IN THE SUPREME COURT OF FLORIDA

CASE NO. 64,450

ON REVIEW OF A CERTIFIED QUESTION
OF GREAT PUBLIC IMPORTANCE FROM
THE SECOND DISTRICT COURT OF APPEAL

THE TRIBUNE COMPANY,

Petitioner,

v.

NORMAN CANNELLA, CHIEF ASSISTANT STATE ATTORNEY, CYNTHIA SONTAG, DIRECTOR OF ADMINISTRATION OF THE CITY OF TAMPA, ROBERT DePERTE, ROBERT JONES, and ROY PIERCE,

Respondents.

and 64,453

ROBERT DePERTE, ROBERT JONES, and ROY PIERCE,

Petitioners,

v.

THE TRIBUNE COMPANY,

Respondent.

INITIAL BRIEF OF DePERTE, JONES and PIERCE

December 16, 1983

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INTRODUCTION

In this brief, Respondents-Petitioners, Robert DePerte, Robert Jones and Roy Pierce, are referred to as the officers; Petitioner-Respondent, The Tribune Company, is referred to as the Tribune; Respondent, Cynthia Sontag, Director of Adminstration of the City of Tampa, is referred to as Sontag or the City. "Tribune's Exhibit" refers to the exhibits filed with the Tribune's petition for writ of certiorari and reply, all filed with the Second District Court of Appeal.

STATEMENT OF THE FACTS AND THE CASE

The Parties seek answers to questions certified by the Second District Court of Appeal, en banc, as being of great public importance.

This case arose out of a records request made pursuant to the Florida Public Records Act, Sections 119.01 et seq., Florida Statutes (1981) (hereinafter the "Public Records Act" or the "Act"), by Carl Crothers, a reporter for The Tribune Company, a daily newspaper formerly published by The Tribune. Crothers was seeking information for an article about the shooting death of John Emmanuel Riley. See The Tribune's Exhibit 2 at ¶¶ 1,2. On June 30, 1982, at about 11:00 p.m., three Tampa Police Department officers had attempted to arrest Riley, who was shot and killed during the incident. See The Tribune's Exhibit 1.

At 9:15 a.m. the next day, Crothers requested the personnel records of the three officers involved in the Riley shooting, Robert DePerte, Robert Jones, and Roy Pierce. The request was directed to respondent Cynthia Sontag, director of administration of the City of Tampa. Sontag refused to comply with the request. See The Tribune's Exhibit 2. Explaining the denial, Sontag cited a policy adopted by the City of Tampa delaying release of public records for a period of seven days to permit notification

by mail to the employee whose personnel records were requested. See The Tribune's Exhibits 2,5.

That afternoon, The Tribune filed a petition for a writ of mandamus against Sontag seeking to compel production of the personnel records requested.

At an emergency hearing convened the next morning, July 2, 1982, Hillsborough County Circuit Judge Daniel Gallagher denied the petition for mandamus. See The Tribune's Exhibit 6 at 10-12.

On July 8, 1982, upon the expiration of the seven-day delay period imposed by the City, The Tribune renewed its Public Records Act request. See The Tribune's Exhibits 9, 10. Counsel for the City informed The Tribune that the records would not be produced until Monday, July 12, to allow the department time to excise certain exempt information from the records and to allow time for the officers to make objections on the basis of any federal right of privacy. See The Tribune's Exhibit 10 at ¶¶2, 3. Upon returning on Monday, July 12, 1982, the reporter was told that the circuit court had held a hearing and entered a temporary restraining order forbidding release of the records. See The Tribune's Exhibit 10 at ¶3; Exhibit 11.

That day the three officers had commenced an action to enjoin permanently any disclosure of their personnel files by the City.

See The Tribune's Exhibit 11; Exhibit 16 at 5-6. Citing the privacy rights of the three officers, Judge Gallagher entered a temporary restraining order forbidding release of the personnel records until Friday, July 16, at 3:15 p.m. at which time the court scheduled a hearing to determine whether the restraining order should be continued. See The Tribune's Exhibit 11.

The Tribune immediately filed an emergency petition for a writ of certiorari with the Second District Court of Appeal seeking emergency review of the trial court's orders preventing disclosure of the records.

The three officers were placed in a dilemma by The Tribune's action. Their Temporary Restraining Order was to expire as a matter of law after ten (10) days. The officers believed the Circuit Court no longer had jurisdiction to grant an extension because of the invocation of the Second District Court of Appeal's jurisdiction by The Tribune. Indeed, Judge Gallagher eventually made such ruling. See The Tribune's Exhibit 18 at 21-22. The officers knew that the Second District Court of Appeal would not rule before their Temporary Restraining Order expired as a matter of law. Consequently, on Friday, July 16, 1982, in order to protect their civil rights, the three officers filed a complaint in the United States District Court for the Middle District of Florida alleging the existence of a controversy between them and

the City of Tampa with regard to the legality of the City's threat to release to the public and press their respective personnel files. Jurisdiction was alleged under Title 42, Section 1983, United States Code. See The Tribune's Exhibit 12.

Judge Krentzman of the Middle District granted ex parte the officers' motion for a temporary restraining order prohibiting the release of the personnel records. See The Tribune's Exhibit 13. At a hearing in Circuit Court later that day, Judge Gallagher deferred ruling on the extension of the temporary restraining order imposed by his court pending action by Judge Krentzman. See The Tribune's Exhibit 16 at 11.

On Monday, July 19, 1982, Judge Krentzman granted The Tribune's motion to intervene in the officers' federal court action and on July 22, 1982, held that although the officers carried their burden of persuading the Federal District Court that irreparable injury would be suffered unless the injunction was issued, that the threatened injury to the officers outweighed the damage which the injunction would cause The Tribune, and that the injunction would not be adverse to the public interest, the court nevertheless dissolved the restraining order, holding that the officers did not have a substantial likelihood of eventual success on the merits. See The Tribune's Exhibit 17. Immediately upon learning of the removal of the federal obstacle to the disclosure

of the records, The Tribune renewed its Public Records Act request to Sontag. She refused to release the records once again, asserting that there was some doubt whether the temporary restraining order issued by Judge Gallagher was still in effect. See The Tribune's Exhibit 18 at 3-5.

At a hearing convened July 23, 1982, Judge Gallagher ruled that the state temporary restraining order was no longer in effect. See The Tribune's Exhibit 18 at 23. There being no further legal obstacles to the release of the records, The Tribune renewed its petition for a writ of mandamus against Sontag. The court refused to act on the petition on the ground that the pendency of the certiorari proceeding in the Second District Court of Appeal prohibited it from doing so. See The Tribune's Exhibit 18 at 21-22. Unimpeded by any restraining order, the City then released the records sought by The Tribune. 8 Fla. L.W. at 2410.

Because of the importance of the issues before the court, the Second District Court of Appeal proceeding continued. The Tribune argued that any delay in the release of public records was unjustified and statutorily forbidden. The officers argued that their constitutional right to privacy was paramount and that a mandatory delay was necessary prior to the release of any records in order to enable them to assert an objection and in order to

bring the issue before a court so that their expectation of privacy could be weighed against the public's right to know.

Oral argument on all the issues presented by The Tribune's emergency petition for certiorari initially occurred before a three judge panel. Thereafter, the district court issued an order, on its own motion, setting an en banc hearing of the court to address the following issue:

> IS ANY DELAY IN RELEASING PERSONNEL RECORDS PURSUANT TO THE PUBLIC RECORDS ACT, CHAPTER 119, FLORIDA STATUTES (1981), REASONABLE AND PERMISSIBLE?

The district court, en banc, issued its ruling on September 30, 1983. The following two questions of great public importance were certified to this Court:

> 1. MAY DISCLOSURE OF NONEXEMPT PUBLIC RECORDS AUTOMATICALLY BE DELAYED FOR A SPECIFIC PERIOD OF TIME FOR ANY REASON?
>
> 2. IF THE ANSWER TO THE FIRST QUESTION IS YES, WHAT IS THE MAXIMUM PERMISSIBLE DELAY PERIOD, AND FOR WHAT PURPOSE OR PURPOSES MAY THE DELAY PERIOD BE INVOKED?

ARGUMENT

I. THERE IS AN ESTABLISHED FEDERAL CONSTITUTIONAL RIGHT TO DISCLOSURAL PRIVACY WHICH CANNOT BE ABRIDGED BY LEGISLATIVE ENACTMENT.

A. UNITED STATES SUPREME COURT AND CIRCUIT COURT DECISIONS ESTABLISH THE INDIVIDUAL'S CONSTITUTIONAL RIGHT TO BE FREE FROM GOVERNMENT DISCLOSURE OF PERSONAL MATTERS.

As recognized by this Court in Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc., 379 So.2d 633 (Fla. 1980), the federal constitutional right to privacy may be viewed as protecting interests asserted under three interwoven strands.

The first strand protects the individual's reasonable expectation of privacy and freedom from government surveillance, and stems from the Fourth Amendment's prohibition against unreasonable search and seizure. See, e.g., Monroe v. Pape, 365 U.S. 167 (1961); Katz v. United States, 389 U.S. 347 (1967).

The second strand evolves from no explicit provision in the Constitution but instead is founded upon the penumbra emanating from the First, Third, Fourth, Fifth and Fourteenth Amendments. Griswold v. Connecticut, 381 U.S. 479, 484 (1965). The second strand protects the individual's autonomy to make decisions relating to such intimate matters as procreation, marriage and

contraception free from government interference. Skinner v. Oklahoma, 316 U.S. 535 (1942); Loving v. Virginia, 388 U.S. 1 (1967); Eisenstadt v. Baird, 405 U.S. 438 (1972). These two strands combine to shelter the individual from improper government information gathering and control over the intimate details of his life. Neither strand, however, protects the individual from disclosure by the government to the public of the individual's private information once gathered. This is the realm of the third strand of the right to privacy, aptly termed the "disclosural strand". Briefly stated, the first two strands relate to what private matters the government may compile and govern while the third relates to what private matters, once compiled by the government, may be disseminated to the public at large.

The disclosural strand of the individual's right to privacy was first considered in the cases of Whalen v. Roe, 429 U.S. 589 (1977) and Nixon v. Administrator of General Services, 433 U.S. 425 (1977), in which the United States Supreme Court expressly recognized and carefully weighed the right of disclosural privacy against the interests in and risks of disclosure.

In Whalen, the constitutionality of a 1972 New York statute requiring the collection and compilation by the Department of Health of the names, addresses and ages of patients prescribed "schedule II" class drugs was challenged. The Court, speaking

unanimously through Justice Stevens, recognized the privacy claim as an "individual interest in avoiding disclosure of personal matters", but upheld the constitutionality of the statute on the grounds that the information was collected for legitimate governmental needs and the risk of public disclosure was minimal. 429 U.S. at 599. At the heart of the Court's decision was its finding that the New York Legislature had protected the individual's right to privacy by specifically prohibiting public disclosure of the indentities of patients utilizing "schedule II" drugs. Id. at 605. In making its determination of the adequacy of the individual's protection, the Court considered not only the statutory prohibition of disclosure but also the possibility of unauthorized disclosure, which it found to be remote. Id. at 600-605.

In Nixon, the Court also recognized the right to disclosural privacy where the Administrator of General Services had collected documents and tape recordings of officials as well as private communications made during Nixon's presidential term. 433 U.S. at 456-459. The Court applied a balancing test to weigh the invasion of Nixon's privacy against the public's right to know and upheld the constitutionality of the Presidential Records and Materials Act against the disclosural strand challenge. Id. at 456, 465. As in Whalen, however, the Nixon Court was

convinced that the risk of public dislosure of Nixon's personal matters was minimal. Id. at 458. The Court considered that adequate protection against public disclosure of personal matters would be provided by national archivists culling such personal matters from the records and materials prior to the public's access to them. Id. at 433-36, 455-65.

In both Whalen and Nixon, the Court found that while a constitutional right to disclosural privacy did exist, the safeguards provided were sufficient to prevent public disclosure of private information. The United States Supereme Court did not, however, as asserted by the Tribune, reject the application of the right. Moreover, when the earlier case of Paul v. Davis, 424 U.S. 693 (1976), is read in conjunction with its progeny, Whalen and Nixon, it becomes evident that the Paul Court did not, as concluded by the Tribune Company, intend to deny the existence of the individual's interest in disclosural privacy. Had the Court so intended, the Court's detailed analysis of the safeguards in Whalen and Nixon would not have been necessary. See L. TRIBE, AMERICAN CONSTITUTIONAL LAW 971 (1978). The Court's concern with the disclosural privacy right was so acute, however, that it found it necessary to consider even the risk of public disclosure, though such disclosure was prohibited by statute in Whalen.

In reliance upon the Whalen and Nixon decisions, the United States Court of Appeals for the Fifth Circuit recognized the disclosural strand of the privacy right and enunciated the proper standard of review when the right conflicts with the public's right to know in the case of Plante v. Gonzalez, 575 F.2d 1119 (5th Cir. 1978). Unlike the Whalen and Nixon cases, Plante involved circumstances where the public disclosure was not only a risk but was instead assured. In Plante, five Florida state senators challenged the financial disclosure section of Florida's Sunshine Amendment based upon the second ("autonomy in intimate decision making") strand and the disclosural strand of the privacy right. The Plante court rejected the senators' argument as to the applicability of the second strand to financial matters but agreed that the disclosural strand was applicable. 575 F.2d 1132. The court then went on to state that review of a claim of infringement of an individual's right to disclosural privacy must consist of a balancing between the interests served by disclosure and those hindered, as well as scrutiny of the concerns advanced by disclosure and consideration of the individual's expectation of privacy. Id. at 1133-1136. Florida's Sunshine Amendment was ultimately upheld against the senators' challenge on the grounds that as elected officials the senators had a limited expectation of privacy and the public's

need to make intelligent voting choices weighed heavily in the balance.

The Fifth Circuit again had the occasion to consider public financial disclosure as balanced against the individual's right to disclosural privacy in the case of DuPlantier v. United States, 606 F.2d 654 (5th Cir. 1979) cert. den. 449 U.S. 1076 (1981), wherein several members of the federal judiciary challenged the constitutionality of the Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824, requiring public officers to file a financial disclosure statement. The grounds asserted by the judges were the second and third (disclosural) strands of the privacy right. As in Plante, the court summarily rejected the application of the second strand, applied the disclosural strand, and, finding that judges, like senators, have a limited expectation of privacy, balanced the judges' privacy interests against the public interest in disclosure to uphold the Act's applicability to the federal judiciary.

In its most recent pronouncement on the right of disclosural privacy, Fadjo v. Coon, 633 F.2d 1172 (5th Cir. 1981), the Fifth Circuit considered the public disclosure of a private individual's personal information by a Florida State Attorney's office. Fadjo had supplied the State Attorney's office with intimate personal information upon assurances that the information would remain

confidential. The State Attorney's office later released the information to private insurance companies investigating Fadjo. The court upheld Fadjo's right to disclosural privacy by applying the balancing test set forth in Plante, finding that even if the information were properly obtained, the state may have unconstitutionally invaded Fadjo's privacy right if no legitimate state interest in public disclosure existed to outweigh the invasion. 633 F. 2d 1175. Furthermore, the Fifth Circuit rejected the argument, based on Wait v. Florida Power & Light Co., 372 So.2d 420 (Fla. 1979), that the information obtained from Fadjo was a matter of public record under Florida law and that therefore no privacy violation could be involved in releasing it, stating that "it is clear that the legislature cannot authorize by statute an unconstitutional invasion of privacy". 633 F.2d 1176, n.3.

The Tribune's attempt to distinguish Fadjo on the basis that Fadjo was a private individual rather than a public employee is ineffective because it considers only one side of the scale in the balancing test, namely the weight of the individual's privacy right. The Tribune's analysis completely ignores the second side of the scale which relates to the weight of the interests advanced by disclosure under the circumstances. In Fadjo, the court's decision was based not only on Fadjo's private status but

also on the finding that no legitimate public interest was served by such disclosure. Id. at 1176. The court previously recognized in Plante that "[d]isclosure is not helpful because it fulfills an independent 'right'" but only where it fulfills a legitimate state or public interest. 575 F.2d 1134-1135. Obviously, the Plante and Fadjo Courts were able to make the distinction that the Tribune has not: that the public's right to disclosure about government and the public's right to disclosure about individuals are two very different things and do not carry equal weight when balanced against the individual's right to privacy. Moreover, the Tribune's characterization of Fadjo does not take cognizance of the fact that while a private individual may have a "weightier" right to privacy than a senator or judge, the Plante and DuPlantier decisions clearly establish that even public office does not deprive the individual of all constitutional protection. See, e.g. 575 F.2d 1135-1136. Consequently, it is an improper conclusion that one either has a privacy right as a private individual or has none by virtue of his being a senator, or judge. What is clear is only that a public employee such as a policeman or fireman has a right of disclosural privacy possibly less "weighty" than that of a private individual and in all likelihood more "weighty" than that of a judge or senator, depending on the circumstances. And whether that right

will operate to preclude disclosure depends on the "weight" on the other side of the scale in favor of such disclosure.

In addition, the Tribune has incorrectly equated the public interest in the disclosure of financial information provided by public officials and employees, with the public interest in all government compiled personal information about individuals, and concluded that because the case law supports disclosure of financial information by such individuals, all information about them will necessarily be subject to the same disclosure. This appeal, however, is not brought to decide such a narrow issue as mere financial disclosure. It concerns a challenge not to the application of the Sunshine Amendment but the Public Records Act, which is unequivocably far more comprehensive in its scope. For these reasons, the Tribune's assertion that the "interests in public disclosure served by the disclosure laws outlined in DuPlantier, Barry and Plante are indentical to the interest served by the Florida Public Records Act" is plainly inaccurate.

Whalen, Nixon, Plante, DuPlantier and Fadjo stand not for the proposition that the public at large may obtain all individually identifiable personal information from the government for any reason whatsoever, but instead that the individual's interest in privacy must be weighed agaianst the public's interest in disclosure on a case by case basis.

B. THE FLORIDA LEGISLATURE MAY NOT DIVEST FLORIDA CITIZENS OF THEIR RIGHT OF DISCLOSURAL PRIVACY BY THE ENACTMENT OF A STATUTE.

The Florida Legislature is not empowered to abolish the federal constitutional right to disclosural privacy by merely enacting a statute and providing that there will be no exceptions thereto except those it specifically enumerates. See, e.g., Carter v. Carter Coal Co., 298 U.S. 238 (1936). If it were otherwise, each and every constitutional right held dear by the citizens of this nation could be as easily obliterated by a state legislature at its whim. As stated by Chief Justice Marshall in Marbury v. Madison:

> the Constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like ordinary legislative acts, is alterable when the legislature shall please to alter it. If the former part of the alternatives be true, then a legislative act contrary to the Constitution is not law; if the latter parts be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.

5 U.S. 137 (1803). Consequently, one must conclude, as did the Court in Fadjo, that the "legislature cannot authorize by statute an unconstitutional invasion of privacy". 633 F.2d 1176, n.3.

As stated by the Tribune, the "continued viability of the Florida Public Records Act" is at stake. The reason it is at

stake, however, is not because the Act may be compromised by delays in order to protect the rights of public officials and employees but because without such compromise in its application, the Act is clearly unconstitutional.

II. IN ORDER TO AFFORD PROPER DEFERENCE TO THE FEDERAL CONSTITUTIONAL RIGHT OF DISCLOSURAL PRIVACY AND PRESERVE THE FLORIDA PUBLIC RECORDS ACT, THE ACT MUST BE APPLIED SO AS TO ALLOW REASONABLE DELAYS FOR THE NOTIFICATION OF AFFECTED INDIVIDUALS AND THE TIMELY ASSERTION OF THEIR RIGHTS.

Without question, the purpose of the Public Records Act is to enable the Florida citizenry to obtain information about their government. In application, however, the Act has become warped in that it has been allowed to be used to obtain not only information about the government but information about individuals that the government has compiled in whatever context. For example, as the Public Records Act is currently being applied, the names and addresses of the prescription drug patients, which the Whalen court so carefully protected from public disclosure, would be readily available. This is caused in part by the fact that under the Public Records Act what information comes into government goes out to the public, as if the public's interest in disclosure were the same in each case as the government's interest in obtaining such information. Again, as demonstrated by Whalen, this is not so.

In the case of public employees, the government is the direct employer while the employee only serves the public and the public can be said to be the employer only in an indirect sense. The Tribune Company would have us believe, on the other hand, that the public is the direct employer and therefore should be privy to the same knowledge that the director of personnel, president or other official in charge of hiring in a private corporation would need to know. This is not the case.

In the context of public employee personnel records, the distinction between information about government and information about an individual becomes more blurred. As stated earlier, all individuals, including public officials and employees, have an interest in and an expectation of privacy in the government records relating to them, more or less "weighty", depending upon the individual's status. This right is limited only by the public's legitimate interest in its government. Just as the court in Plante and DuPlantier held that both senators and judges had less of an expectation of privacy than private citizens because of their public position, so, too, do police officers, firemen, sanitation workers and public building janitors have less of an expectation of privacy. But their expectations of privacy are nonetheless different from those of judges or senators. What that expectation of privacy is in any given situation must be

measured by the circumstances in that particular situation, including the position of the individual and the information sought, and weighed against the purpose for which it is sought. For example, the financial records of a person who is in a policy-making government position are more likely to be relevant to the public's interest in its government than the financial records of a public employee who holds only a ministerial position. However, under some circumstances, the financial records of an employee in a ministerial position may very well be relevant, as in the case where there are accusations of corruption among police officers.

The Public Records Act, as it is being applied, however, makes no such distinction. Nor could it, since the legislature in enacting this law could no more foresee the varied requests to be made and the purposes therefor, than the individual could in order to enable him to prescreen his records. Thus, the Tribune's contention that an individual's constitutional right of disclosural privacy in his personnel records can be adequately protected by monitoring his file is fallacious.

Consequently, an individual is only capable of making a determination of the propriety of disclosure upon disclosure to him of the request and its purported relationship to the public's need to know about government. The answer cannot precede the

question. The same holds true for a court. Thus, the federal courts have adopted the balancing test to be applied once the request is made and the right asserted.

The Tribune opposes this position. It is their assertion that affording the individual the opportunity to object to disclosure will cause a costly adventure into the court system every time a records request is made with the result that news will be delayed and thus denied unnecessarily.

Initially, it may be true that protection of the right will require substantial court interpretation. However, what price is too great to pay in order to protect our constitutional rights? As a practical matter, a body of case law will develop to provide guidance as to what personal matters, and in relation to whom should be disclosed under particular sets of circumstances. The foregoing principal is exemplified by the cases discussed earlier concerning financial disclosure, all of which were also cited by The Tribune in its brief. In those cases, a body of law was developed indicating to the individuals and the public exactly which matters were subject to disclosure and which were not. Today, comparatively little litigation occurs concerning financial disclosure.

Perhaps not to be given as much weight, but certainly worthy of consideration in making the determination of the question

before this Court, is the reality of who is most often making a records request and which party has the financial wherewithal to proceed. More often than not the source of the request is the news media. As in the case at bar, the news media is in the better financial position to bear the expense of moving forward to assert its position that the public's right to know in a particular case outweighs the public employee's right of disclosural privacy.

Thus the response to the Tribune's maxim that "news delayed is news denied" must be that no news is good news when the alternative is the violation of an individual's constitutional right of disclosural privacy.

CONCLUSION

For the foregoing reasons, the answer to the Second District Court of Appeal's certified questions of whether disclosure of non-exempt public records may automatically be delayed for a specific period of time for any reason, and, if so, what the maximum permissible delay period is and for what purposes the delay period may be invoked are as follows:

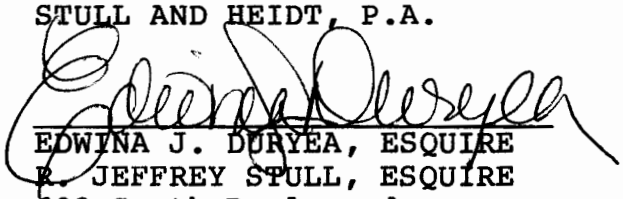
The individual's federal constitutional right to disclosural privacy can only be protected by the institution of a delay in order to give the public agency controlling the records requested such reasonable time as is necessary to notify the affected individual. After notification, the individual will need only a brief time in which to assert an objection to disclosure based upon his right of disclosural privacy. At that point, the burden would be on the party requesting the information to demonstrate before a court a legitimate public interest outweighing the individual's privacy right.

Thus a reasonable delay is necessary, but it is impossible to set a specific time constraint on the delay because the reason for the necessity is to provide the individual affected with notice

and an opportunity to assert his right of disclosural privacy not to provide him with time to file a lawsuit.

Respectfully submitted,

STULL AND HEIDT, P.A.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Brief of Robert DePerte, Robert Jones and Roy Pierce, Respondents - Petitioners has been furnished by United States Mail to Luis G. Figueroa, Esquire, Assistant City Attorney, counsel for Cynthia Sontag, 5th Floor, City Hall, 315 E. Kennedy Boulevard, Tampa, Florida 33602; Eric J. Taylor, Esquire, Assistant Attorney General, counsel for Normal Cannella, Department of Legal Affairs, The Capitol-Suite 1501, Tallahassee, Florida 32301; Sanford L. Bohrer, Paul & Thomson, 1300 Southeast Bank Building, Miami, Florida 33131; Richard J. Ovelman, Esquire, General Counsel, The Miami Herald Publishing Company, One Herald Plaza, Miami, Florida 33101; George K. Rahdert, Esquire, and Patricia F. Anderson, Esquire, Rahdert, Anderson & Richardson, Post Office Box 960, St. Petersburg, Florida 33731; Steven Carta, Esquire, Carta & Ringsmuth, Post Office Box 2446, Fort Myers, Florida 33902-2446; and to Julian Clarkson, Esquire, Gregg D. Thomas, Esquire, Steven L. Brannock, Esquire, Mike Piscitelli, Esquire, Holland & Knight, Post Office Box 1288, Tampa, Florida 33601, Attorneys for The Tribune Company, this 16th day of December, 1983.