IN THE SUPREME COURT OF FLORIDA

CASE NO. ~~65,788~~ 65,786

CAMPUS COMMUNICATIONS, INC.

Petitioner

vs.

DEPARTMENT OF REVENUE

Respondent

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ON PETITION TO REVIEW A DECISION OF THE
FIRST DISTRICT COURT OF APPEAL

Amicus Curiae Brief of The Miami Herald Publishing Company

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INTEREST OF THE AMICUS CURIAE

The Miami Herald Publishing Company takes an interest in this case because it raises a fundamental issue regarding freedom of the press: whether the First Amendment and state constitutional protections of the press permit the state to impose the sales tax in a discriminatory fashion on a legitimate newspaper such as The Independent Florida Alligator while other legitimate newspapers are exempt from the tax.

The Miami Herald enjoys the benefits of the statutory exemption from the sales tax, but is concerned that the state should not be permitted to limit application of the newspaper tax exemption by defining "newspapers" so as to exclude publications such as The Alligator which fall within the common sense meaning of the word "newspaper." This Court and the United States Supreme Court have recognized that the mere power to impose taxes against legitimate newspapers in a discriminatory fashion presents such a grave threat to freedom of the press that it will not be tolerated. The instant case presents the Court with the opportunity to reaffirm this fundamental principle.

STATEMENT OF THE CASE AND THE FACTS

The Miami Herald adopts the statement of the case and the facts provided by the petitioner, but provides this separate statement for the convenience of the Court and to summarize its view of the essential facts of the case.

The Transaction at Issue

The taxpayer in this case is Campus Communications, Inc., a not for profit Florida corporation which publishes The Independent Florida Alligator.[1] The publication is written, edited, and prepared for printing by employees of Campus Communications, Inc. The actual printing of The Alligator is not done, however, by Campus Communications. A separate corporation, Carlson Color Graphics, does the printing of approximately 30,000 copies for each day that The Alligator is published. (R. 108).

The transaction which the Department seeks to tax is Campus Communications' payment to Carlson Color Graphics for the printing of The Alligator.

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1. From 1906 through 1973, a publication named The Florida Alligator was published by the University of Florida. The University chose to cease publication in 1973. Immediately thereafter Campus Communications. Inc. was formed to continue publication of The Florida Alligator under the name The Independent Florida Alligator. The majority of the board of directors of Campus Communications, Inc. must be students enrolled at the University of Florida, the editorial staff of The Independent Florida Alligator is composed solely of students enrolled at the University of Florida, and the publication is circulated throughout Gainesville and on the University of Florida campus. Thus, the character of the publication has remained largely unchanged by its change in publishers.

The Department and Campus Communications appear to agree that the transaction is a taxable sale[2] because The Alligator is not sold to the great majority of its readers.[3] The dispute between the parties is whether the transaction has been or must be exempt from the sales tax.

The Statutory Tax Exemption for Newspapers

The statutory tax exemption for newspapers, subsection 212.08(6), Florida Statutes (1979), provides in pertinent part:

> 212.08 Sales, rental, use, consumption, distribution. and storage tax; specified exemptions. -- The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter.
>
> * * *
>
> (6) EXEMPTIONS; POLITICAL SUBDIVISIONS, COMMUNICATIONS. -- There are also exempt from the tax imposed by this chapter sales made to the United States Government, the state, or any county, municipality, or political

---

2. The Miami Herald questions whether printing for a company such as Campus Communications constitutes a "sale" for purposes of the sales tax. Section 212.02(2)(b) defines the word "sale" as including ". . . printing . . . of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the . . . printing." Campus Communications is not a consumer of printed material, but rather makes this purchase for the purpose of redistributing the printed material to readers.

3. The sales tax is not imposed on purchases for resale, but rather only on purchases by an ultimate consumer. The statute does not seem to contemplate expressly the transaction at issue in this case -- a purchase for redistribution tantamount to resale.

> subdivision of this state . . . Likewise exempt are newspapers; film rentals, when an admission is charged for viewing such film; and charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.

The decisions of both the district court of appeal and the circuit court below turned on the parties' interpretations of this language.

The Department's Interpretation of the Tax Exemption for Newspapers

The Department argued below that the exemption is not applicable to the transaction at issue because The Alligator, as a publication which is distributed primarily without charge, does not fall within the Department's definition of the word "newspaper." Subsection (3) of Rule 12A-1.08 of the Florida Administrative Code, defines the term "newspaper" as follows:

> In order to constitute a newspaper, the publication must contain at least the following elements:
>
> (a) It must be published at stated short intervals (usually daily or weekly).
>
> (b) It must not, when successive issues are put together, constitute a book.
>
> (c) It must be intended for circulation among the general public.
>
> (d) It must have been entered or qualified to be admitted and entered as

second class mail matter at a post office in the country where published.4

(e) It must contain matters of general interest and reports of current events. If the publication is devoted primarily to matters of specialized interests such as legal, mercantile, political, religious or sporting matters, and it contains in addition thereto general news of the day, information of current events and news of importance and of current interest to the general public, it is entitled to be classified as a newspaper.

Subsection (4) adds this element to the definition of newspaper:

To qualify for exemption as a newspaper, a publication must be sold and not given to the reader free of charge. So-called-newspapers which are given away for advertising and public relations purposes are taxable.

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4. The requirements for admission and entry as second class mail at a United States post office are found in the Domestic Mail Manual. The pertinent sections read as follows:

422.221 List of subscribers. General publications must have a legitimate list of subscribers who have paid or promised to pay, at a rate above a nominal rate, for copies to be received during a stated time . . .

422.223 Free or Nominal Rate Circulation. Publications primarily designed for free circulation and/or circulation at nominal rates may not qualify for the general publications category. Publications are considered primarily designed for free circulation and/or circulation at nominal rates when one-half or more of all copies circulated are provided free of charge to the ultimate recipients, or are paid for at nominal rates by the ultimate recipients, or when other evidence indicates that the intent of the publisher is to circulate the publication free and/or at nominal rates. The distribution of all copies of a publication is considered, whether circulated in the mails or otherwise.

The Department also argued that even if it had defined the word "newspaper" in a manner that would include The Alligator, the transaction at issue would not be exempt from the sales tax because the exemption applies solely to sales of newspapers to readers and not to publishing companies' purchases of raw materials or payments for printing costs.

Thus, under the Department's interpretation of the tax laws, no tax is imposed on any of the transactions which lead to publication of The Miami Herald,[5] but a sales tax is imposed on the printing of The Independent Florida Alligator. The Department made no argument in its brief filed in the District Court of Appeal regarding the constitutionality of its interpretation of the newspaper exemption.

Campus Communications' Interpretation of the Tax Exemption for Newspapers

Campus Communications did not challenge the Department's conclusion that The Alligator does not fall within the Department's own definition of the word "newspaper." The undisputed facts showed that The Alligator was not within the Department's definition because during the assessment period approximately

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5. The Department has expressly recognized this point in Rule 12A-1.28, Fla. Admin. Code, which provides: "The purchase by a printer, including publishers of newspapers, magazines, periodicals. etc., of materials and supplies which become a component of the printed matter for resale, are exempt from the tax. Examples of such items are: . . . newsprint, printer's ink . . ."

99.754 percent of The Alligator's circulation was distributed free of charge from rack locations in Gainesville, Florida and through a small number of free mail subscriptions. (R. 109, 135). In addition, The Alligator had not been entered or qualified as second class mail matter at a post office in the United States (R. 33) and indeed could not be so entered or qualified because of its free circulation. The applicable postal regulations are set forth in footnote 4 supra. Otherwise, The Alligator undisputedly met all of the Department's criteria.

Campus Communications advanced arguments below attacking the Department's regulations as an unlawful exercise of delegated legislative authority and the Department's general interpretation of the sales tax exemption for newspapers as erroneous.

The publishing company first argued that the Department erred in defining "newspapers" in its regulations in such a narrow fashion as to exclude a publication such as The Alligator which falls within the common sense definition of the word. See Gasson v. Gay, 49 So.2d 525 (Fla. 1950)(interpreting statutory use of the term "newspaper" to encompass publications which meet the "common sense" definition).

The company also argued that the Department misinterpreted both the scope of the statutory exemption and the nature of the transaction at issue. The applicability of the exemption, the company argued, is not limited to sales of newspapers to readers. The exemption must be read as extending to all transactions involving the production of newspapers including the payment of printing costs. Alternatively, the

company argued that the transaction itself should be considered a sale of newspapers rather than just a purchase of raw materials because Campus Communications actually purchases finished-product newspapers from its printer.

Finally, Campus Communications argued that if the Department's regulations or interpretation of the newspaper exemption were accepted, the taxing scheme would be unconstitutional.

The Trial Court's Opinion

The trial court agreed with the statutory construction arguments advanced by Campus Communications. Holding that "[T]he 'Alligator' has the traditional newspaper functions such as national as well as international news, comics, sports, weather reports, editorial opinion, classified adds (sic), as well as other articles which affords to the 'Alligator' a 'common sense' interpretation of the term newspaper," Judge Sanders found the Department's definition of the word "newspaper" to be "outside the range of delegated legislative authority." (R. 114).

To find that The Alligator "is simply an advertising 'give away' is absolutely contrary to the facts in this case and to argue that its primary purpose is not the dissemination of news is equally unsupported by the facts," the Court concluded in entering summary judgment for Campus Communications. (R. 114). The trial court did not reach the constitutional issue raised by Campus Communications.

The First District's Opinion

The District Court of Appeal agreed with the trial court that "The Alligator is clearly not a 'shopper' but is a 'newspaper' within the common sense of the word and is not given away for advertising and public relations purposes," ___ So.2d at ___. The Court nevertheless reversed the summary judgment finding that the Department's regulations were "a valid exercise of delegated legislative authority." Id.

The Court questioned, however, whether the tax exemption for newspapers constitutionally could be denied to The Alligator, certifying this issue as having great public importance:

> Is Rule 12A-1.08, Fla. Admin. Code, which requires taxation of all publications which are not sold but are given away, unconstitutional as applied to The Alligator and similarly situated school publications?

The court provided no discussion of the constitutional issue which it found to be of great public importance. If, however, this Court accepts the First District's interpretation of the statutory newspaper exemption, and rejects the interpretation given to the statute by the trial court and Campus Communications, both federal and state constitutional issues must be addressed because, as will be seen in the argument below, that interpretation abridges the First and Fourteenth Amendments of the United States Constitution and the freedom of press and equal protection guaranties of the Florida Constitution.

ARGUMENT

This brief makes two points. First, the Department of Revenue's interpretation of the statutory tax exemption for newspapers is plainly contrary to legislative intent and unlawfully expands the applicability of a tax. Second, the Court must reject the Department's interpretation of the tax exemption for newspapers because it requires imposition of an unconstitutional discriminatory tax against some legitimate newspapers and not against others.

Each of these points is discussed separately below.

I.

The Department's Interpretation of the Newspaper Tax Exemption is Contrary to the Plain Intention of the Legislature

The Department's interpretation of the statutory sales tax exemption for newspapers as excluding The Independent Florida Alligator -- a publication which all parties agree meets the plain and ordinary definition of the word "newspaper" -- is an invalid exercise of delegated legislative authority because it is contrary to the intention of the Legislature.

State agencies may not interpret statutes in a manner which is clearly contrary to the intent of the legislature. State ex rel. Fronton Exhibition Co. v. Stein, 144 Fla. 387, 198 So. 82 (1940); State ex rel. Bennett v. Lee, 123 Fla. 252, 166 So. 565 (1936); Florida Dairy Farmers Federation v. Borden Co., 155 So.2d 699 (Fla. 1st DCA 1963). It is clear from the face of

the language of the statutory exemption itself -- "Likewise exempt are newspapers" -- that the Legislature intended to exempt newspapers from the sales tax. Yet, the Department has interpreted the statute as not being applicable to a publication which all parties agree is a newspaper. The Department's interpretation of the statute therefore is invalid.

Furthermore, state agencies may not under any circumstances promulgate regulations which expand the applicability of a tax. See, e.g., State ex rel. Murray v. Wood, 132 Fla. 325, 181 So. 381 (1938); Smith v. Department of Revenue, 376 So.2d 421 (Fla. 3rd DCA 1979). By interpreting the Legislature's tax exemption for newspapers in an overly narrow fashion, the Department has unlawfully expanded the applicability of the sales tax to include a publication which unquestionably falls within the common sense definition of the word "newspaper."[6]

As the trial court in this case concluded, the Department's conclusion is "in conflict with Section 212.08(6),

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6. The Department's own regulations seem to belie the Department's argument that no free distribution newspaper is entitled to the sales tax exemption. Rule 12A-1.08(4) does provide that "To qualify for exemption as a newspaper, a publication must be sold and not given to the reader free of charge." But the rule continues on to explain that, "So-called-newspapers which are given away for advertising and public relations purposes are taxable." Thus it appears that the Department's regulations seek to deny the sales tax only to advertising "shoppers" and public relations "throwaways." The Department's regulations clearly are not aimed at denying the sales tax exemption to legitimate newspapers such as The Alligator. The Department has erred not only in interpreting the legislative tax exemption for newspapers, but in interpreting its own regulations.

Florida Statutes [the newspaper tax exemption], and go beyond the meaning and intent of the legislative authority and therefore are invalid."

If this argument is accepted, this Court need go no further. The Department's interpretation of the tax exemption may be held contrary to the intention of the Legislature and the the decision of the District Court of Appeal should be quashed. If, however, the Court cannot determine the plain intention of the Legislature from the face of the statute or cannot determine whether the Department's interpretation of the statute is consistent with the Legislature's intention, the Court then must determine whether the interpretation of the statute urged by the Department is constitutional.

II.

The Court Must Reject the Department's Narrow Interpretation of the Tax Exemption Because it Would Render the Tax Unconstitutional

If a statute can be interpreted as constitutional, it should be so interpreted. VanBibber v. Hartford Accident & Indemnity Insurance Co., 439 So.2d 880 (Fla. 1983). Indeed, this Court has held that where an interpretation upholding the constitutionality of an act is available, the Court must adopt that construction. Department of Insurance v. Southeast Volusia Hospital District, 438 So.2d 815 (Fla. 1983); Miami Dolphins, Ltd. v. Metropolitan Dade County, 394 So.2d 981 (Fla. 1981). This point demonstrates that the Department's interpretation of

the newspaper tax exemption would render the sales tax unconstitutional as applied to The Alligator and therefore that interpretation must be rejected.

The United States Supreme Court established in Minneapolis Star and Tribune Co. v. Minnesota Commissioner of Revenue, ____ U.S. ____, 103 S.Ct. ____, 75 L.Ed.2d 295 (1983), that a state tax which is targeted solely at a small number of newspapers abridges the First and Fourteenth Amendments unless the state can show a compelling interest in maintaining such a tax. The effect of the Department of Revenue's interpretation of the statutory newspaper tax exemption is to impose the sales tax solely upon newspapers such as The Alligator. The state has no compelling interest in such a tax. Accordingly imposition of the tax on The Alligator would be unconstitutional.

The amicus notes at the outset of this argument that the issue presented by this case is narrow. Both the trial court and the district court of appeal reached the conclusion that The Alligator is a traditional "newspaper" as that word is commonly understood. Whether other publications, which are not so clearly "newspapers," have a state or federal constitutional right to share in the sales tax exemption is not before the Court.[7]

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7. That issue which was considered by the First District in North American Publications, Inc. v. Department of Revenue, 436 So.2d 954 (Fla. 1st DCA 1983), pet. for rev. denied, 449 So.2d 265 (Fla. 1984).

A. Discriminatory Taxation of The Alligator is Prohibited Absent Compelling Interests

The question certified to this Court by the District Court of Appeal can be answered quite easily because there is very clear authority interpreting both the federal and state constitutional provisions which limit the authority of the state to impose discriminatory taxes on newspapers. Both lines of authority hold that discrimination is prohibited absent compelling interests.

1. Discriminatory Imposition of the Tax Violates the First Amendment Absent Compelling Interests

From 1967 until 1971, the Minnesota statute examined by the Supreme Court in Minneapolis Star, like the Florida statute, included a general sales and use tax exemption for newspapers. In 1971, however, the Minnesota legislature amended its tax law to impose a use tax on the cost of paper and ink consumed in the production of a publication. In 1974, the legislature again amended the statute to exempt the first $100,000 worth of ink consumed by a publication in any calendar year.

The Court held this type of tax "violates the First Amendment . . . because it targets a small group of newspapers. The effect of the $100,000 exemption enacted in 1974 is that only a handful of publishers pay any tax at all, and even fewer pay any significant amount of tax." Id. at 308-09.

The state argued that its tax plan should be upheld by the Court because it was "part of a policy favoring an

'equitable' tax system" which placed the heaviest tax burden on the largest publishers. Id. at 309. The Court rejected that argument, however, commenting, "Whatever the motive of the legislature in this case, we think that recognizing a power in the State . . . to tailor the tax so that it singles out a few members of the press presents such a potential for abuse that no interest suggested by Minnesota can justify the scheme. . . . [W]hen the exemption selects such a narrowly defined group to bear the full burden of the tax, the tax begins to resemble more of a penalty for a few of the largest newspapers than an attempt to favor struggling smaller enterprises." Id.

Just one year after the Minneapolis Star decision was announced, a federal district judge declared the discriminatory application of postal regulations to free circulation newspapers unconstitutional. In Enterprise, Inc. v. Bolger, 582 F. Supp. 228 (E.D. Tenn. 1984), a newspaper publisher brought an action challenging the constitutionality of the postal regulations which specify publications which qualify for second-class mailing permits and expedited "newspaper treatment."

The federal court first noted that the "paid-subscriber requirement for general second-class publications has never been challenged in the courts. Perhaps this is because it is unusual to find a newspaper (rather than an advertising circular or 'shopper') which is distributed free of charge." Id. The Court held the regulations had been unconstitutionally applied to the publication at issue, a free weekly newspaper.

Although there was "no suggestion that second-class mailing privileges are being denied plaintiff because of the contents of The Enterprise," the Court held, "the regulations might well work to stifle the dissemination, through the mails, of different points of view and opinions. The private publication of newspapers espousing different political views is a highly prized First Amendment freedom which should not be burdened by arbitrary postal regulations." Id. at 230.

The Bolger decision is particularly significant because the Florida Department of Revenue is now using the very same postal regulations at issue in Bolger to deny the sales tax exemption to publications such as The Alligator. Rule 12A-1.08 (3)(e) specifies that to qualify as a "newspaper" under the newspaper tax exemption statute, a publication "must have been entered or qualified to be admitted and entered as second class mail matter at a post office in the country where published."

Given that the postal regulations have been declared unconstitutional to the extent that they discriminate against free circulation newspapers, the Department should not be permitted to impose a paid circulation requirement as a barrier to receiving the sales tax exemption unless of course the tax were narrowly tailored to serve some compelling state interest.

2. Discriminatory Imposition of the Tax Violates the State Constitution Absent Compelling Interests

Well before either the Bolger or Minneapolis Star cases had been decided, this Court had firmly established that any tax

which discriminates between different types of newspapers abridges both the federal and state constitutions. In City of Tampa v. Tampa Times Co., 153 Fla. 709, 15 So.2d 612 (1943), the Court held a tax which discriminates between newspapers with different circulations violates the First and Fourteenth Amendments.

The Court commented, "We cannot say that the tax levied here is arbitrary, unreasonable or was actuated by anything other than good motive, however, we rest our decision solely upon the proposition that any license tax based on volume of circulation and graduated by scale as is here presented is void as impairing the freedom of the press guaranteed by the First and Fourteenth Amendment to the United States Constitution." Id. at 711, 15 So.2d at 612-13.

This Court again examined the constitutional limitations on the power to impose discriminatory taxes in Volusia County Kennel Club, Inc. v. Haggard, 73 So.2d 884 (Fla.), cert. denied sub nom Lane v. Volusia County Kennel Club, Inc., 348 U.S. 865 (1954). The case dealt with the Legislature's imposition of a tax which discriminated between different types of dog tracks. The Court held such a tax violates the Equal Protection Clause of the Fourteenth Amendment and the Declaration of Rights of the Florida Constitution. On rehearing, the Court took the opportunity to again discuss the dangers of allowing discriminatory taxes to be imposed on newspapers. After quoting from the Tampa Times decision, the Court concluded that such a

tax, apart from First Amendment concerns, would fail to survive equal protection scrutiny, stating:

> If such a theory were ever countenanced it would be entirely possible, for example, to levy a progressive privilege tax on each daily newspaper published in the State, in accordance with a stated classification such as exists in the tax here involved, with a proviso in the statute that as to a daily circulation of 100,000 copies the tax would be 1 [cent] per copy but that for every copy beyond that figure an additional tax of 1 [cent] per copy would be levied, progressively for each 10,000 papers sold.
>
> It should not be difficult to discern that such a tax would depend solely on circulation and would operate to penalize every effort to increase circulation. Inequality becomes so apparent and obvious when the rate of taxation is increased based solely on the amount of business done that further discussion of the question is unnecessary.
>
> 73 So.2d at 898.

The Department of Revenue's denial of the newspaper tax exemption to The Alligator because it is distributed without charge is just as inequitable as the taxes held unconstitutional on First Amendment grounds in Tampa Times Co. and on equal protection grounds in Volusia County Kennel Club.[8]

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8. The arguments advanced by the taxpayers in Volusia County Kennel Club rested primarily on equal protection analysis. The Minneapolis Star and Tribune advanced the same equal protection arguments in the United States Supreme Court, but the Court did not reach that issue finding that it was sufficient to conclude that the Minnesota tax violated the First Amendment. 75 L.Ed. at 309 n.17. "We . . . view the problem as one arising directly under the First Amendment, for . . . the Framers perceived singling out the press for taxation as a means of abridging the freedom of the press." Id. at 305 n.7.

B. The Department's Interpretation of the Newspaper Tax Exemption Discriminates Against A Legitimate Newspaper

Just as Minnesota's unconstitutional tax law did, Florida's tax law -- as it is interpreted by the Department of Revenue -- targets a small group of legitimate newspapers to pay a tax. For that reason alone, if the Department's interpretation of the law is accepted, the sales tax must be held unconstitutional as applied to The Alligator unless the state can demonstrate compelling interests justify such a scheme.

A side by side comparison of the Minnesota and Florida tax schemes illustrates the similarity of the plans.

Minnesota Tax Scheme	Florida Tax Scheme
Statute imposes sales or use tax on all transfers of tangible personal property	Statute imposes sales or use tax on all transfers of tangible personal property
Statute exempts publications from sales and use taxes.	Statute exempts newspapers from sales and use taxes.
Statute denies the exemption for uses of paper and ink products in excess of $100,000 per year	Department's interpretation of statute denies the exemption for sale of free circulation newspapers.

Although the two states have employed slightly different methods of achieving their objectives, the result in both states is that a special tax is imposed on a small portion of the press. It was this result that the Minneapolis Star case held directly abridges the First Amendment. Unlike, Minnesota's law, however, the Florida law imposes the tax only on the smallest newspapers such as The Independent Florida Alligator and other small newspapers which cannot command a large paid circulation.

Both the trial court and the District Court of Appeal agreed that there is no question regarding The Alligator's status as a legitimate newspaper.

C. There are No Compelling Interests to Justify Discriminatory Taxation of The Alligator

Throughout this litigation, the Department has made no effort to justify its interpretation of the newspaper tax exemption as serving any governmental interests other than the interest in raising revenue. In Minneapolis Star, the United States Supreme Court recognized that such an interest is critical to any government, but that it does not constitute a compelling interest sufficient to warrant an infringement on First Amendment rights. 75 L.Ed.2d at 305.

Minnesota also was able to argue that its tax -- which applied solely to large newspapers -- was part of an equitable system of taxation which sought to favor smaller struggling enterprises. The Supreme Court also rejected that argument. In the instant case, as shown above, even that failed argument is not available to the State of Florida because Florida's tax scheme, as it is interpreted by the Department and the First District Court of Appeal, grants the exemption to the largest newspapers and denies it to the smallest newspapers. There is no compelling interest to warrant denial of the sales tax exemption to The Alligator.

CONCLUSION

The statutory tax exemption for newspapers should be held applicable to the transaction at issue. The Department of Revenue's restrictive interpretation of that tax exemption is an unlawful exercise of delegated authority because it is plainly contrary to the intention of the Legislature. Alternatively, the Court must reject the Department's interpretation of the newspaper tax exemption because that interpretation would render the sales tax unconstitutional as applied to The Alligator. The statute can and should be interpreted in a constitutional fashion as suggested by Campus Communications. The language of the exemption itself -- "Likewise exempt are newspapers" -- supports such an interpretation.

The decision below should be quashed and the district court of appeal should be directed to affirm the judgment of the circuit court.

Respectfully submitted,

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Certificate of Service

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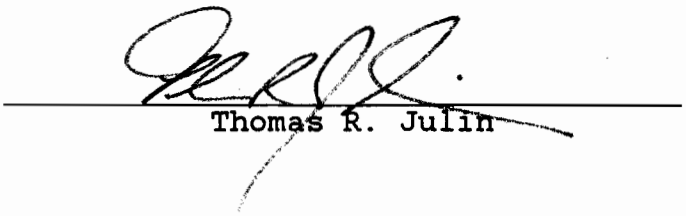

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