
ORANGE COUNTY, a political subdivision of the State of Florida,
Petitioner,

v.

COSTCO WHOLESALE CORPORATION,
a Washington Corporation,
Respondent.

On Review from the District Court of Appeal,
Fifth District State of Florida (Case No. 5D00-1728)

BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION IN SUPPORT OF COSTCO WHOLESALE CORPORATION

Foundation
P.O. Box 522188
Miami, Florida 33152
Telephone: (305) 499-9807
Facsimile: (305) 715-9779

Attorney for Amicus Curiae
Pacific Legal Foundation

FRANK A. SHEPHERD,
No. 152620
Pacific Legal

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iii

INTRODUCTION 1

INTEREST OF AMICUS CURIAE 1

STATEMENT OF THE CASE 5

SUMMARY OF THE ARGUMENT 6

I. THE RIGHT TO OWN, USE, AND DISPOSE OF PRIVATE PROPERTY IS A FUNDAMENTAL RIGHT UNDER BOTH THE FLORIDA AND UNITED STATES CONSTITUTION 7

II. THE FUNDAMENTAL RIGHT OF PERSONS TO BE SECURE IN THEIR REAL AND PERSONAL PROPERTY REQUIRES THAT THE STATE HAVE THE ULTIMATE RESPONSIBILITY TO PROVE THE VALIDITY OF ACTIONS RELATING TO LAND USE . . . 10

A. When a Challenging Party Comes Forward with Evidence Sufficient to Rebut the Presumption of the Validity of a Legislative Enactment Affecting Private Property, the Burden Should Shift to the Propounding Entity to Prove by a Preponderance of the Evidence That the Legislative Activity Has a Substantial Relationship to Health, Safety, and Welfare 10

B. The Quality of the Proof Required for a Local Governing Entity To Carry This Burden Should Be Actual Factual Proof 18

Page

CONCLUSION 19

TABLE OF AUTHORITIES

Page

Cases

Burgess v. Florida Department of Environmental Protection, No. SC01-121, Petition for Review denied, June 21, 2001 2

Buritt v. Harris, 172 So. 2d 820 (Fla. 1965) 11

Chicago Title Insurance Co. v. Butler, 770 So. 2d 1210 (Fla. 2000) 13

City of Miami Beach v. Lachman, 71 So. 2d 148 (Fla. 1953) 12

City of North Lauderdale v. SMM Properties, Inc., No. SC00-1555, argued May 3, 2001 2

Corn v. State, 332 So. 2d 4 (Fla. 1976) 8-9

Costco Wholesale Corporation v. Orange County, 780 So. 2d 198 (Fla. 5th DCA 2001) 5, 12, 17-18

Davis v. Sails, 318 So. 2d 214 (Fla. 1st DCA 1975) 12

Department of Law Enforcement v. Real Property, 588 So. 2d 957 (Fla. 1991) 8

Florida Department of Education v. Glasser, 622 So. 2d 944 (Fla. 1993) 10

Gulf Coast Home Health Services of Florida, Inc. v. Department of Health and Rehabilitation Services, 503 So. 2d 415 (Fla. 1st DCA 1987) 5

Page

Lambros, Inc. v. Town of Ocean Ridge, 392 So. 2d 993 (Fla. 4th DCA 1981) 14-15, 17

Lynch v. Household Finance Corp., 405 U.S. 538 (1972) 8-9

Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997) 2

Nollan v. California Coastal Commission, 483 U.S. 825 (1987) 3

Palazzolo v. Rhode Island, 121 S. Ct. 2448 (2001) 3, 9

Pomerance v. The Homosassa Special Water District, 755 So. 2d 732 (Fla. 5th DCA 2000), review denied, 783 So. 2d 1056 (Fla. 2001) 2

Spann v. City of Dallas, 235 S.W. 513 (Tex. 1921) 9

Suitum v. Tahoe Regional Planning Agency, 520 U.S. 725 (1997) 3

Town of Belleair v. Moran, 244 So. 2d 532 (Fla. 2nd DCA 1971) 15-17

Village of Euclid v. Ambler Realty Company, 272 U.S. 365 (1926) 12

Volusia County v. Aberdeen at Ormond Beach, 760 So. 2d 126 (Fla. 2000) 2

Wilkinson v. Leland, 27 U.S. 627 (1829) 8

United States Constitution

Eighteenth Amendment 5

Twenty First Amendment 5-6

State Constitution

Declaration of Rights, Article I, Section 2 7-8

IN THE SUPREME COURT OF THE STATE OF FLORIDA

No. SC01-382

INTRODUCTION

Pursuant to Florida Rule of Appellate Procedure Rule 9.370, Pacific Legal Foundation (PLF) respectfully submits this brief amicus curiae in support of Respondent Costco Wholesale Corporation in this case. Counsel for both the Petitioner and the Respondent have provided written consents to the participation by PLF as amicus curiae herein.

INTEREST OF AMICUS CURIAE

PLF is a nonprofit, tax-exempt corporation organized under the laws of the State of California for the purpose of engaging in litigation in matters affecting the public interest. PLF has offices in Sacramento, California; Bellevue, Washington; Honolulu, Hawaii; and Miami, Florida. PLF's Florida office, known as the Atlantic Center, is staffed by a full-time attorney who is a member of the Florida Bar.

Founded 28 years ago, PLF is widely recognized as the largest and most experienced nonprofit legal foundation of its kind. The foundation litigates matters affecting the public interest at all levels of state and federal courts and has litigated in support of the right of individuals to be free from unreasonable burdens on their private

property since it was formed. The instant case involves a legislatively enacted regulatory burden on private property.

PLF has frequently appeared before this Court on issues relating to the right of individuals to make reasonable use of their private property and the regulatory burdens placed upon them in so doing. *See, e.g., Burgess v. Florida Department of Environmental Protection*, No. SC01-121, Petition for Review denied, June 21, 2001 (federal and state takings consequences of post-acquisition government regulatory activity on landownership); *City of North Lauderdale v. SMM Properties, Inc*., No. SC00-1555, argued May 3, 2001 (validity of a special assessment for emergency medical services); *Pomerance v. The Homosassa Special Water District*, 755 So. 2d 732 (Fla. 5th DCA 2000), review denied, 783 So. 2d 1056 (Fla. 2001) (legality of a special assessment); *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126 (Fla. 2000) (legality of a school impact fees); and *Martin County v. Yusem*, 690 So. 2d 1288 (Fla. 1997) (standard of review of comprehensive land use plan amendments).

Moreover, PLF's attorneys have participated in virtually every major regulatory takings case heard by the United States Supreme Court

in the last 20 years, including 3 appearances directly representing individuals whose rights to use their property were unlawfully denied by government agencies. *See Palazzolo v. Rhode Island*, 121 S. Ct. 2448 (2001) (the fact that an offending regulation pre-dates an owner's acquisition of property does not bar a takings claim)*; Suitum v. Tahoe Regional Planning Agency*, 520 U.S. 725 (1997) (a regulatory takings claim is not rendered unripe merely because a government agency offers "Transferable Development Rights" to a landowner); and *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) (reaffirming that a categorical taking occurs where a regulation denies economically beneficial or productive use of land),, and . Finally, many of PLF's supporters are citizens or residents of the State of Florida.

This case presents an important question under Florida law concerning who has the burden of proof when the constitutionality of legislatively enacted ordinances and regulations relating to the use of land are placed at issue in the courts of this state. The Petitioner contends that a challenging landowner must not only rebut the presumption of constitutionality which properly adheres to land use regulations adopted by local government, but also that the landowner

bears the burden of proving the invalidity of the government action. In this, the Petitioner suggests that it lacks an obligation to come forward at any stage with proof supporting the ordinance or law. "[A] legislative choice is not subject to courtroom fact finding and may be based upon rational speculation unsupported by evidence or empirical data." Initial Brief of Petitioner (I. B.) at 38. While mindful of the accord that must be fostered among the various branches of government under principles of legislative deference, separation of powers, and principles of judicial restraint, PLF argues that the presumption of constitutional validity of a land use ordinance is just that, and once rebutted, the propounding agency must carry the burden of proving the validity of the ordinance. With the growth of government regulatory activity in virtually all areas of society, PLF submits that placing the legal obligation on the propounding government body to prove the validity of its actions is consistent with the maintenance of the basic principles of our democratic government and the protection of private property rights.

STATEMENT OF THE CASE

The precise question presented to this Court by the Petitioner and Respondent in this case is the constitutional validity of Subsection 38-

1414(b) of the Orange County Code, which prohibits any new or relocated package liquor sales within 5,000 feet of another such store. The Respondent, Costco Wholesale Corporation, successfully contended below that the restriction is an invalid exercise of the police power of the Petitioner. *Costco Wholesale Corporation v. Orange County,* 780 So. 2d 198 (Fla. 5th DCA 2001). In this Court, Orange County contends for a point scarcely presented below,[1] that the Twenty First Amendment to the United States Constitution[2] provides it plenary authority to establish distance separation requirements for package stores. I.B. at 15-21. Costco, on the other hand, urges here as it did below that it has a constitutionally protected right to use its property to sell packaged liquor

---

[1] *See* Orange County's Amended Brief filed in the Court of Appeal, Fifth District. It is the understanding of PLF that there exist differing practices among the district courts of appeal concerning whether or not the briefs from the courts accompany records transmitted to this Court. The Fifth District Court of Appeal apparently does not transmit briefs filed in that court with the record. Nevertheless, PLF submits that this Court should consider itself empowered to judicially notice the briefs of intermediate appellate courts in the same proceeding. *Cf. Gulf Coast Home Health Services of Florida, Inc. v. Department of Health and Rehabilitation Services*, 503 So. 2d 415 (Fla. 1st DCA 1987).

[2] Ratified on December 5, 1933, the Twenty First Amendment repealed the Eighteenth Amendment and marked the end of Prohibition in the United States.

goods from two of its locations in unincorporated Orange County, and that the County's refusal to permit the activity at these two locations exceeds the scope of its power to regulate the use of private property.

PLF defers to the parties and the Court on the newly raised question of whether or not the Twenty First Amendment provides plenary power to the County to regulate the sale of alcoholic beverages within unincorporated Orange County. Rather, PLF will address a point of considerable importance if this case is treated as it was below, a case raising the issue of the constitutional right of property owners to make legitimate and productive use of their property. Specifically, PLF will address the important consideration of who must bear the ultimate burden of proof when a facial constitutional challenge is made to a land use ordinance.

SUMMARY OF THE ARGUMENT

The right to own, use, and dispose of private property is a fundamental right under both the Florida and United States Constitution. Legislative enactments relating to land use, like all legislative enactments, are presumed to be constitutional. When, however, a challenging party comes forward with evidence sufficient to rebut the

presumption of its validity, the burden should shift to the government to prove by a preponderance of the evidence that there is a substantial relationship between the enactment and health, safety, morals, or the general welfare. In addition, the quality of the proof required of the propounding government agency to meet that burden should be actual factual proof.

I

THE RIGHT TO OWN, USE, AND DISPOSE OF PRIVATE PROPERTY IS A FUNDAMENTAL RIGHT UNDER BOTH THE FLORIDA AND UNITED STATES CONSTITUTION

The right of individuals to own and make reasonable use of their property is a fundamental right under both the Florida and United States Constitution. In Florida, the right is included in the Declaration of Rights section of the constitution, Article I, Section 2 as follows:

> All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property.

This Court has previously explicated the fundamental place that the ability to own and make use of one's property has in the scheme of

ordered liberties upon which this nation was established. In *Corn v. State*, 332 So. 2d 4 (Fla. 1976), this Court stated:

> All natural persons have the inalienable right to acquire, possess, and protect their property. Article I, Section 2, Constitution of Florida. It has been recognized that the rights in property are basic civil rights.

332 So. 2d at 7. *See also Department of Law Enforcement v. Real Property*, 588 So. 2d 957, 964 (Fla. 1991) ("Property rights are among the basic substantive rights expressly provided by the Florida Constitution.").

The fundamental right of persons to be secure in their real and personal property is also well recognized in federal jurisprudence. For example, in *Lynch v. Household Finance Corp.*, 405 U.S. 538 (1972), the United States Supreme Court held:

> The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home or a savings account.

405 U.S. at 552. *See also Wilkinson v. Leland*, 27 U.S. 627, 657 (1829) ("The fundamental maxims of a free government seem to require, that the rights of personal liberty and private property should be held sacred.").

Thus, in explaining the interaction of the fundamental right to be secure in property and the power of state and local government to utilize its inherent power to assure that an individual's use of his or her property does not disturb their neighbor, the source of the police power, this Court has stated:

> It is not a right, . . . over which the police power is paramount. Like every other fundamental liberty, it is a right to which the police power is subordinated.

Corn, 332 So. 2d at 7 (quoting *Spann v. City of Dallas*, 235 S.W. 513, 515 (Tex. 1921)). *Cf. Palazzolo v. State of Rhode Island*, 121 S. Ct. at 2462 ("The State may not put so potent a Hobbesian stick in the Lockean bundle," negating the so-called "notice rule" in Fifth Amendment Takings Clause cases.).

II

THE FUNDAMENTAL RIGHT OF PERSONS TO BE SECURE IN THEIR REAL AND PERSONAL PROPERTY REQUIRES THAT THE STATE HAVE THE

ULTIMATE RESPONSIBILITY TO PROVE THE VALIDITY OF ACTIONS RELATING TO LAND USE

A. When a Challenging Party Comes Forward with Evidence Sufficient to Rebut the Presumption of the Validity of a Legislative Enactment Affecting Private Property, the Burden Should Shift to the Propounding Entity to Prove by a Preponderance of the Evidence That the Legislative Activity Has a Substantial Relationship to Health, Safety, and Welfare

It is not questioned by the parties to this case or amicus that ordinances affecting the ability to use private property are presumed to be constitutional. *Florida Department of Education v. Glasser*, 622 So. 2d 944, 946 (Fla. 1993). Presumptions of validity in the land use area, just as in all legislative areas, appropriately serve to foster the notions of legislative deference, separation of powers, and judicial restraint which are important cornerstones to our form of democracy. However, the term presumption implies that exceptions will arise. That is, the presumption of validity will on occasion be factually or legally rebutted. This does not discredit the concept of presumptions or the cases they govern. Rather, it is further confirmation that presumptions are just that, procedural constructs from which to commence a legal analysis of legislative activity.

In the land use and property rights area, there is an abiding view that zoning ordinances should be no broader than necessary to adjust relationships, so that one's use of one's property does not harm the enjoyment of property of one's neighbor. This principle is well explained by this Court in *Buritt v. Harris*, 172 So. 2d 820 (Fla. 1965). Speaking for the Court, Justice Caldwell stated:

> The [C]onstitutional right of the owner of property to make legitimate use of his lands may not be curtailed by unreasonable restrictions under the guise of police power. The owner will not be required to sacrifice his rights absent a substantial need for restrictions in the interest of public health, morals, safety or welfare. If the zoning restriction exceeds the bounds of necessity for the public welfare, as, in our opinion, do the restrictions controverted here, they must be stricken as an unconstitutional invasion of property rights.

172 So. 2d at 823 (footnotes omitted).

The fundamental constitutional right of a property owner to make reasonable use of his property and not be subjected to unreasonable burdens in so doing has led both this Court and the United States Supreme Court to employ a higher standard when reviewing government action affecting private property to try to assure that it does not exceed that reasonably necessary to protect the health, safety, and welfare. Thus, in the early United States Supreme Court case *Village of Euclid v.*

Ambler Realty Company, 272 U.S. 365 (1926), which held that the enactment of local zoning legislation is an appropriate exercise of the police power, the Court further held that if such zoning has "no substantial relation to the public health, safety, morals, or general welfare," the ordinance is unconstitutional. *Village of Euclid,* 272 U.S. at 395. Florida courts follow this rule as well, as the court below properly noted. *Costco,* 780 So. 2d at 201 ("[W]hen a zoning regulation is challenged, it is first the duty of the court to determine whether the challenged ordinance bears a substantial relationship to the public health, safety, morals or welfare" (citing *Davis v. Sails*, 318 So. 2d 214, 222 (Fla. 1st DCA 1975), quoting *City of Miami Beach v. Lachman*, 71 So. 2d 148 (Fla. 1953)).

Because of the fundamental right that is implicated in an action involving private property rights, it is altogether fitting that the propounding agency bear the responsibility to come forward at some point to reveal its reasons for infringing upon an individual's right to use his property. It does not seem to be unreasonable or unduly burdensome to obligate a government authority who seeks to proscribe or limit a fundamental right to do so.

Amicus submits this brief out of concern that Orange County is demonstrating insufficient regard in this case for the right of persons to be secure in their ownership and use of private property, and also to underscore the fact that in this Court's jurisprudence, a legislative enactment affecting private property is reviewed under a higher standard when its constitutional validity is called into question. *Cf. Chicago Title Insurance Co. v. Butler,* 770 So. 2d 1210 (Fla. 2000) (where the constitutionality of an anti-rebate statute was reviewed by this Court using a lesser rational relationship standard). PLF asks this Court to reaffirm in this case that the ability of a person to own, use, and dispose of their private property is a fundamental right. PLF further urges this Court to make it clear that the ultimate burden of proving the validity of legislative activity limiting the use of private property lies with the propounding government agency.

Perhaps the clearest and most instructive case in which a Florida court has considered when the burden of proving the constitutional validity of a legislative act affecting the use of private property shifts to the propounding government agency is *Lambros, Inc. v. Town of Ocean Ridge*, 392 So. 2d 993 (Fla. 4th DCA 1981). In that case, the Town of

Ocean Ridge adopted an ordinance that had the effect of eliminating all commercial uses of private property within its jurisdiction within either 40 years from the construction of the improvement or 20 years from the date of the adoption of the ordinance, whichever occurred later. The challenger, Lambros, Inc., had a contract to purchase certain property located within the town limits that was currently being used as a restaurant. However, the use fell within the ambit of the ordinance, and after a certain number of intervening years would be subject to elimination. The Fourth District Court of Appeal upheld the ordinance because Lambros, Inc., did not come forward with any evidence to shift the burden. However, in explaining its decision, the court stated:

> We are of the opinion that in this situation, Florida law places no obligation on the municipality to go forward with proof of constitutionality of the ordinance until such time as the attacker has made out a prima facie case that the ordinance is arbitrary[,] unreasonable and confiscatory and, thus, unconstitutional.
>
> . . . .
>
> The trial court here was correct in not requiring the municipality to prove the constitutionality of the zoning ordinance until the plaintiff had first made a prima facie showing of unconstitutionality. Since at the trial neither the plaintiff nor the Town offered any proof of constitutionality, the trial court did not err in refusing to set aside the ordinance on constitutional grounds.

392 So. 2d at 994-95. Interestingly, Justice Hurley, in dissent, argued that the breadth of the ordinance eliminating all commercial use from the town limits together with the fact that the use in question was clearly legitimate and innocuous was sufficient to shift the burden as a matter of law. *Lambros,* 392 So. 2d at 996.

Another case in which an intermediate appellate court has required a governmental body to come forward with reasons for its actions is *Town of Belleair v. Moran*, 244 So. 2d 532 (Fla. 2d DCA 1971). In that case, the Second District Court of Appeal had occasion to consider a challenge made by citizens of the Town of Belleair to the constitutional validity of certain rezoning ordinances allegedly enacted at the behest of United States Steel Corporation. The zoning ordinances were challenged broadly on the basis that they were " 'not in the best interest of the community, '. . . favor[ing] 'the private interest of United States Steel Corporation to the detriment of the public interests of the community'. . . 'not made in accordance with the comprehensive plan' " and that they " 'did not promote health and the general welfare.' " *Town of Bellair,* 244 So. 2d at 533.

Considering the allegations of the complaint in an appeal from a

denial of a preliminary injunction, Justice Joseph P. McNulty wrote for the majority:

> Now, as we've noted, a zoning ordinance must be a substantial relationship to public health, safety, morals or general welfare. When, therefore, from the facts and circumstances alleged in a complaint attacking the validity of a zoning ordinance it patently appears that any such relationship is nonexistent, or at most sophistically apparent, the duty should be on the zoning authority to respond and allege sufficient facts to demonstrate that the matter is at least "fairly debatable".

244 So. 2d at 534. Again, the court shifted the burden of coming forward to the propounding government agency.

Amicus submits to this Court that the rationale of these cases supports a rule that at such time as a challenger of an ordinance affecting the fundamental right of a person to use his or her private property comes forward with evidence sufficient to rebut the presumption of validity of the ordinance, the burden shifts to the propounding agency to prove that the ordinance is a valid exercise of the police power. In the case under consideration by this Court, Costco rebutted the presumption with testimony from the Director of Zoning of the Petitioner Orange County that the ordinance in question "furthered no public health, safety, moral or welfare purposes," *Costco v. Orange County,* 780 So. 2d at 200.

The evidence offered by Costco was greater in quantity than the proffer made by the landowner in *Lambros*, and more detailed than the allegations that the *Belleair* court found sufficient to shift the burden. Thus, this is an appropriate case for this Court to clarify the point at which the burden of proof shifts to the government in a case involving the ability of a person to use his private property.

In sum, PLF submits that in order to assure the protection of the fundamental right of individuals to have the ability to use their private property, the burden of proving the constitutional validity of government activity in relation to private property must ultimately lie with the propounding agency, and that the burden is most appropriately shifted at the time that the presumption is rebutted by either legal or factual evidence.

B. The Quality of the Proof Required for a Local Governing Entity To Carry This Burden Should Be Actual Factual Proof

The chief obligation of this Court in considering a facial challenge to a land use ordinance should be the protection of fundamental individual rights against abuse under the guise of the police

power. In this case, the court opinion below and the concurrence expend considerable effort to assure that those rights have not been trampled.

Orange County naturally seeks a minimal level of review of its legislative activities, arguing to this Court, for example, that because its activities are legislative in nature, that what it terms "rational speculation" should be sufficient for it to prevail on the defense of a land use ordinance. I.B. at 38. Justice Harris, in his concurrence, aptly sounds the alarms against such a minimalist threshold between governmental authority and individual rights. Both the Court opinion and the concurrence dismiss the use of opinion evidence and speculation "without a factual basis to support it," *Costco*, 780 So. 2d at 205, as the sole basis for meeting its burden. The same should apply to speculation in all of its varieties. The reason is obvious. An opinion is all too subjective by its very nature to support the curtailment of a fundamental right. If there is a need for the curtailment of the ability of a person to use his property, the danger to his or her neighbor should be factually knowable and provable. PLF submits that in order to give real meaning to the phrase "substantial relationship," governing bodies must be required to provide actual factual support of the necessity for the

limitations that it seeks to impose.

CONCLUSION

This case presents an important question concerning who has the burden of proof when the constitutionality of an ordinance or other legislative act affecting the ability of an individual to use his or her private property is placed in issue. Because the ability to own and control one's private property is among the core values and principles upon which this nation is based, the courts must assure that this fundamental right is not abused by local government agencies. Mindful of the respect that should be accorded to legislative activities of a co-equal branch, this Court should place the ultimate burden of proving the constitutional validity of legislative activities governing the ability of persons to make use of their private property on the propounding government agency.

DATED: September 4, 2001.

FRANK A. SHEPHERD

By_____
FRANK A. SHEPHERD

Attorney for Amicus Curiae
Pacific Legal Foundation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by United States mail, postage prepaid, on September 4, 2001, to James F. Page Jr., Esquire, G. Robertson Dilg, Esquire, Gray, Harris & Robinson, P.A., Post Office Box 3068, Orlando, Florida 32802-3068; Scott A. Glass, Esquire, Shutts & Bowen, LLP, 300 South Orange Avenue, Suite 1000, Orlando, FL 32801.

By _____
FRANK A. SHEPHERD
Pacific Legal Foundation
P.O. Box 522188
Miami, FL 33152
Telephone: (305) 499-9807
Facsimile: (305) 715-9779
Florida Bar No. 152620

Attorney for Amicus Curiae
Pacific Legal Foundation

CERTIFICATE OF COMPLIANCE

The undersigned amicus curiae hereby certifies that this brief has been generated in Times New Roman, 14-point font.

By _____
FRANK A. SHEPHERD
Florida Bar No. 152620
Pacific Legal Foundation
P.O. Box 522188
Miami, FL 33152
Telephone: (305) 499-9807
Facsimile: (305) 715-9779

Attorney for Amicus Curiae
Pacific Legal Foundation