FLORIDA FIRST DISTRICT COURT OF APPEAL
Case No.: 1D14-2163
Lower Case Nos.: 2012-CA-00412 / 2012-CA-00490 / 2012-CA-002842

DATA TARGETING, INC., PAT BAINTER, MATT MITCHELL, and MICHAEL SHEEHAN,
Appellants,

v.

THE LEAGUE OF WOMEN VOTERS OF FLORIDA, THE NATIONAL COUNCIL OF LA RAZA, COMMON CAUSE FLORIDA, JOAN ERWIN, ROLAND SANCHEZ-MEDINA, JR., J. STEELE OLMSTEAD, CHARLES PETERS, OLIVER D. FINNIGAN, SERENA CATHERINA BALDACCHINO, DUDLEY BATES, RENE ROMO, BENJAMIN WEAVER, WILLIAM EVERETT WARINNER, JESSICA BARRETT, JUNE KEENER, RICHARD QUINN BOYLAN, BONITA AGAN, KENNETH W. DETZNER, in his official capacity as Florida Secretary of State, THE FLORIDA SENATE, MICHAEL HARIDOPOLOS, in his official capacity as President of the Florida State Senate; THE FLORIDA HOUSE OF REPRESENTATIVES, and DEAN CANNON, in his official capacity as Speaker of the Florida House of Representatives, and PAM BONDI, in her official capacity as Attorney General of the State of Florida,
Appellees.

INITIAL BRIEF OF NON-PARTIES DATA TARGETING, INC., PAT BAINTER, MATT MITCHELL, AND MICHAEL SHEEHAN

D. Kent Safriet / Fla. Bar No. 174939
kents@hgslaw.com
Thomas R. Philpot / Fla. Bar No. 091945
TP@hgslaw.com
Mohammad O. Jazil / Fla. Bar No. 72556
mohammadj@hgslaw.com
HOPPING GREEN & SAMS, P.A.
119 South Monroe Street, Suite 300
(850) 222-7500 / (850) 224-8551 (fax)
Counsel for Non-Parties

Dated: May 19, 2014

TABLE OF CONTENTS

INTRODUCTION 1

STATEMENT OF THE CASE AND FACTS 3

SUMMARY OF THE ARGUMENT 10

ARGUMENT 12

I. THE CIRCUIT COURT'S MAY 2, 2014 AND MAY 15, 2014 ORDERS FAIL TO APPLY THE CORRECT LEGAL STANDARD – OR ANY LEGAL STANDARD FOR THAT MATTER – BEFORE REQUIRING DISCLOSURE OF DOCUMENTS PROTECTED BY THE FIRST AMENDMENT'S ASSOCIATIONAL PRIVILEGE. 12

A. The associational privilege protects First Amendment rights from being trampled on by the demands of litigation. 12

B. The Circuit Court's May 2, 2014 Order fails to apply the kind of close scrutiny required by the First Amendment. 15

C. The Circuit Court's May 2, 2014 and May 15, 2014 Orders fail to include any indicia of the balancing test required by the First Amendment's associational privilege. 25

II. THE CIRCUIT COURT'S MAY 2, 2014 AND MAY 15, 2014 ORDERS IGNORE THE PROCEDURAL SAFEGUARDS FOR PROTECTING TRADE SECRET INFORMATION. 26

A. Florida law statutorily defines and protects trade secrets and the assertion of trade secrets triggers very specific obligations. *26*

B. The Circuit Court ignored the procedural steps required by Florida law when one party claims trade secret protection. 28

CONCLUSION 30

TABLE OF AUTHORITIES

CASES

Am. Exp. Travel Related Services, Inc. v. Cruz, 761 So. 2d 1206, (Fla. 4th DCA 2000) 25, 26, 28

Citizens Against Rent Control v. City of Berkley, 454 U.S. 290, (1981).....23

League of Women Voters of Fla. v. Fla. House of Reps., 132 So. 3d 135 (Fla. 2013).....5

McIntyre v. Ohio Elections Com'n, 514 U.S. 334, (1995) 24

NAACP v. State of Ala., 357 U.S. 449, (1958).....12

Perry v. Schwarzenegger, 591 F.3d 1147, (9th Cir. 2010).....13, 21

Premiere Lab Supply, Inc. v. Chemplex Indus., Inc., 791 So. 2d 1190, (Fla. 4th DCA 2001) 26, 27

STATUTES

Fla. Stat. §90.506 30

Fla. Stat. §688.002 25

Fla. Stat. §812.081 .....25, 26

INTRODUCTION

This case is a heavyweight bout between the country's two major political parties. The Democratic Plaintiffs[1] contend that the Republican-led Legislature ran afoul of Florida's Redistricting Amendments in drawing political boundaries for federal and state elections. The Legislature disagrees. The Non-Parties – Pat Bainter, Matt Mitchell, Michael Sheehan, and Data Targeting, Inc. – are caught in the crossfire. In a nutshell, the Plaintiffs contend that the Legislature conspired with the Non-Parties, among others, to subvert Florida's recently adopted Redistricting Amendments. Not so.

The Non-Parties are simply political consultants. They align themselves with the Republican Party and conservative causes. This does not mean, however, that the Non-Parties conspired to violate the law as Plaintiffs suggest. The Non-Parties have disclosed all documents that detail communications with the Legislature, individual legislators, and legislative staff. In other words, the Non-

[1] National Democratic interests continue to fund the Plaintiffs' participation in this case, including the Democratic Congressional Campaign Committee, which has been deposed under subpoena by the Florida Legislature. (App. A at 11, 17-18, 24) (collecting citations). "Plaintiffs" refers collectively to two groups of plaintiffs in the underlying case. The first is the League of Women Voters of Florida, Common Cause, Robert Allen Schaeffer, Brenda Ann Holt, Roland Sanchez-Medina, Jr., and John Steele Olmstead. The second is a comprised of Rene Romo, Benjamin Weaver, William Everett Warinner, Jessica Barrett, June Keener, Richard Quinn Boylan, and Bonita Agan. The National Council of La Raza, which had been aligned with the first group, voluntarily dismissed its claims against all Defendants on May 14, 2013.

Parties have disclosed all information that goes to the issue of *legislative intent* – the central issue in this case. There remains no justification for the Circuit Court to allow the Plaintiffs to dig deeper into the Non-Parties' private dealings and deliberation where it is irrelevant to the issue of legislative intent, and where it would chill the Non-Parties' fundamental First Amendment right to organize, discuss, advocate for, or otherwise petition *their* government together with the people who share their ideas.

Yet the Circuit Court's May 2, 2014 and May 15, 2014 Orders require the Non-Parties to disclose the very type of information that would chill their fundamental First Amendment rights. These Orders require the Non-Parties to disclose 538 pages that contain the names, contact information, and internal deliberations of the Non-Parties, their employees, clients, and other like-minded individuals regarding the redistricting process. The Circuit Court required this despite the fact that: (1) the Plaintiffs have themselves argued that such information is wholly irrelevant to the issues in the underlying case, (2) the Non-Parties have already disclosed all 112 pages of documents related to their communications with the individual legislators and legislative staff, (3) the Non-Parties offered to allow the use of these 538 pages of documents in a sealed proceeding, and (4) the Circuit Court failed to offer any *indicia* of applying the type of "close scrutiny" and balancing test necessary for the First Amendment's

associational privilege. The Circuit Court thus erred as a matter of law in entering the May 2, 2014 and May 15, 2014 Orders.

Furthermore, the complete disregard for trade secret protections provides a separate reason for setting aside the Circuit Court's Orders. Florida law provides specific procedural safeguards to protect trade secret information. The Circuit Court's Orders ignore them all. There was no trade secret determination, seemingly no *in camera* review for trade secret protections, and no evidentiary hearing regarding trade secrets. Florida law requires more before the Circuit Court may deprive the Non-Parties of their sensitive, business-specific, and privileged information.

STATEMENT OF THE CASE AND FACTS

Issues on Appeal

There are two narrow issues now before the Court. The first is whether the Circuit Court erred as a matter of law by failing to follow the process for balancing the need and method for disclosing information to which the associational privilege applies, i.e., whether the Circuit Court erred by failing to apply the First Amendment's balancing test.[2] The second is whether the Circuit Court erred as a

[2] To be clear, the issue of whether the associational privilege applies to the Non-Parties is not before the Court. That issue was the subject of the Circuit Court's March 20, 2014 Order, and is not on appeal at this time. (App. B).

matter of law by failing to follow the process for reviewing and disclosing trade secret information.

Nature of the Case

Section 16 of Article III to the Florida Constitution empowers the Florida Legislature to draw political boundaries for state and federal elections in the second year after each decennial census. Added to the Florida Constitution after the 2010 election, Sections 20 and 21 of Article III – the Redistricting Amendments – limit the Legislature's ability to draw districts "with the intent to favor or disfavor a political party or an incumbent," and "with the intent or result of" diminishing the ability of "racial or language minorities" to "elect representatives of their choice."

In 2012, as required by the Florida Constitution, the Legislature enacted its redistricting plans.[3] The Legislature based its decisions regarding district

[3] On February 10, 2012, the Attorney General petitioned the Florida Supreme Court to determine the validity of Florida House and Senate districts enacted in Senate Joint Resolution 1176. The Florida Supreme Court's March 9 Opinion determined that the House plan was valid, but that 8 of 40 Senate districts were not valid. After the Legislature revised the Senate plan during an extraordinary apportionment session, the Attorney General petitioned the Florida Supreme Court to determine the validity of the revised districts in Senate Joint Resolution 2-B. The Florida Supreme Court's April 27 Opinion determined that the revised Senate plan was valid. Congressional and House redistricting plans were submitted to the U.S. Department of Justice for preclearance on March 13, and the revised Senate plan was submitted on March 30. The Department of Justice's April 30 letter stated no objection to the new maps. The Florida Senate, Legal Submissions, http://www.flsenate.gov/Session/Redistricting/Legal (last visited May 19, 2014).

boundaries on an "open, interactive, and inclusive redistricting process," noting specifically that:

> Citizens had free and easy access to the same redistricting data and applications used by legislators and staff. Nearly 5,000 Floridians attended and more than 1,600 provided testimony at 26 public hearings in communities around the state. Thousands more sent comments and feedback via letters, email, voicemail, and social media. At every committee meeting time was reserved for members of the public, representatives of public interest groups, or civil rights advocates to present their ideas. *More than 175 publicly submitted redistricting plans were received by the legislature. Together with all the citizen comments, those plans provided a voluminous collection of specific suggestions and redistricting scenarios for the Legislature to consider.*

The Florida Senate, About Redistricting, http://www.flsenate.gov/Session/Redistricting/About (last visited Feb. 28, 2013) (emphasis added).

The Non-Parties participated in the redistricting process through public meetings and a public website where any citizen could comment on Florida's redistricting process. Like almost every member of the public participating in the process, the Non-Parties did so with an eye towards best positioning their ideas, their clients, their prospective clients, and others who might share their vision of government. And, as is their inalienable First Amendment right, the Non-Parties coordinated with others – the grass roots network Non-Parties' organized to further shared ideas and participate in the public process of petitioning *their* government.

The Plaintiffs thereafter sued the Florida Legislature, arguing that the 2012 redistricting plan violated the recently adopted Redistricting Amendments. Discovery of the legislative parties has been extensive. In fact, the Florida Supreme Court recently became the first court to create an exception to the legislative privilege by allowing extensive depositions of individual legislators and staff in an attempt to discern legislative intent. *League of Women Voters of Fla. v. Fla. House of Reps.*, 132 So. 3d 135 (Fla. 2013).

The Plaintiffs also sought discovery from very select political consultants, and other organizations affiliated with the Republican Party or conservative ideas. The Non-Parties were caught in this dragnet.

Relevant Proceedings Below

Pat Bainter, one of the Non-Parties, received a subpoena *duces tecum* in both proceedings below seeking, among other documents, "*[a]ny communication* with *any person* about": (1) Congressional or Senate redistricting in Florida in 2012; and (2) Congressional or Senate redistricting maps (whole or partial, completed or draft) that were submitted to or discussed with any legislator, legislative staff members or any legislative committee, or were submitted to or discussed with any person with the intent that the person would convey information to any legislators, staff member or committee. (App. C at 4)(emphasis added).

Mr. Bainter participated in a deposition and produced a set of documents considered responsive on November 14, 2012. (App. D). During his deposition, Mr. Bainter testified that he had "no idea" regarding who drew the maps or any other information regarding what the Florida Legislature relied upon in drawing the maps. (App. D at 53-54). Following the deposition, in November 2012, the Plaintiffs issued identical subpoenas *duces tecum* to two additional Data Targeting employees, Matt Mitchell and Michael Sheehan, and to the records custodian for the company. (App. E.) The November 2012 subpoenas sought the same records under similarly broad parameters.

On December 4, 2012, Petitioners sought relief in the Circuit Court through a Motion to Quash, asserting that the subpoenas were unreasonable, oppressive, and amounted to a fishing expedition for information that was irrelevant to the issue of legislative intent before the Circuit Court.

On January 30, 2013, the Circuit Court denied the Motions to Quash but, among other things, limited the initial scope of production to communications with members and staff of the Florida Legislature and with "other relevant specific persons" the Circuit Court required the Plaintiffs to identify. On February 26, 2013, the Non-Parties disclosed *all* 112 pages of documents related to their communications with individual legislators or legislative staff.

The Plaintiffs nevertheless continued to pursue discovery of documents beyond communication with legislators or staff. This second category of non-legislative communications has been the focus of the dispute now before this Court, implicating the Non-Parties' fundamental First Amendment rights and trade secrets concerns. (App. F).

On June 7, 2013, as a courtesy to the Circuit Court and the parties, the Non-Parties also filed an amended privilege log, even though they have no obligation to do so because of their non-party status. *Westco, Inc. v. Scott Lewis' Gardening & Trimming, Inc.*, 26 So.3d 620 (Fla. 4th DCA 2010). In the privileged log, the Non-Parties asserted their associational privilege and trade secrets, providing additional information to the extent reasonable without revealing certain identities and information that would infringe on the highly confidential nature of the privileges asserted.

The Circuit Court thereafter appointed Justice Major Harding as Special Master to assess the Non-Parties' claims. The Non-Parties, in turn, provided extensive written submissions to Justice Harding regarding the associational privilege and trade secrets issues together with confidential copies of *all* 1833 pages of pertinent documents, and an affidavit from Mr. Bainter on behalf of the Non-Parties. (App. G). Justice Harding considered written arguments by the parties on the issues, reviewed the documents *in camera*, held an evidentiary

hearing where he heard from Mr. Bainter, and heard legal argument from the Plaintiffs and Non-Parties regarding the issues. The Special Master concluded in his September 14, 2013 report to the Circuit Court (1) that the associational privilege applies to the Non-Parties, (2) that the privilege protects all 1833 pages under the balancing test required by the First Amendment, and (3) that he did not need to reach the trade secrets issue because the associational privilege protects all the documents. (App. H at 5-6.) Plaintiffs thereafter filed exceptions to the report.

At the exceptions hearing, the Circuit Court considered legal arguments on the Special Master's recommendation. The hearing focused primarily on whether the Non-Parties established a prima facie case for the associational privilege to apply. The Circuit Court neither invited nor heard legal or factual argument regarding whether the privilege, once applicable, should yield for any particular documents based on the First Amendment's balancing test. (App. I).

The Circuit Court's subsequent order reaffirmed Justice Harding's conclusion that the associational privilege protects the Non-Parties' documents, but delayed for another day the question of the balancing test required by the First Amendment.

On April 29, 2014 – more than seven months after Justice Harding's report and a few short weeks before trial – the Circuit Court issued an oral ruling requiring disclosure of 538 pages of the 1833 pages both the Special Master and

Circuit Court had deemed privileged under the First Amendment. *See* (App. J). The Circuit Court's May 2, 2014 Order followed. (App. K). The Circuit Court neither conducted a separate hearing to discuss nor offered an oral or written explanation of why the First Amendment balancing test tilted in favor of disclosure for these 538 pages. *See* (Apps. J and K). The Circuit Court similarly provided no explanation for denying the Non-Parties' trade secret concerns, or the Circuit Court's own failure to follow the procedural minimums required by law.

On May 15, 2014 the Circuit Court entered another order, wherein, the Circuit Court rejected the Non-Parties' attempt to consent to the use of 538 pages of information in a sealed trial proceeding. (App. L). The Circuit Court's May 15, 2014 Order also denied the Non-Parties' request to stay the effect of its May 2, 2014 and May 15, 2014 Orders. The Non-Parties appealed, asking for an emergency stay to avoid imminent disclosure and irreparable harm. This Court granted the emergency stay on May 16, 2014. This expedited appeal follows.

SUMMARY OF THE ARGUMENT

Having determined that the First Amendment's associational privilege applies to the Non-Parties and their documents, the Circuit Court should have undertaken a careful and methodical process – applying the closest scrutiny – to balance the needs of disclosing this information with the Non-Parties' fundamental First Amendment rights. The Circuit Court should have required the Plaintiffs to

demonstrate that the information sought is: (1) *highly* relevant to the issue of legislative intent, (2) narrowly tailored to avoid unnecessary interference with the Non-Parties' First Amendment rights, (3) central to the issue in the case, and that (4) no less intrusive means of obtaining or using the information exist. But the Circuit Court did not follow these procedures – did not apply the closest scrutiny – designed to limit infringement on the Non-Parties' fundamental First Amendment right to organize, associate, and participate in the political process.

The Circuit Court's questioning of Pat Bainter confirms that the Circuit Court favored expediency over close scrutiny. Mere minutes after the Circuit Court entered its oral ruling requiring disclosure of the 538 pages, after the Circuit Court's ostensible *in camera* review, and after the Circuit Court's supposedly careful balancing of the Non-Parties' fundamental First Amendment rights with the need for disclosure, the Circuit Court revealed that it did not even understand the basic nature of Pat Bainter and the Non-Parties' business. (App. J at 77.)

And in response to the Non-Parties claim of trade secret protections, and only after being prompted by the Non-Parties, the Circuit Court provided a mere two words on the issue. (App. J at 7-8.) The Circuit Court failed to make a clear determination on whether trade secret protections apply, seemingly failed to conduct an *in camera* review, and did not conduct an evidentiary hearing to determine whether the circumstances require the disclosure of confidential

information related to political advice the Non-Parties have provided, and the names and contact information from the grass roots organization the Non-Parties have organized and now maintain.

The May 2, 2014 and May 15, 2014 Orders reflect the results of the Circuit Court's legal errors. This Court should reverse these Orders to protect the Non-Parties' fundamental First Amendment rights, and ensure consistency with well-established law on trade secret protections.

ARGUMENT

I. THE CIRCUIT COURT'S MAY 2, 2014 AND MAY 15, 2014 ORDERS FAIL TO APPLY THE CORRECT LEGAL STANDARD – OR ANY LEGAL STANDARD FOR THAT MATTER – BEFORE REQUIRING DISCLOSURE OF DOCUMENTS PROTECTED BY THE FIRST AMENDMENT'S ASSOCIATIONAL PRIVILEGE.

A. *The associational privilege protects First Amendment rights from being trampled on by the demands of litigation.*

The question of whether the Circuit Court applied the appropriate legal standard before casting aside the Non-Parties' associational privilege as to 538 pages of documents is a question of law subject to *de novo* review. *Cf. Varela v. Bernachea,* 917 So. 2d 295, 298 (Fla. 3d DCA 2005).[4] Rooted in the First Amendment to the U.S. Constitution, the associational privilege is a qualified

[4] At the very least the Circuit Court's decision to disclose the 538 pages of privileged and confidential information is an "'application of law to fact . . . subject to *de novo* review.'" *Varela,* 917 So. 2d at 298 (quoting *Slaughter v. State,* 830 So. 2d 955, 957 (Fla. 1st DCA 2002)).

privilege designed to protect a party's right to freely associate with like-minded individuals or entities in pursuit of a common goal. According to the U.S. Supreme Court, "[i]t is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured" by the Constitution. *NAACP v. State of Ala.*, 357 U.S. 449, 460 (1958). The privilege applies regardless of "whether the beliefs sought to be advanced by association pertain to political, economic, religious, or cultural matters." *Id.* at 461. Action "curtailing the freedom to associate is subject to the *closest scrutiny*." *Id.* at 460 (emphasis added).

For purposes of discovery, this means that once a party asserting the privilege demonstrates "arguable first amendment infringement" through an affidavit or testimony like that provided by the Non-Parties to Justice Harding, the party seeking discovery must demonstrate "an interest in obtaining the disclosures it seeks which is sufficient to justify the deterrent effect on the free exercise of the constitutionally protected right of association." *Perry v. Schwarzenegger*, 591 F.3d 1147, 1160-61 (9th Cir. 2010) (quoting *NAACP v. Ala.*, 357 U.S. at 463). Specifically, "the party seeking the discovery must show that the information sought is *highly relevant* to the claims or defenses in the litigation – a more demanding standard of relevance than that under [the rules of procedure]." *Id.* (emphasis added). "The request must also be carefully tailored to avoid

unnecessary interference with protected activities, and the information must be otherwise unavailable." *Id.* The trial court must then balance the burdens imposed on the privileged party's First Amendment rights by evaluating the "importance of the litigation," the "centrality of the information sought to the issues in the case," and "the existence of less intrusive means of obtaining the information." *Id.* (citations omitted).

In sum, the associational privilege yields only after it is subjected to the closest scrutiny under the First Amendment's balancing test. *See id.* This balancing test requires courts to conclude that: (1) the information sought is *highly* relevant to the case, (2) the request is narrowly tailored to avoid unnecessary interference with First Amendment rights, (3) the information sought is central to the issue in the case, and (4) no less intrusive means of using the information exists. *See id.* The Circuit Court's Orders fall well short of the mark.

B. *The Circuit Court's May 2, 2014 Order fails to apply the kind of close scrutiny required by the First Amendment.*

After reviewing written submissions, hearing oral argument, and conducting an evidentiary hearing and an *in camera* review, the Special Master, Justice Harding, prohibited disclosure of all 1833 pages of the Non-Parties' privileged and confidential documents. (App. H at 5-6.) Justice Harding concluded that the Plaintiffs failed to "show[] a compelling need sufficient to deny Non-Parties Pat

Bainter, Matt Mitchell, Michael Sheehan and Data Targeting, Inc. the privilege." (App. H at 6.)

The Circuit Court's May 2, 2014 Order departs from Justice Harding's conclusions by requiring the disclosure of 538 pages of the 1833 pages of confidential and privileged documents. (App. K at 2.) The Circuit Court issued its Order without holding a separate hearing to discuss why the First Amendment balancing test tilts in favor of disclosure for these 538 pages, and without issuing any specific finding concerning the four factors courts should consider before disclosing information protected by the First Amendment.[5] *Compare* (*id.* at 2-3),

[5] At the exceptions hearing, the Circuit Court presumed its *in camera* review would need more than the eyes of the Judge alone. The Circuit Court requested that Plaintiffs provide a list, or "red flag" list as the Circuit Court called it, of people who, if named in the privileged documents, could indicate certain documents the Circuit Court "might need to look at further." (App. I at 46-47). Such a list was anticipated to narrow the Circuit Court's review to the documents central to the case based on the Plaintiffs' presumption that communications between or about contacts on the "red flag" list could have the remote potential to influence the Legislature in the redistricting process. Such a list was never provided, and consequently, the Circuit Court's *in camera* review was not informed by what the Court had itself acknowledged would be critical for making a determination to yield Non-Parties' privilege in the case.

Based on the four names the Plaintiffs contemporaneously identified on the record, however, had the Circuit Court received the "red flag" list, not even one privileged document of the Non-Parties would have been required for disclosure based on the potential names Plaintiffs indicated would be "red flag" persons central to their case. A search of Non-Parties' privileged and confidential documents indicates only one instance where a document matches any of the names suggested in argument to the Circuit Court. The content of that document, regarding release of 2010 election data for public access, and the date of that

with Perry, 591 F.3d at 1161. The May 15, 2014 Order exacerbates that error by rejecting the Non-Parties' offer to allow the use of these 538 pages of documents in a sealed trial proceeding. *See* (App. G.)

A review of the 538 pages that the Non-Parties must now disclose reveals that the Circuit Court's Order is the product of a standardless standard – an *ad hoc* approach that requires disclosure of some privileged documents but not other substantially similar (and sometimes identical) privileged documents. The following is a list of some of the numerous inconsistencies in the Circuit Court's ruling:

- DATAT CONF 78 – Ordered Disclosed: e-mail regarding Senate 4a Map;
  DATAT CONF 79 – Not Ordered Disclosed: attached Map of Senate 4a.

- DATAT CONF 108-109 – Order Disclosed: e-mail and map;
  DATAT CONF 228-229 – Not Ordered Disclosed: same e-mail and same map.

- DATAT CONF 139-140 – Ordered Disclosed: map and performance data regarding 7b 10272011 Map;
  DATAT CONF 25-26 – Not Ordered Disclosed: same map and same performance data.

---

document, appearing more than 9 months before any legislative committee considered a redistricting plan, clearly distinguish the privileged document from any evidence that could support the heightened standard of relevance necessary to overcome Non-Parties' privilege. The stark contrast of these results with the 538 pages the Circuit Court ordered disclosed demonstrates the magnitude of the procedural errors in balancing Non-Parties' privilege with the need for information in this case."

- DATAT CONF 298 – Ordered Disclosed: performance data for Senate 143COASTAL 2a 11182011;
  DATAT CONF 1128 – Not Ordered Disclosed. same performance data.

- DATAT CONF 313-314 – Ordered Disclosed: candidate area map;
  DATAT CONF 1126 – Not Ordered Disclosed: same candidate area map.

- DATAT CONF 94 – Ordered Disclosed: document regarding grassroots coordination efforts;
  DATAT CONF 8, 95-98, 125, 126-132, 162-200: Not Ordered Disclosed: documents regarding similar grassroots efforts; interestingly, DATAT CONF 95 (not disclosed) is the signature block for DATAT CONF 94 (ordered disclosed).

- DATAT CONF 1135-1141 – Ordered Disclosed: e-mail chain regarding purely business matters, unrelated to the redistricting process, of whether Non-Parties have the ability to do overlays for an analysis from available data;
  DATATCONF 215-220 – Not Ordered Disclosed: same e-mail chain regarding the same subject with slight variations in the chain of messages.

In addition, had the Circuit Court applied the closest scrutiny, the following privileged and confidential documents would not have been ordered disclosed:

- DATAT CONF 70-72, which is identical to 212-214 –These documents include an e-mail that has nothing to do with the redistricting process. The e-mail instead includes an inquiry regarding the Non-Parties' ability to prepare "direct mailers," which rely on database analysis to better target recipients for specific advertising or political campaigns. Direct mailers are a service the Non-Parties provide to their clients. The e-mail should have, therefore, been excluded just as DATAT CONF 215-220 and DATAT 1135-1141 noted above.

- DATAT CONF 105 –This document is an e-mail from one of the Non-Parties' employees to a former state legislator (not in office at the time of the redistricting process) regarding assistance in Non-Parties' grassroots coordination efforts. The Non-Parties' employee refers to the legislator by his former title as a matter of courtesy. The legislative title presumably prompted the Circuit Court to order this e-mail disclosed when there was no basis for doing so.

- DATA CONF 248-249 –This document is an e-mail that contains no reference to any submission to the Legislature, actual or anticipated and is clearly a draft that reflects internal analysis that cannot justify the Circuit Court's order to disclose it.

- DATA CONF 257 –This document is a one-line e-mail from Non-Parties to a like-minded individual. The document contains no contextual clues regarding relevance or centrality to the case.

- DATAT CONF 299-303 –This document is an e-mail chain that represents the Non-Parties' purely internal reflections on the data related to the latest released legislative map – reflections that contain a proprietary analysis for internal business purposes.

- DATAT CONF 1111 –There is no content on this page; it is simply blank.

- DATAT CONF 1112-1115 –This document is unrelated to map drawing exercise. It is an e-mail chain that relates to the Non-Parties' legal considerations as they consider the universe of options available for identifying districts by number designations that ensure equal opportunity to elect Senators and Congressional members; it has nothing to do with the design, map line, or drawing of any district plan in conformity with the Constitutional standard, and therefore again, is far from being central to the case.

The Circuit Court's questioning of Non-Party Pat Bainter *after* ordering disclosure of the 538 pages confirms that the Circuit Court's May 2, 2014 Order was not the product of *close scrutiny* as required by the U.S. Supreme Court, but

was of the type of cursory review that invites error. *See* (App. J at 77.) Specifically, the Circuit Court asked Non-Party Pat Bainter, "[w]hat exactly does your company do?" (*Id.*) The Circuit Court seemingly remained unaware that the Non-Parties are "a political consulting firm" even though the Circuit Court had already: concluded that the associational privilege applies to the Non-Parties, (*id.)*; reviewed documents that detail the Non-Parties operations and confidential client communications; and ordered that the Non-Parties disclose 538 pages of documents because these documents are ostensibly central to the issue of legislative intent, otherwise highly relevant, and no less intrusive means of obtaining the information in these documents exists.

Occam's razor slices through the various explanations for the Circuit Court's decision to settle on the simplest explanation. The Circuit Court asked about the Non-Parties business because it did not know, and it did not know because it failed to apply "the closest of scrutiny" before ordering the privileged and confidential documents disclosed. *NAACP*, 357 U.S. at 460; *see also* Bryan Garner, *Garner's Modern American Usage* 584 (3d ed. 2009) (discussing Occam's razor).

C. *The Circuit Court's May 2, 2014 and May 15, 2014 Orders fail to include any indicia of the balancing test required by the First Amendment's associational privilege.*

1. FACTOR 1 – "HIGHLY RELEVANT" INFORMATION: The Circuit Court made no finding regarding whether the 538 pages ordered disclosed are highly relevant, while Plaintiffs

apparently agree that these pages are, in fact, legally irrelevant.

The Circuit Court's Orders make no mention of whether the Plaintiffs have satisfied the burden of showing that the information in the 538 pages of privileged documents is "highly relevant" to the issues before the Circuit Court. *Compare* (Apps. K, L), *with Perry*, 591 F.3d at 1160-61. As the Ninth Circuit explained in *Perry*, the "highly relevant" standard is a "more demanding standard of relevance than that under Federal Rule of Civil Procedure 26(b)(1)," the federal analog to Florida Rule of Civil Procedure 1.280(b)(1). *Perry*, 591 F.3d at 1061. The Circuit Court ignored the high bars erected by this standard.

Had the Circuit Court applied the "highly relevant" standard, the Circuit Court would have concluded that the information in the 538 pages of documents is irrelevant to the case. The central issue before the Circuit Court is the Florida Legislature's intent, and whether that intent violated the Redistricting Amendments during the 2012 Redistricting process.

The Non-Parties already disclosed all 112 pages of documents that include communications between the Non-Parties and the Legislature, including individual legislators and legislative staff. The remaining documents include the Non-Parties' internal deliberations – discussions with employees and like-minded individuals – regarding their strategy for participating in the redistricting process. The views expressed and strategies outlined in these documents have no bearing on the

underlying issue of legislative intent. These documents show only the Non-Parties' intent. *See* Fla. Const. Art. III, Sections 21 and 22; *League of Women Voters,* 132 So. 3d at 150 (explaining that "the communications of *individual legislators or legislative staff members*, if part of a broader process to develop portions of the map," are relevant to the issue of "whether the plan as a whole or any specific districts were drawn with unconstitutional intent") (emphasis added); *In re Senate Joint Resolution of Legislative Apportionment 1176,* 83 So. 3d 597, 641 (Fla. 2012) (referring to "the Legislature's 'intent'" as the appropriate inquiry); *Tamiami Trail Tours v. City of Tampa,* 31 So. 2d 468, 470-71 (Fla. 1947) ("we should, if possible, determine from the *legislative record* what was the legislative intent") (emphasis added).

The Non-Parties' intent is just as irrelevant as the Plaintiffs' intent. In fact, the Plaintiffs have previously argued that the Legislature cannot seek from them discovery related to the *Plaintiffs' intent* in drawing maps for the redistricting process. *See* (App. M-1 at 14.) To avoid sanctions for fraud on the Circuit Court,[6]

[6] The Legislative Parties' Motion for Sanctions for Plaintiffs' Fraud on the Court details the Plaintiffs' duplicity. The context in which the Motion for Fraud on the Court arose is instructive. Shortly after Plaintiffs filed the complaint they sought immediate entry of summary judgment asking the Circuit Court to invalidate the Legislatures' maps and adopt maps the Plaintiffs submitted to the Court and represented were in compliance with the constitutional amendments.

The Legislature then sought discovery regarding all aspects of the maps offered by the Plaintiffs. The Plaintiffs quickly withdrew their maps in an attempt

the Plaintiffs specifically explained that "there would have been nothing illegal about [the Plaintiffs drawing maps with partisan intent] since there are no legal restrictions on the [] *Plaintiffs' intent*." (*Id.* at 17) (citations omitted and emphasis added). The Plaintiffs further explained that the Redistricting Amendment's restraints on partisan politics "[do] not impose any corresponding restraints on private citizens who submit exemplar plans." (*Id.*) According to the Plaintiffs, "[i]n evaluating a proposed map submitted by a private litigant, the focus remains on whether the *Legislature* – not the *submitter of the proposed map* – considered impermissible factors, such as intentionally favoring a political part or an incumbent." (*Id.*) (citations omitted and emphasis added). Here, the Non-Parties and Plaintiffs agree.

The intent of anyone other than the Legislature is completely irrelevant to the underlying case. *See, e.g., League of Women Voters,* 132 So.3d at 150; *Tamiami Trail Tours v. City of Tampa,* 31 So.2d at 470-71. The Circuit Court's

---

to preclude such discovery. However, discovery revealed the Plaintiffs maps submitted to the Court were laden with improper intent to favor the democratic party and their incumbents. The Legislative Parties' Motion compiles a list of specific deposition testimony and documents to highlight the Plaintiffs' partisan intent. One e-mail disclosed during discovery describes one directive to a democratic map drawer to "scoop as many Jews out of Tamarac and Sunrise" as possible to create more favorable districts for Democrats. (App. N).

When Plaintiffs were faced with defending the Legislature's Motion for Sanctions for Fraud on the Court, the Plaintiffs asserted that only the Legislatures' intent is irrelevant and the Plaintiffs' intent is irrelevant.

erred, moreover, by failing to even consider or analyze whether the 538 pages of documents are highly relevant. As such, the Non-Parties' 538 pages of privileged, internal deliberations should be excluded from disclosure.

2. FACTOR 2 – "NARROWLY TAILORED" REQUEST: The Circuit Court made no finding regarding whether the Plaintiffs' request for disclosure is narrowly tailored to avoid unnecessary interference with First Amendment rights.

The Circuit Court's May 2, 2014 and May 15, 2014 Orders also include no consideration of whether the Plaintiffs' request for disclosure is narrowly tailored to avoid unnecessary interference with fundamental First Amendment rights. *See Perry*, 591 F.3d at 1061. While the Plaintiffs appear to agree that the documents they seek are irrelevant to the central issue in the case – legislative intent – the Plaintiffs' persistence suggests that the public use of the Non-Parties' information is intended to harass, discourage, and otherwise chill the Non-Parties' First Amendment right to petition their government on issues that matter most to them. Indeed, Mr. Bainter's affidavit and testimony before Justice Harding highlight the Non-Parties' concerns of an unconstitutional chilling effect. Justice Harding and the Circuit Court found these concerns compelling enough to apply the First Amendment's associational privilege. Unnecessary interference – especially without any explanation or analysis by the Circuit Court – cannot now be justified.

3. FACTOR 3 – IMPORTANCE OF THE LITIGATION AND CENTRALITY OF INFORMATION TO THE ISSUE: The Circuit Court failed to evaluate the importance of this litigation and the centrality of information sought to the issue in the case.

While this case may be characterized as important, there is no doubt that the Supremacy Clause of the U.S. Constitution makes the Non-Parties' First Amendment rights paramount. At the very least, the Circuit Court must subject any possible disclosure to the closest scrutiny and provide an explanation for why the First Amendment's associational privilege must yield for 538 pages of documents under the relevant balancing test. *See Perry,* 591 F.3d at 1161. The Circuit Court's May 2, 2014 and May 15, 2014 Orders provide no such explanation. And for reasons stated above in the discussion of the first factor of the First Amendment's balancing test (highly relevant nature of the information), the information sought cannot be central to the issue of legislative intent when the information is wholly irrelevant – when the Plaintiffs themselves concede that the Non-Parties' partisan intent does not matter. *See supra*.

4. FACTOR 4 – LESS INTRUSIVE MEANS: The Circuit Court summarily dismissed less intrusive means of using the privileged information.

The May 15, 2014 Order compounds the Circuit Court's mistakes by refusing a less intrusive means of using the 538 pages of documents at trial. A sealed proceeding, like the one Non-Parties' suggested in their motion to determine

the confidentiality of court records, offered the promise of a compromise between the Non-Parties and the Plaintiffs. More importantly, the sealed proceeding offered a way to avoid having to weigh the First Amendment on the one hand and Florida's Redistricting Amendments on the other. The Plaintiffs could have entered into evidence and discussed the information in the 538 pages of privileged documents, without any objection from the Non-Parties, so long as the Circuit Court sealed the documents and the proceedings related to Pat Bainter, the Non-Parties' sole witness at trial. The Plaintiffs did not agree to this approach, and the Circuit Court dismissed it in its May 15, 2014 Order. (App. O).

The Plaintiffs' refusal to agree to a sealed proceeding strikes at the very core of the associational privilege: "the importance of freedom of association in guaranteeing the right of people to make their voices heard on public issues." *Citizens Against Rent Control v. City of Berkley*, 454 U.S. 290, 295 (1981). This right to associate recognizes that sometimes only "by collective effort [can] individuals make their views known," where "individually, their voices would be faint or lost," *id.* at 294, and that often people can only undertake these collective efforts if they can do so in private. *NAACP*, 357 U.S. at 462. Where these collective efforts may prove to be controversial, "[a]nonymity is a shield from the tyranny of the majority." *McIntyre v. Ohio Elections Com'n*, 514 U.S. 334, 357 (1995).

The Circuit Court had before it an option that would have allowed one party to the litigation to enter into evidence and otherwise discuss privileged information without chilling the Non-Parties' First Amendment rights by disclosing lists of names, contact information, and private communications. The Circuit Court ignored the option, and did so in error. *Perry*, 591 F.3d at 1161.

II. THE CIRCUIT COURT'S MAY 2, 2014 AND MAY 15, 2014 ORDERS IGNORE THE PROCEDURAL SAFEGUARDS FOR PROTECTING TRADE SECRET INFORMATION.

A. *Florida law statutorily defines and protects trade secrets and the assertion of trade secrets triggers very specific obligations.*

On *de novo* review, this Court should also reverse the Circuit Court's May 2, 2014 and May 15, 2014 Orders because the Circuit Court required the disclosure of information Non-Parties claim to be trade secrets without first following the procedural steps imposed by Florida law. *Varela*, 917 So. 2d at 298. Florida's Trade Secrets Act defines a "trade secret" as:

> [I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process that: (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Fla. Stat. § 688.002(4). The Florida Statutes further provide that a trade secret does not need to be novel or unique. *Id.* §812.081(1)(c). "Any scientific, technical, or commercial information, including any . . . process, procedure, list of

customers" qualifies as long as the subject is "secret," "of value," "for use by the business," "of advantage to the business," and where "the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes." *Id.*

The Florida Evidence Code similarly protects trade secrets from disclosure. It provides in pertinent part that:

> A person has a privilege to refuse to disclose, and to prevent other persons from disclosing, a trade secret owned by that person if the allowance of the privilege will not conceal fraud or otherwise work injustice. When the court directs disclosure, it shall take the protective measures that the interests of the holder of the privilege, the interests of the parties, and the furtherance of justice require. The privilege may be claimed by the person or the person's agent or employee.

Fla. Stat. § 90.506.

The assertion of trade secret protection triggers specific obligations for trial courts. As the Fourth District explained in *Am. Exp. Travel Related Services, Inc. v. Cruz*, 761 So. 2d 1206, 1208 (Fla. 4th DCA 2000), "[w]hen trade secret privilege is asserted as the basis for resisting production, the trial court *must* determine whether the requested production constitutes a trade secret; if so, the court must require the party seeking production to show reasonable necessity for the requested materials." (Emphasis added.) This ordinarily requires the trial court to "first conduct[] an *in camera* inspection to determine whether [the given material] constitue[s] a trade secret and a subsequent evidentiary hearing on the

issue of reasonable necessity for disclosure." *Premiere Lab Supply, Inc. v. Chemplex Indus., Inc.*, 791 So. 2d 1190, 1190 (Fla. 4th DCA 2001).

One does not waive trade secret protections by sharing trade secrets with trusted clients, associates, and partners. Florida law clearly contemplates sharing trade secret information with appropriate precautions. Fla. Stat. §812.081(1)(c). As such, *in camera* review includes a consideration of whether the owner of a trade secret took "measures to prevent" the trade secret "from becoming available to persons *other than those selected by the owner*." *Id.* (emphasis added).

B. *The Circuit Court ignored the procedural steps required by Florida law when one party claims trade secret protection.*

In this case, the Non-Parties claimed trade secret protection and the Circuit Court referred the matter to the Special Master. Justice Harding conducted only a "very cursory examination of the documents" for trade secret protection, (App. H at 4), because, having concluded that the associational privilege protected all of the documents, Justice Harding explained that he "[did] not need to deal with the Trade Secret issue," (*Id.* at 6). There was no clear finding regarding whether a trade secret actually applied much less an evidentiary hearing regarding the trade secret issue. Only after being prompted by the Non-Parties did the Circuit Court make a passing statement regarding its *in camera* review for trade secret protection before entering an order that would deprive the Non-Parties of their trade secrets (and fundamental First Amendment rights) without procedural due process. *See*

App. J at 7-8.[7] The law requires far more than two words stated near the end of an unrelated hearing. *See Am. Express Travel Related Servs.*, 761 So. 2d at 1208; *Premiere Lab Supply*, 791 So. 2d at 1190.

Had the Circuit Court allowed an evidentiary hearing, the Non-Parties believe that the required hearing would have showed that the material the Circuit Court ordered disclosed reflects research, analysis, and political advice by Non-Parties; an effort to organize like-minded individuals through proprietary mailing lists; and dissemination of pertinent strategic information through such lists. This information is clearly of value to the Non-Parties, whose business is political consulting. The evidentiary hearing would have also showed that the Non-Parties took reasonable measures to keep this information from becoming available to

---

[7] After the Circuit Court listed the page numbers of the protected documents that it required the Non-Parties to disclose, counsel for the Non-Parties, Mr. Safriet asked:

> MR. SAFRIET: And just if I can, ask a clarifying question on your prior ruling when you listed those numbers. We also had asserted trade secret privilege to numerous of those documents.
>
> And the special master didn't get there, because he found all of them to be protected by the associational privilege. So did Your Honor do the analysis for trade secret too when you looked at these documents, such that we don't need to go back through the record?
>
> THE COURT: I did.

App. J at 7-8.

persons other than those very select persons associated with non-parties. Trade secret protection should therefore have applied and Plaintiffs should have had the burden of showing a "reasonable necessity for the requested materials." *Am. Exp.*, 761 So. 2d at 1208. Again, Plaintiffs could not have made this showing because the pertinent issue is legislative intent – not the Non-Parties' intent.

CONLUSION

Accordingly, this Court should reverse the Circuit Court's May 2, 2014 and May 15, 2014 Orders and allow the Non-Parties' privileged and confidential information to remain privileged and confidential.

Respectfully submitted:

/s/ D. Kent Safriet
D. Kent Safriet / Fla. Bar No. 174939
kents@hgslaw.com
Thomas R. Philpot / Fla. Bar No. 091945
TP@hgslaw.com
Mohammad O. Jazil / Fla. Bar No. 72556
mohammadj@hgslaw.com
HOPPING GREEN & SAMS, P.A.
119 South Monroe Street, Suite 300
(850) 222-7500 / (850) 224-8551 (fax)

Dated: May 19, 2014

SERVICE LIST

George T. Levesque
General Counsel
THE FLORIDA SENATE
305 Senate Office Building
Tallahassee, Florida 32399-1300
Telephone: 850-487-5237
levesque.george@flsenate.gov
carter.velma@flsenate.gov

Counsel for the Florida Senate

J. Andrew Atkinson
Ashley Davis
Florida Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, FL 32399
ashley.davis@DOS.myflorida.com
jandrew.atkinson@DOS.myflorida.com
Diane.Wint@dos.myflorida.com

Counsel for Florida Secretary of State

Karen C. Dyer
BOIES, SCHILLER & FLEXNER, LLP
121 South Orange Ave., Suite 840
Orlando, FL 32801
kdyer@bsfllp.com

Counsel for Romo Plaintiffs

Michael A. Carvin
Louis K. Fisher
JONES DAY
51 Louisiana Avenue N.W.
Washington, D.C. 20001
macarvin@jonesday.com
lkfisher@jonesday.com

Counsel for the Florida Senate

Blaine Winship
Timothy D. Osterhaus
Atty. Gen., The Capitol, Suite PL-01
Tallahassee, Florida 32399-1050
timothy.osterhaus@myfloridalegal.com
blaine.winship@myfloridalegal.com

Counsel for the Attorney General

Benjamin James Stevenson
ACLU of Florida Foundation
Post Office Box 12723
Pensacola, Florida 32591-2723
Phone 786-363-2738
Fax: 786-363-1985
bstevenson@aclufl.org

Counsel for NAACP

Charles T. Wells
George N. Meros, Jr.
Jason L. Unger
Andy Bardos
GRAY ROBINSON, P.A.
P.O. Box 11189 (32302)
301 South Bronough Street; Suite 600
Tallahassee, Florida 32301
Tel. (850) 577-9090
Fax. (850) 577-3311
Charles.Wells@gray-robinson.com
George.Meros@gray-robinson.com
Jason.Unger@gray-robinson.com
Andy.Bardos@gray-robinson.com
croberts@gray-robinson.com
tbarreiro@gray-robinson.com
mwilkinson@gray-robinson.com

Counsel for the Florida House of Representatives

Victor Goode
Dorcas R. Gilmore
NAACP
4805 Mt. Hope Drive
Baltimore, MD 21215-3297
vgoode@naacpnet.org
dgilmore@naacpnet.org

Counsel for NAACP

Raoul G. Cantero
Jason N. Zakia
Jesse L. Green
WHITE & CASE LLP
Southeast Financial Center, Ste. 4900
200 South Biscayne Boulevard
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744
rcantero@whitecase.com
jzakia@whitecase.com
jgreen@whitecase.com
ldominguez@whitecase.com
mgaulding@whitecase.com

Counsel for the Florida Senate

Daniel Nordby
General Counsel
Florida House of Representatives
422 The Capitol
Tallahassee, FL 32399-1300
Daniel.Nordby@myfloridahouse.gov
Betty.Money@myfloridahouse.gov

Counsel for the Florida House of Representatives

Marc Erik Elias (admitted pro hac vice)
John M. Devaney
Perkins Coie, LLP
700 13th Street, NW, Suite 600
Washington, D.C. 20005
Telephone: (202) 434-1609
melias@perkinscoie.com
jdevaney@perkinscoie.com
efrost@perkinscoie.com
syarborough@perkinscoie.com

Counsel for Romo Plaintiffs

Allison J. Riggs, *Admitted Pro Hac Vice*
Anita S. Earls
SOUTHERN COALITION FOR SOCIAL JUSTICE
1415 W. Highway 54, Suite 101
Durham, NC 27707
allison@southerncoalition.org
anita@southerncoalition.org

Counsel for NAACP

Ronald G. Meyer
Lynn Hearn
Meyer, Brooks, Demma & Blohm, P.A.
131 North Gadsden Street
P.O. Box 1547 (32302)
Tallahassee, FL 32301
rmeyer@meyerbrookslaw.com
lhearn@meyerbrookslaw.com

Counsel for Coalition Plaintiffs

Abba Khanna
Kevin J. Hamilton
PERKINS COIE, LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
akhanna@perkinscoie.com
rkelly@perkinscoie.com
KHamilton@perkinscoie.com
rspear@perkinscoie.com
jstarr@perkinscoie.com

Counsel for Romo Plaintiffs

Mark Herron, Esq.
Robert J. Telfer III, Esq.
Angelina Perez, Esq.
Messer, Caparello & Self, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876
Telephone: (850) 222-0720
Facsimile: (850) 558-0659
mherron@lawfla.com
rtelfer@lawfla.com
aperez@lawfla.com
clowell@lawfla.com
bmorton@lawfla.com
statecourtpleadings@lawfla.com

Counsel for Romo Plaintiffs

David B. King
Thomas A. Zehnder
Frederick S. Wermuth
Vincent Falcone, III
KING, BLACKWELL, ZEHNDER & WERMUTH, P.A.
P.O. Box 1631
Orlando, FL 32802-1631
Telephone: (407) 422-2472
Facsimile: (407) 648-0161
dking@kbzwlaw.com
tzehnder@kbzwlaw.com
fwermuth@kbzwlaw.com
vfalcone@kbzwlaw.com
aprice@kbzwlaw.com
courtfilings@kbzwlaw.com

Gerald E. Greenberg
Adam M. Schachter
GELBER SCHACHTER & GREENBERG, P.A.
1441 Brickell Avenue, Suite 1420
Miami, Florida 33131
Telephone: (305) 728-0950
Facsimile: (305) 728-0951
ggreenberg@gsgpa.com
aschachter@gsgpa.com
DGonzalez@gsgpa.com

Counsel for Coalition Plaintiffs

Daniel C. Brown
Carlton Fields Jorden Burt, P.A.
215 S. Monroe Street, Suite 500
Tallahassee, FL 32301
Telephone: (850) 224-1585
Facsimile: (850) 222-0398
dbrown@cfjblaw.com
cthompson@cfjblaw.com
talecf@cfdom.net

David P. Healy
2846-B Remington Green Circle
Tallahassee, FL 32308
Telephone: 850.222-5400
Facsimile: 850.222.7339
dhealy@davidhealylaw.com

Counsel for Non-parties Republican Party of Florida, Frank Terraferma, Richard Heffley & Marc Reichelderfer