of minimizing the period in which judicial vacancies exist. It would permit a governor to interview nominees before the vacancy arises so that the vacancy can be filled at the earliest possible date.

Petitioners' narrow interpretation would instead delay the process and contradicts the policy of "minimiz[ing] the time that vacancies exist." *Judicial Vacancies*, 600 So. 2d at 462. Petitioners cite *Jeffries v. State*, 610 So. 2d 440 (Fla. 1992). Petition at 13-14. In *Jeffries*, this Court applied the rule requiring strict construction of criminal statutes, derived from article I, section 9 and article II, section 3 of the Florida Constitution, which trumped the common law rules of construction. *Id.* at 441. No such constitutional restriction applies here. No compelling reason exists to narrowly interpret the term "within." *See Chatlos v.*

Overstreet, 124 So. 2d 1, 3 (Fla. 1960) (interpreting "within" to mean "not longer in time than" or "not later than" to give full effect to an individual's constitutional right to access to courts).

Petitioners' interpretation also contradicts the purpose behind the judicial merit selection and retention process. The current process was intended to combat the "political patronage" of past eras, to restrain the influence of the governor, and to ensure that qualified individuals are elevated to the State's appellate benches. *See In re Advisory Opinion to Governor*, 276 So. 2d at 29-30; *Spector*, 305 So. 2d at 783; and *Pleus*, 14 So. 3d at 943-44. Yet Petitioners now argue that a Commission that is supposed to act independently of the governor—without regard to politics or elections—and nominate the most qualified persons, should consider input from the governor (or governor-elect?) *before* it nominates candidates. Such an argument runs contrary to the purpose behind the merit-selection process, would render JNCs mere gubernatorial tools, and would emasculate the filtering mechanism designed to protect the merit-selection process from political pressures. Although politics may still influence whom a governor ultimately *appoints*, it is not supposed to influence whom the JNC *nominates*. Petitioners' argument turns JNCs into another arm of the governor.

C. For decades, JNCs have nominated replacements for retiring judges and justices before vacancies occur.

Relying on this longstanding precedent, the JNCs have long endeavored to ensure that governors are timely provided nominations so that vacancies may be avoided or minimized. In fact, every sitting Justice on the Court was nominated *before* the predecessor left office. This is true for each of the three retiring justices, all of whom were nominated to replace a justice subject to mandatory retirement, and two of whom were appointed before their predecessor left office.

This is not a recent phenomenon. It has been the Commission's longstanding practice. For over thirty years—and without exception—the Commission has submitted nominations to replace justices subject to mandatory retirement *before* the retiring justice left office.

- On November 10, 1986, the Supreme Court JNC submitted the nomination of Stephen G. Grimes (and others) to Governor Bob Graham to fill the vacancy of Justice James Adkins, who was subject to mandatory retirement, effective January 6, 1987 (JNC App. 10, 13).
- On October 10, 1997, the Supreme Court JNC submitted the nomination of Barbra J. Pariente (and others) to Governor Lawton Chiles to fill the vacancy of Justice Grimes, who was subject to mandatory retirement, effective November 17, 1997 (JNC App. 11, 15).

- On October 26, 1998, the Supreme Court JNC submitted the nomination of Peggy A. Quince (and others) to Governor Lawton Chiles to fill the vacancy of Justice Ben F. Overton, who was subject to mandatory retirement, effective January 4, 1999 (JNC App. 10, 17).
- On November 14, 2002, the Supreme Court JNC submitted the nomination of Kenneth B. Bell (and others) to Governor Jeb Bush to fill the vacancy of Justice Leander J. Shaw, Jr., who was subject to mandatory retirement, effective January 6, 2003 (JNC App. 11, 18).
- On December 9, 2008, the Supreme Court JNC submitted the nomination of Jorge Labarga (and others) to Governor Charlie Crist to fill the vacancy of Justice Harry Lee Anstead, who was subject to mandatory retirement, effective January 5, 2009 (JNC App. 11, 19).
- On February 2, 2009, the Supreme Court JNC submitted the nomination of James E.C. Perry (and others) to Governor Charlie Crist to fill the vacancy of Justice Charles T. Wells, who was subject to mandatory retirement, effective March 2, 2009 (JNC App. 11, 21).

The following table further explains the succession dates:

JUSTICE	TERMINATION DATE/ REASON[4]	REPLACED BY JUSTICE[5]	JNC NOMINATION DATE	APPOINTMENT DATE[6]
Adkins	1-6-1987 Could Not Run Again	Grimes	11-10-1986 (JNC App. 13)	1-30-1987
Grimes	11-17-1997 Mandatory Retirement	Pariente	10-10-1997 (JNC App. 15)	12-10-1997
Overton	1-4-1999 Could Not Run Again	Quince	10-26-1998 (JNC App. 17)	12-8-1998
Shaw	1-6-2003 Could Not Run Again	Bell	11-14-2002 (JNC App. 18)	12-30-2002
Anstead	1-5-2009 Mandatory Retirement	Labarga	12-9-2008 (JNC App. 19)	1-2-2009
Wells	3-2-2009 Mandatory Retirement	Perry	2-2-2009 (JNC App. 21)	3-11-2009

As the table above shows, the practice of submitting nominations in advance of a vacancy is a prudent practice that the Commission has uniformly observed.[7] This reasonable construction of the Florida Constitution by the constitutional

[4] JNC App. 10, 11. "Succession of Justices of Supreme Court of Florida, Justices of the Supreme Court of Florida," available at http://www.floridasupremecourt.org/pub_info/documents/appointed.pdf.

[5] JNC App. 7. "Succession of Justices of Supreme Court of Florida, Successors to the Current Seats on the Supreme Court" available at http://www.floridasupremecourt.org/pub_info/documents/appointed.pdf.

[6] *See* n. 4.

[7] It has also been the practice in the five District Court of Appeal JNCs.

officers charged with implementing it is presumed correct. *See Fla. Soc. of Ophthalmology v. Fla. Optometric Ass'n*, 489 So. 2d 1118, 1120 (Fla. 1986) (finding the applicable veto period to be fifteen days where the governor and the legislature had consistently construed the provision in the same manner). For more than 40 years since the adoption of the merit selection and retention process, JNCs have construed the provisions of article V, section 11 of the Florida Constitution to permit a JNC to submit nominations to fill a vacancy before the vacancy occurs. Over forty years of acquiescence creates a strong presumption, which this Court should not blithely disregard.

The Commission faces a historically unique situation due to the simultaneous mandatory retirement of three justices. Any delay in filling vacancies only compounds the potential constitutional quandary that may arise. Five justices are required for a quorum. Art. V, § 3(a), Fla. Const. The Chief Justice does have authority to temporarily assign judges when recusals for cause would prohibit the Court from convening, *id.*, but that section does not address a lack of quorum due to vacancies in office. S*ee id.* The Chief Justice is also empowered to assign "consenting retired justices or judges, to temporary duty in any court for which the judge is qualified," but nothing in the plain text of the Florida Constitution expressly grants the Chief Justice the authority to temporarily fill a vacant judicial office. Art. V, § 2(b), Fla. Const. Likewise, the Supreme

Court of Florida Manual of Internal Operating Procedures, revised September 16, 2016, section X establishes procedures for the use of "associate justices" in cases requiring recusal; but it does not address the use of associate justices to temporarily fill a vacancy. *See also* Fla. R. Jud. Admin. 2.205(a)(4)(A). Therefore, the longer these vacancies remain unfilled, the longer this Court may lack a quorum to conduct business.

CONCLUSION

For the reasons stated, Respondents, the Florida Supreme Court Judicial Nominating Commission, and Jason L. Unger respectfully requests that this Court either dismiss the Petition as premature or deny it outright.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that on September 26, 2018, a true copy of the foregoing has been filed via the Court's electronic filing system, which shall serve a copy via email to the following counsel of record, constituting compliance with the service requirements of Fla. R. Jud. Admin. 2.516(b)(1) and Fla. R. App. P. 9.420:

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CERTIFICATE OF COMPLIANCE

I certify that the font used in this response is Times New Roman 14 point and in compliance with the Florida Rules of Appellate Procedure.

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