OA 2-3-98

IN THE SUPREME COURT
STATE OF FLORIDA

MEMORIAL HOSPITAL-WEST VOLUSIA, INC., a Florida corporation, not-for-profit

Petitioner,

vs.

NEWS-JOURNAL CORPORATION, a Florida corporation,

Respondent.
_____/

CASE NO. 90,835

--Amended Brief--
(Correcting Index Errors)
9/14/98

PETITIONER MEMORIAL HOSPITAL-WEST VOLUSIA, INC.'S SUPPLEMENTAL REPLY BRIEF ON THE MERITS

On Review of a Decision of the
Fifth District Court of Appeal

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Overview

This is a Reply Brief by the Petitioner Memorial Hospital-West Volusia, Inc. (the "Hospital Corporation"). The brief is filed pursuant to this Court's Order of July 15, 1998 on the issue of the effect, if any, of newly enacted Section 395.3036, Florida Statutes (Supp. 1998). This case has already been thoroughly briefed and argued by the parties and numerous amicus on both sides. The case was orally argued in February, 1998, and is obviously ripe for decision based on the existing law as set out in News and Sun-Sentinel Company Co. v. Schwab, Twitty & Hanser Architectural Group, Inc., 596 So. 2d 1029 (Fla. 1992) and the many cases applying Schwab. Schwab and its progeny established a test known as the "totality of the factors" test for determining whether public record and sunshine laws apply to a private party contracting with a public agency.

The Schwab factors test has become the governing law of Florida during the years in which radical changes have occurred in hospital health care. Competition among hospital providers has caused these changes and the Hospital Corporation herein along with the lessor of this formerly public hospital relied upon the Schwab factors test in entering into the 40 year lease for the operation of this hospital. Based upon that existing law, the parties did not intend that the records of the Hospital Corporation nor any of the meetings of the Hospital Corporation would be subject to public scrutiny nor to the eyes of their profit making hospital

competitors. The purpose of this 40 year lease entered into pursuant to Section 155.40 was to allow the Hospital Corporation to operate the hospital in an economically competitive manner. As a public entity, the hospital simply could not be operated by the governmental hospital district in any sort of economically feasible fashion. The purpose of the lease under Section 155.40 was to provide for medical care, not as suggested by the News Journal, to hide records from the public.

The Hospital Corporation, the numerous other hospitals which have appeared as amicus and numerous other private entities throughout this state need an answer to the question of whether the Schwab factors test remains the law of this state. These entities all need an answer to the question of whether they can continue to rely upon Schwab without regard to the application of the newly enacted Section 395.3036.

Hospital Corporation respectfully suggests that this Court meant what it said in New York Times Company v. PHH Mental Health Services, Inc., 616 So. 2d 27, 30 (Fla. 1993) where it was stated: "Prior to this Court's decision in [Schwab] no clear standard existed for determining when a private entity is ... subject to the requirements of chapter 119" and that "... private entities should look to the factors announced in Schwab to determine their possible agency status under Chapter 119." Clearly, this Court intended that parties would, by careful adherence to the Schwab factors test, be able to set up contracts which would not fall within Chapter 119 or Chapter 286.

In short, this case should be decided now based upon the record, briefs and arguments which have already been completed and this Court should rule that the Fifth District erroneously expanded and erroneously applied the Schwab test and that Hospital Corporation is simply not within the public records of sunshine laws of Florida. Hospital Corporation does not seek an exemption from those laws -- instead, this private not-for-profit corporation is simply not within the scope of Chapter 119 nor Chapter 286.

Because the Fifth District Court of Appeal has greatly expanded the application of the public records and sunshine laws and because its decision herein effectively abrogates the Schwab test, the Florida Legislature passed Section 395.3036. However, the Legislature may express its disapproval, but does not have the power to overrule this decision by the Fifth District. Only this Court has the power to directly overrule the Fifth District's opinion and that is precisely what is now sought without regard to the application of Section 395.3036.

No inference is intended that the Hospital Corporation disavows possible future reliance on Section 395.3036. However, as stated in our earlier Supplemental Brief, reliance upon that statute will only occur in the event that this Court affirms the Fifth District's decision. Any such affirmance would necessarily call for the Court's redefining of the Schwab test and a definite retreat from New York Times Co. v. PHH Mental Health Services, Inc., supra. In addition, this Court would also have to overrule Shands Teaching Hospital and Clinics, Inc. v. Lee, 478 So. 2d 77

(Fla. 1st DCA 1985) and Campus Communications, Inc. v. Shands Teaching Hospital and Clinics, Inc., 512 So. 2d 999 (Fla. 5th DCA 1987), rev. denied, 531 So. 2d 1352 (Fla. 1988). If the Shands Teaching Hospital, providing both hospital care and public medical education on the state owned University of Florida campus is not bound by the public records law, then certainly the Hospital Corporation herein is similarly not bound by the public records law. If Shands is not acting on behalf of a public agency then the same result must prevail in the present case.

The Schwab factors test should remain the law of Florida and the Fifth District Court of Appeal has wandered far from that governing law. In Stanfield v. Salvation Army, 695 So. 2d 501 (Fla. 5th DCA 1997), the Fifth District Court announced a new test for application of the public records and sunshine laws based on its own 1997 Memorial Hospital-West Volusia, Inc. decision and concluded that: "It is unnecessary to engage in the factor-by-factor analysis outlined by Schwab."

I. NEWLY ENACTED SECTION 395.3036 DOES NOT APPLY TO THIS CASE WHICH SHOULD BE DECIDED UNDER EXISTING LAW REQUIRING REVERSAL OF THE FIFTH DISTRICT'S DECISION--JURISDICTION TO CONSIDER THE CONSTITUTIONALITY OF THE NEW STATUTE DOES NOT NOW EXIST.

The Hospital Corporation previously suggested that this Court did not have direct jurisdiction to rule on either the application of nor the constitutionality of newly enacted Section 395.3036 under Article V, § 3(b) and Martinez v. Scanlan, 582 So. 2d 1167 (Fla. 1991). The News Journal's supplemental brief does not recognize the existence of the Scanlan case and instead resorts to

the argument that appellate courts must apply the law existing at the time of their decision rather than the law existing at the time of trial. As a generality, this is a correct statement, but it is not applicable to this fact situation.

News Journal relies upon Florida East Coast Ry. Co. v. Rouse, 194 So. 2d 260 (Fla. 1966) and Florida Patients Compensation Fund v. Von Stetina, 474 So. 2d 783 (Fla. 1985). The Rouse case was a situation where a trial was based upon a railroad comparative negligence statute which this Court held unconstitutional before the appeal of the underlying case had been argued. The District Court applied the unconstitutional statute and only under this circumstance did this Court hold that the District Court's decision should be quashed and the entire case remanded for a new trial in the circuit court. In Von Stetina, the District Court of Appeal specifically held that various statutes governing the Florida Patients Compensation Fund pay out provisions were unconstitutional. These statutes were before the District Court of Appeal for decision and the Florida Supreme Court held that it would consider the constitutionality of those statutes and a newly enacted statutory amendment which it held the District Court should have considered. Indeed, both the Rouse and the Von Stetina cases are situations where the statutes in question had been before the District Court of Appeal. Neither case compels this Court to now consider the application of newly enacted 395.3036 which was never before the District Court nor the trial court. Indeed, both cases hold directly to the contrary.

News Journal also relies on Board of Public Instruction of Orange County v. Budget Commission of Orange County, 167 So. 2d 305 (Fla. 1964), but this reliance is similarly misplaced. In that case, a newly enacted statute had completely superseded an earlier statute. Newly enacted Section 395.3036 most certainly did not overrule the Schwab factors test. Indeed, that test was upheld by the newly enacted statute rather than overruled by the newly enacted statute. The Legislature has made it clear that the Schwab factors test should remain the law of this state and none of the case law in the News Journal's supplemental brief supports the newspaper's expansive jurisdictional argument.

This Court should decide this case on the basis of the law already argued (the Schwab multiple factors test) and there is no reason to even reach newly enacted Section 395.3036. The Salvation Army case, which was argued by Hospital Corporation in its initial supplemental brief and disregarded by News Journal, is a compelling reason why this Court should decide the case based on the existing law.

The News Journal arguments would produce a circular effect. If this Court were to totally invalidate Section 395.3036, the Schwab issues would still be presented for decision by this Court. A ruling on constitutionality will not moot the question of whether a hospital or any other private entity contracting with a public body may be subjected to the public records laws. No matter how the Court rules on newly enacted Section 395.3036, the Schwab issues remain for decision.

II. WHETHER THE ACT IS UNCONSTITUTIONAL ON ITS FACE FOR FAILURE TO STATE A PUBLIC NECESSITY WITH PARTICULARITY AND BECAUSE IT IS BROADER THAN NECESSARY TO MEET THE UNSTATED PUBLIC NECESSITY.

The above point includes Points III and IV from the News Journal brief. The Hospital Corporation has already shown why these points should not be reached on jurisdictional grounds. Of course, the Court does have discretion to remand this matter to the trial court for consideration of the newly enacted statute but we suggest that the better approach is to first answer the necessary question of whether the multiple factors test based upon Schwab and its progeny requires reversal of the Fifth District Court of Appeal herein.

We also note the "settled principle of constitutional law that courts should endeavor to implement the legislative intent of statutes and avoid constitutional issues." State v. Mozo, 655 So. 2d 1115, 1117 (Fla. 1995). Also see, State ex rel. City of Casselberry v. Mager, 356 So. 2d 267 (Fla. 1978). There is simply no reason for this Court to reach the constitutional issue now because the legislative intent is clear and because the newly enacted statute does not overrule or supersede the existing Schwab factors test. Indeed, the newly enacted statute supports and upholds Schwab and its continued application, but not in the manner employed by the Fifth District.

News Journal argues that the constitutional issue can be decided "without benefit of a record or a factual scenario." (Br. p. 5). However, a mere two pages later in its brief, News Journal

lays out a factual hypothetical based on a total assumed set of facts dealing with the Erehwon (Nowhere) Hospital District. Inconsistently, News Journal suggests that no factual record is necessary while on the other hand suggesting that a factual hypothetical must be considered. The Nowhere factual hypothetical is false and completely inconsistent with the actual facts of this case. This hypothetical will be addressed further below after dealing with the merits of the constitutional arguments.

The Merits of the News Journal Arguments

The News Journal argues that the statute is facially unconstitutional because it is too broad and because it does not contain a statement of public necessity with sufficient particularity as required by Article I, § 24(c) of the Florida Constitution. News Journal then goes on to attach the new statute in an appendix to its brief with some of the sentences numbered (1-13) and to then make a sentence-by-sentence argument in an extremely technical fashion. It is argued that the statute justifies a "clarification of the law" rather than justifying an "exemption" to the law. (Br. p. 9). The argument makes no sense because the statute very clearly states in Section 2(3) that: "The Legislature further finds that it is a public necessity for these private lessees to be exempt from the public records and public meeting laws . . ." In the first sentence of Subsection (3), the finding of a public necessity is also stated with a "therefore" reference to all of the preceding legislative findings contained above in the statute. The factual finding of public necessity is

also contained in the first sentence of Section 2 of the statute. The newspaper's analysis never discusses these specific findings by the Legislature. News Journal has engaged in hypertechnicalities in suggesting that the statute only justifies a "clarification" and does not justify an "exemption". It is only necessary to read the plain words of the entire statute.

The News Journal has violated the cardinal rule of statutory construction that all parts of the statute must be read together to determine the legislative intent. Forsythe v. Longboat Key Beach Erosion Control District, 604 So. 2d 452 (Fla. 1992); Escambia County v. Trans PAC, 584 So. 2d 603 (Fla. 1st DCA 1991). Courts are required to give full effect to all statutory provisions and to construe related statutory provisions in harmony with one another. Related provisions of the statute should be read in pari materia as expressing a unified legislative purpose. BMW of North America, Inc. v. Singh, 664 So. 2d 266 (Fla. 5th DCA 1995). Clearly, a statutory phrase is not to be read in isolation which is precisely what the News Journal does in its "clarification" analysis. Jackson v. State, 634 So. 2d 1103 (Fla. 4th DCA 1994).

Since News Journal has asked to have this entire statute declared unconstitutional, we here provide the entire statute for the Court's convenience:

> A bill to be entitled
> An act relating to public records and meetings; creating s. 395.3036, F.S. providing that when a public lessor complies with the public finance accountability provisions of s. 155.40(5), F.S., with respect to the transfer of any public funds to a private lessee, the records of a private corporation that leases a

public hospital or other public health care facility are confidential and exempt from public records requirements, and the meetings of the governing board of such corporation are exempt from public meeting requirements if the corporation meets specific criteria; providing for future review and repeal; providing a finding of public necessity; providing for the continued applicability of the Florida Rules of Civil Procedure and statutory provisions relating to discoverability in civil actions to records and information made exempt in the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 395.3036, Florida Statutes is created to read:

395.3036 Confidentiality of records and meetings of corporations that lease public hospitals or other public health care facilities.--The records of a private corporation that leases a public hospital or other public health care facility are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and the meetings of the governing board of a private corporation are exempt from s. 286.011 and s. 24(b), Art I of the State Constitution when the public lessor complies with the public finance accountability provisions of s. 155.40(5) with respect to the transfer of any public funds to the private lessee and when the private lessee meets at least three of the five following criteria:

(1) The public lessor that owns the public hospital or other public health care facility was not the incorporator of the private corporation that leases the public hospital or other health care facility.

(2) The public lessor and the private lessee do not commingle any of their funds in any account maintained by either of them, other than the payment of the rent and administrative fees or the transfer of funds pursuant to subsection (2).

(3) Except as otherwise provided by law, the private lessee is not allowed to participate, except as a member of the public, in the decisionmaking process of the public lessor.

(4) The lease agreement does not expressly require the lessee to comply with the requirements of s. 119.07(1) and s. 286.011.

(5) The public lessor is not entitled to receive any revenues for the lessee, except for rental or administrative fees due under the lease, and the lessor is not responsible for the debts or other obligations of the lessee.

Section 2. (1) The Legislature finds that it is a public necessity that all records of a private corporation and all meetings of the governing board of the private corporation be confidential and exempt from the public records and public meeting laws of this state when the private corporation leases a public hospital or other public health care facility from a public entity in accordance with the terms of this act. The Legislature further finds that private corporations have entered into such leases in reliance on the legal standard governing the application of the public records and open meeting laws to such lease agreements which was set forth in case law existing at the time of the transaction. That standard provided that such private lessees were not "acting on behalf of" the public entity and, therefore, not subject to the state's public records laws so long as the public entity did not retain control over the private lessee. No other factor was used to determine whether the public entity exerted control; instead a "totality of factors" was analyzed and the decision made on the balance of those factors. In a recent decision, however, the Fifth District Court of Appeal has now applied the standard in a manner that may cause more lessees to be subject to public records and meetings requirements. The Legislature finds that the effect of the decision has been:

(a) To create uncertainty with respect to the status of records and meetings under existing lease arrangements; and

(b) To create a disincentive for private corporations to enter into such lease agreements in the future.

(2) Public entitles have chosen to privatize the operations of their public hospitals and public health care facilities in order to alleviate three problems that pose a significant threat to the continued viability of Florida's public hospitals:

(a) A financial drain on the facilities from their forced participation in the Florida Retirement System;

(b) The competitive disadvantage placed on these facilities vis a vis their private competitors resulting from their required compliance with the state's public records and public meeting laws; and

(c) State constitutional restrictions on public facility participation in partnerships with private corporations as a result of the limitations contained in the State Constitution. For years, the Legislature has approved and encouraged these leases, first through special acts that it has adopted authorizing the lease agreements and, more recently, through the adoption of section 155.40, Florida Statutes, which provides for the conversion of public hospital facilities to private operation by lease, as a means to provide public entitles with the necessary flexibility to use these public assets in a manner that best serves the interests of the public. Through such lease arrangement, public entities have been able to obtain substantial and oftentimes desperately needed private capital investment into these facilities and to relieve the oftentimes burdensome drain on public tax revenues which resulted from public operation.

(3) In the absence of a defined and, therefore, predictable statewide standard for determining when the public records and public meetings laws apply to future lease agreements, public entitles may find it difficult, if not impossible, to find a private corporation that is willing to enter into a lease to operate the public hospital or other public health care facility. This, in turn, could force the public entity:

(a) To close the hospital or other health care facility, which would result in a reduction in health care services to the public;

(b) To sell the hospital or other health care facility, which sale, if the facility has deteriorated because of inadequate capital investments over time, will likely be at a loss; or

(c) To continue operating the hospital or other health care facility using public tax dollars to subsidize recurring losses. None of these options is in the best interest of the public.

(3) The Legislature, therefore, finds that it is a public necessity for it, through this act, to clarify when the public records and public meeting laws apply to private lessees of public hospitals or other public health care facilities. The Legislature further finds that it is a public necessity for these private lessees

> to be exempt from the public records and public meetings laws of the state so long as, applying the standard codified by this act, the public entity does not retain control over the private entity.
>
> Section 3. This act does not change existing law relating to discovery of records and information that are otherwise discoverable under the Florida Rules of Civil Procedure or any statutory provision allowing discovery or pre-suit disclosure of such records and information for the purpose of civil actions.
>
> Section 4. This act shall take effect upon becoming law and shall apply to existing leases and future leases of public hospitals and other health care facilities.

The express finding of public necessity is contained in Section 2(1) and (3) and (3) incorporates all of the findings and reasons previously set forth. Clear standards for confidentiality are set out in detail. The public lessor must comply with public financing accountability provisions of the related and incorporated Section 155.40(5). This is an initial requirement and is of course a matter which has never been considered in regard to the Hospital Corporation because the Hospital Corporation has not yet sought an application of this newly enacted statute. Obviously, without a finding as to compliance with the public finance accountability provisions of the related statute this Court cannot possibly determine whether the statute would or would not apply.

The statute requires the private lessee to meet three out of five criteria which are quite similar to some of the requirements of the existing Schwab test. An entire list of reasons is stated by the Legislature including the finding that private corporations have entered into such leases in reliance on the legal standard set out in Schwab and its progeny. The legislation specifically

recognizes the "totality of factors" test and fully supports that test.

Specific reliance is placed on the very detrimental uncertainty created by the Fifth District's decision, the creation of a disincentive for private corporations to enter into such lease agreements if their records are to be public and a recognition that public entities have chosen to privatize hospitals to deal with three specifically designated and discussed problems. The News Journal simply closes its eyes to all of these legislative findings pretending that they do not exist. We invite the Court to simply read the statute.

This newly enacted statute is clearly constitutional and is neither too broad nor lacking in its statement of a public necessity with specific findings and reasons supporting that public necessity. In short, the reason is to promote the furnishing of adequate hospital health care and to do away with uncertainty as to whether the private lessee under Section 155.40 is bound by Chapters 119 and 286.

Legislative History

This Court should look to the entire legislative history concerning the confidentiality of records and meetings of Florida hospitals -- both public and private. Specific attention has been given to the records of both types of hospitals and this Court must note that the present statute (Section 395.3036) concerns solely a private corporation. The statute does not concern the records of

the public lessor and public hospital records are exempted in a more limited fashion by Section 395.3035.

In 1992, the Legislature enacted Section 155.40 which allowed for the privatization of formerly public hospitals by lease arrangements with not-for-profit corporations. In 1995, the Fourth District Court of Appeal issued Palm Beach County Health Care District v. Everglades Memorial Hospital, Inc., 658 So. 2d 577 (Fla. 4th DCA 1995), rev. dism'd 670 So. 2d 938 (Fla. 1996). This decision dealt with Section 155.40 and prompted the Legislature to amend the statute to allow for the further privatization of formerly public hospitals by actual sale to a profit making corporation or by lease and operation by a not-for-profit corporation or a for-profit corporation. Clearly the Legislature disagreed with the Fourth District's Everglades case. At this point, it was obvious that the private operators of formerly public hospitals were simply outside the scope of the public records or sunshine laws. This was one of the important purposes behind privatization; to enable private entities to operate formerly public hospitals in a competitive and economically feasible manner. Public hospitals had been unable to compete with for-profit hospitals for many reasons, including the fact that all of their records and meetings had to be public.

The Legislature has attempted to solve both of these problems by allowing for privatization and by shielding, to some extent, the records of both public and private hospitals. Section 395.3035 was enacted and has been amended numerous times to provide for various exemptions as to purely public hospitals. That statute is the

subject of current litigation in Halifax Hospital Medical Center v. News Journal Corporation, 701 So. 2d 434 (Fla. 5th DCA 1997), a case upon which this Court has granted review in which oral argument occurred on September 2, 1998.

Section 395.3036 as enacted in 1998 is the latest legislative effort to promote quality health care at a reasonable cost and the statute was in direct reaction to the Fifth District's opinion herein. The entire legislative history of all of these related statutes leave no doubt that the Legislature intends that a privatized hospital under Section 155.40 is simply not to be subject to the public records or sunshine laws of this state. The legislative history covering this entire area of the law compels a rejection of the News Journal arguments as to unconstitutionality.

Case Law

Other than the Halifax case which we submit should be reversed, the only other decision construing a legislative statement of public necessity for sufficiency under Article I, Section 24(c) is State v. Knight, 661 So. 2d 344 (Fla. 4th DCA 1995). There, an exemption for notes, records and transcripts of a grand jury proceeding under Section 905.17, Florida Statutes (1993) was in question. The statement of public necessity supporting that exemption provided as follows:

> The Legislature finds that the exemption from the public records law of stenographic records, notes and transcriptions made by a court reporter or stenographer during sessions of a grand jury is a public necessity in that release of such records would greatly hamper the proper functioning of our grand jury system by eliminating the secrecy surrounding grand jury proceedings and exposing

> the witnesses and grand jurors to potential retribution and outside influence.

This statement was found by the District Court of Appeal to be valid. The Court stated it "clearly complies with the public necessity requirement contained in Article I, Section 24(c)." A statement that releasing of records would "greatly hamper" the functioning of a grand jury system is nowhere near as specific and detailed as the findings for the exemption in the present statute.

The Nowhere Hospital District

The News Journal has truly dramatized the weakness of its position by basing its arguments on a hypothetical involving the imaginary Erehwon (Nowhere) Hospital District. It asks this Court to assume that the public hospital district would enter into a Section 155.40 lease "solely for the purpose of avoiding the public right of access to records." It goes on to paint a picture of a lease drawn in such a fashion so that the private operating corporation would be controlled and directed by the public hospital district. It concludes, with little or no analysis, that this would be a proper lease under Section 155.40 and that all of the records would thereby be made secret under Section 395.3036. It goes on to argue in a section of its brief designated "Finding a Willing Private Corporation" that the exemption would apply even when the lessee were the mere alter ego of the public body and was fully subsidized and wholly dependent on the public body. (Br.p.13).

This Nowhere Hospital District hypothetical is absolutely false and misleading and demonstrates just why courts should not

determine the constitutionality of statutes based upon imaginary facts which have never been before a trial court. The facts of the suggested far-fetched hypothetical might well be a legal violation, but they are simply not the facts of this case, nor do they portray the facts of the many Section 155.40 hospital leases existing in this state.

Section 395.3036 specifically requires that "the public entity does not retain control over the private entity." This is stated in Section 2(3) of the statute. News Journal apparently asks this Court to assume that this language can be circumvented in the Nowhere Hospital District. Other provisions require separation and an absence of control between the lessor and the lessee. The criteria stated in Section 1(1)-(5) all prohibit control or other similar interlocking arrangements. Subsection (1) bars the public lessor from being the incorporator of the private corporation, (2) bars commingling of funds, (3) bars lessee's participation in lessor's decision making, and (5) bars receipt of revenues from the lessee and requires that lessor not be responsible for the debts of the lessee. The lease which the Hospital Corporation actually operates under in this case does not vest control in the public lessor. The Hospital Corporation is independent and not controlled by the public board.

This Court should strongly reject any consideration of the newspaper's far fetched hypothetical which has no application to the facts of this case nor to either of the statutes in question.

The constitutional argument is totally lacking in merit and this Court should proceed with deciding this case under Schwab and its progeny. Schwab should be reaffirmed, the Fifth District opinion reversed and the constitutionality of the newly enacted statute left for another day. Certainly, before any ruling on constitutionality occurs, the matter should be remanded to a trial court so that the issues can be properly established in pleadings and fully tried. We submit this is not necessary at this time.

CONCLUSION

The Hospital Corporation respectfully requests that this Court reverse the opinion of the Fifth District on review herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a copy has been furnished by Mail to **NEIL H. BUTLER,** P.O. Box 839, Tallahassee, Florida 32302; **DAVID A. MONACO, LARRY R. STOUT**, P.O. Box 15200, Daytona Beach, Florida 32115; **JONATHAN D. KANEY, JR.**, P.O. Box 2491, Daytona Beach, Florida 32115-2491; **WILLIAM A. BELL**, P.O. Drawer 469, Tallahassee, Florida 32302; **KAREN PETERSON**, 306 E. College Avenue, Tallahassee, Florida 32301; **RICHARD A. HARRISON**, P.O. Box 1110, Tampa, Florida 33601; **EMELINE C. ACTON**, P.O. Box 1110, Tampa, Florida 33601-1110; **FREDERICK B. KARL**, P.O. Box 3433, Tampa, Florida 33601; this 9th day of September, 1998.

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