SUPREME COURT OF FLORIDA

Case No. SC04-990
L.T. Case No. 4D02-3626

CITY OF HOLLYWOOD

Petitioner

vs.

COLON BERNARD MULLIGAN, ET AL.

Respondent

RESPONDENTS' SUPPLEMENTAL ANSWER BRIEF TO THE AMICUS BRIEFS OF THE CITY OF MIAMI AND THE CITIES OF DANIA BEACH AND WEST PALM BEACH AND THE ADOPTION THEREOF BY THE PALM BEACH LEAGUE OF CITIES, INC. AND THE CITY OF HALLANDALE BEACH

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SUMMARY OF ARGUMENT

The various Amicus Curiae cite cases from various jurisdictions, in addition to Florida, in an attempt to support the position of Petitioner, City of Hollywood, in this cause. It is respectfully submitted, that these cases are distinguishable.

To summarize, although Respondents agree that municipal home rule powers are generally conferred by Article VIII of the Florida Constitution, and recognized by Fla. Stat. §166.021(1), said municipal home rule powers are not without limitation.

Excepted from municipal home rule powers, is "[a]ny subject expressly preempted to state or county government by the constitution or by general law," however Florida law recognizes implied preemption in this regard.

The Florida Contraband Forfeiture Act ("FCFA") deals with forfeitures arising from the commission of crimes. §§932.701-932.707, Fla. Stat. (2000).

The "FCFA" provides that "[i]t is the policy of this state that law enforcement agencies *shall* utilize the provisions of the Florida Contraband Forfeiture Act to deter and prevent the continued use of contraband articles for *criminal purposes* while protecting the proprietary interests of innocent owners and lienholders.." (Emphasis supplied.) Such is an express preemption by general law of municipal criminal contraband forfeiture (impoundment) laws.

A vehicle containing a controlled substance or cannabis, and a vehicle used in the purchase, attempt to purchase, sale or attempted sale of such controlled substance or cannabis, or a vehicle used to facilitate the commission of an act of prostitution, assignation or lewdness, all have a “criminal purpose” as the underlying basis, and therefore law enforcement officers *must* utilize the provisions of the "FCFA" if they choose to "impound" (forfeit) a vehicle.

The fact that the "FCFA" defines "contraband" as, "Any personal property, including ... any ... vehicle of any kind ... which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony...," demonstrates that the legislature intended to prohibit the forfeiture of vehicles based upon the commission of a mere misdemeanor.

Inasmuch as the "FCFA" requires a felony to forfeit a vehicle, any ordinance that purports to authorize the forfeiture of vehicles used in connection with a misdemeanor is in direct conflict with the Act's limitation to felonies.

Further, the ordinance conflicts with the “FCFA,” in that the ordinance fails to provide for various due process protections and relegates the important issue of the propriety of the seizure to a municipal agency, thus bypassing a court of law with its necessary due process protections.

INTRODUCTION

As the California Court of Appeal, Third Appellate District, stated in the case of *O'Connell v. City of Stockton,* 27 Cal.Rptr.3d 696 (Ct. App. 3rd Dist. May 23, 2005), *rev. granted* 119 P.3d 956, 34 Cal.Rptr.3d 190 (Cal. Sup. Ct. Sept. 7, 2005)[1], "In California [as in Florida], a motor vehicle is practically a necessity of life. Millions of our citizens depend on their cars, trucks or motorcycles to transport them to and from employment, school, medical facilities and childcare centers."

ARGUMENT

I.

THE CITY OF HOLLYWOOD IMPOUNDMENT ORDINANCE ATTEMPTS TO REGULATE CONDUCT THAT IS WITHIN THE SCOPE OF THE FLORIDA CONTRABAND FORFEITURE ACT ("FCFA") AND SAID ORDINANCE CONFLICTS WITH AND IS PREEMPTED BY THE "FCFA."

"Forfeiture" is "a loss of property or a right vested in one, as a penalty for violating law or for a breach of contract." *Howard Cole & Co. v. Williams,* 27 So.2d 352, 356 (Fla. 1946). More narrowly, "criminal forfeiture" is a governmental

[1] Respondent is aware that the California Rules of Court, Rules 976 and 977 provide that when the California Supreme Court grants review, the opinion of the Court of Appeal is no longer considered published, and is not to be cited or relied upon, however periodically within this brief portions of said opinion are mentioned merely to recount that court's observations, which are applicable in the case at bar, and its reasoning, and not for any particular holdings of that court.

seizure of property due to its involvement in crime. *Black's Law Dictionary,* p. 336 (5th Ed. 1979).

The District Court appropriately held that whether the loss of the vehicle is temporary (through payment of the required fee) or permanent (as where the owner cannot or will not pay the fee), owners are deprived of certain rights in the seized vehicles as a penalty for violating law. As the Court stated, “Impoundment under the City's ordinance is nothing "but a kinder, gentler description for what is actually a forfeiture."” *Mulligan v. City of Hollywood,* 871 So.2d 249 (Fla. 4th DCA 2004); *City of Miami v. Wellman,* 875 So.2d 635, 639 (Fla. 3rd DCA 2004).

Amicus Curiae, City of Miami, cited the Virginia case of *Wilson v. Commonwealth*, 477 S.E.2d 765 (Va. Ct. App. 1996), for their language “a temporary impoundment is not a forfeiture.” It is respectfully submitted, that the quoted language has been taken completely out of context. Specifically, the issue in the *Wilson* case concerned double-jeopardy and the nature of forfeiture proceedings in that regard. The case had nothing whatsoever to do with preemption, conflict, or the denial of procedural due process in forfeiture (impoundment) proceedings pursuant to a municipal ordinance.

As mentioned in Respondent’s Answer brief filed in this cause, the City of Hollywood itself referred to the subject ordinance as an "auto forfeiture program” in correspondence that accompanied the contracts of Special Masters, Mark E.

Berman and Christopher Mark Nielson, when they were retained as such Special Masters to hear these matters.

A. Municipal Authority Under Florida Law.

Respondents agree that municipal home rule powers are generally conferred by Article VIII of the Florida Constitution, and recognized by Fla. Stat. §166.021(1). However, said municipal home rule powers are not without limitation, as discussed below.

Fla. Stat., §166.021(3)(c), excepts from municipal home rule powers, "Any subject expressly preempted to state or county government by the constitution or by general law."

B. Florida Law Recognizes Implied Preemption.

In *Barragan v. City of Miami*, 545 So.2d 252, 254 (Fla. 1989), this court stated, "Section 166.021(3)(c), Florida Statutes (1987), which is part of the municipal home rule powers act, limits cities from legislating on any subject expressly preempted to state government by general law. *The preemption need not be explicit so long as it is clear that the legislature has clearly preempted local regulation of the subject.*" (Emphasis supplied.) This court cited *Tribune Co. v. Cannella*, 458 So.2d 1075 (Fla. 1984) in its *Barragan* opinion, *supra.*[2]

[2] Amicus Curiae, City of Dania Beach and the City of West Palm Beach, also cite the pre-*Barrigan* case of *City of Daytona Beach v. Del Percio,* 476 So.2d 197 (Fla. 1985).

Fla. Stat., §932.704(1), provides that "[i]t is the policy of this state that law enforcement agencies *shall* utilize the provisions of the Florida Contraband Forfeiture Act to deter and prevent the continued use of contraband articles for *criminal purposes* while protecting the proprietary interests of innocent owners and lienholders.." (Emphasis supplied.)

Therefore, the Florida Contraband Forfeiture Act ("FCFA") deals with forfeitures arising from the commission of crimes (“criminal purposes”), and therefore preempts any municipal ordinances dealing with the forfeiture (impoundment) of vehicles used in the commission of crime.

Preemptive intent is also shown by the history of the Florida Contraband Forfeiture Act. When enacted as Chapter 74-385, House Bill No. 2930, showed on its face the Legislature's intent to provide "uniform procedures for confiscation of vessels, motor vehicles and aircraft containing contraband articles." Therefore, the Legislature's expressed intent was to establish uniformity and exclusiveness in procedures for confiscating the instrumentalities of crime.

The District Court, recognizing that prostitution is a crime ("criminal purpose"), correctly determined that law enforcement must utilize the provisions of the "FCFA" if they choose to "impound" (forfeit) a vehicle, and that the above language is an *express* preemption by general law of municipal criminal contraband forfeiture laws.

Additionally, it is submitted that the "FCFA" exhibits an intention to expressly preempt the subject matter by providing a comprehensive method for the forfeiture of property. See *§§* 932.701-932.707, Fla. Stat. (2000). This Act applies to *all law enforcement agencies including municipal police departments*. See §932.7055(4), Fla. Stat. (2000) (providing for disposition of property if the seizing agency is a county or municipal agency).

Therefore, the legislature's expressed intent was to establish a *pervasive scheme*, fostering uniformity and exclusiveness in procedures for confiscating the instrumentalities of crime.

II.

THE CITY OF HOLLYWOOD IMPOUNDMENT ORDINANCE IS IN CONFLICT WITH AND IS PREEMPTED BY THE FLORIDA CONTRABAND FORFEITURE ACT ("FCFA").

Amicus Curiae, City of Dania Beach and the City of West Palm Beach, cite the South Carolina case of *City of North Charleston v. Harper,* 410 S.E.2d 569 (S.C. 1991).

That case concerned a situation where the appellate court affirmed the lower court's ruling that an ordinance was void for conflicting with state law. The court noted that the power given by the state to a local government to enact ordinances is limited, in that the local law must not conflict with state law. The court stated that, "[a] city ordinance conflicts with state law when its conditions, express or implied,

are inconsistent or irreconcilable with the state law … Where there is a conflict between state statute and a city ordinance, the ordinance is void."

Next, those Amicus Curiae cities cite a case from the State of Michigan, *City of Detroit v. Qualls,* 454 N.W.2d 374 (Mich. 1990).

That court noted in-part that, "The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict therewith *unless the statute limits the requirement for all cases to its own prescription.* (Emphasis supplied.)

In the case bar, that is precisely what our legislature did when they provided in the "FCFA," that "[i]t is the policy of this state that law enforcement agencies *shall* utilize the provisions of the Florida Contraband Forfeiture Act to deter and prevent the continued use of contraband articles for *criminal purposes* while protecting the proprietary interests of innocent owners and lienholders.." (Emphasis supplied.), unlike the Michigan statute in question in the *City of Detroit* case, *supra.*

The City of Dania Beach and the City of West Palm Beach also cite two California cases, *Gluck v. County of Los Angeles,* 93 Cal.App.3d 121, 155 Cal.Rptr. 435 (Cal.Ct.App.2d Dist. 1979) and *Horton v. City of Oakland,* 98 Cal.Rptr.2d 371 (Ct. App. 1st Dist. 2000), which may be of questionable authority based upon the recent California case of *American Financial Services Association,*

34 Cal.4th 1239, 104 P.3d 813, 23 Cal.Rptr.3d 453 (Calif. Jan. 31, 2005), and possibly, *O'Connell v. City of Stockton*, 27 Cal.Rptr.3d 696 (Ct. App. 3rd Dist. May 23, 2005), *rev. granted* 119 P.3d 956, 34 Cal.Rptr.3d 190 (Cal. Sup. Ct. Sept. 7, 2005), depending upon how the California Supreme Court rules on review.

It is interesting to note, that the City of Dania Beach and the City of West Palm Beach in quoting language from *Gluck, supra.*, a 1979 California Court of Appeal case, only quote the tail-end of the sentence, "the law[3] "favors the validity of the local ordinance against an attack of state preemption."" They have left out the qualifying language that precedes those words in the sentence, "...if there is a significant local interest to be served *which may differ from one locality to another*..." (Emphasis supplied.)

In the case at bar, the City of Hollywood ordinance deals with the "impoundment" (forfeiture) of vehicles containing a controlled substance or cannabis, and a vehicle used in the purchase, attempt to purchase, sale or attempted sale of such controlled substance or cannabis, and a vehicle used to facilitate the commission of an act of prostitution, assignation or lewdness.

It is respectfully submitted, that the use of vehicles in the commission of such criminal activities (criminal purposes) referred to above is common to *all* municipalities throughout the State of Florida and do not "differ from one locality

[3] Note: The Amicus cities have changed these words from "presumption" to "the law."

to another," other than perhaps the number of such vehicles used in the commission of such offenses in relation to the population of various localities.

The City of Dania Beach and the City of West Palm Beach as well as Amicus Curiae, City of Miami, cite *Horton v. City of Oakland*, 98 Cal.Rptr.2d 371 (Ct. App. 1st Dist. 2000).

It is submitted, that the California Supreme Court implicitly overruled and superceded the *Horton* case, *supra.,* by its preemption opinion in *American Financial Services Association*, 34 Cal.4th 1239, 104 P.3d 813, 23 Cal.Rptr.3d 453 (Calif. Jan. 31, 2005), wherein it appears that the majority opinion as well as the dissenting opinions reject the reasoning of *Horton, supra.*

The Amicus Curiae cite *Horton, supra.,* for the proposition that inasmuch as the state statute did not include forfeiture of vehicles of *drug buyers*, then that left authority in the municipality to enact ordinances permitting forfeiture of vehicles of such drug buyers.

In *American Financial, supra.,* a case where the California Supreme Court held that the Legislature had impliedly fully occupied the field of regulation of predatory practices in home mortgage lending, and hence the ordinance was preempted by state law, the majority of the Court rejected the reasoning of *Horton. Supra.,* and concluded that the exclusion of certain conduct from a comprehensive statutory scheme is not an invitation for municipal legislation, but instead an

implied determination that the balancing of interests undertaken by the Legislature warrants the conduct be excluded from state *and* local regulation. This falls under the rule *of expressio unius est exclusio alterius* - the expression of one thing is the exclusion of another. See: *Malu v. Security National Insurance Company,* 898 So.2d 69, 71 (Fla. 2005) (recognizing the principle of statutory construction "…*expressio unius est exclusio alterius*…")

In this regard, the court in *O'Connell v. City of Stockton,* 27 Cal.Rptr.3d 696 (Ct. App. 3rd Dist. May 23, 2005), *rev. granted* 119 P.3d 956, 34 Cal.Rptr.3d 190 (Cal. Sup. Ct. Sept. 7, 2005), remarked, "The state's decision to authorize vehicle forfeiture in some aspects of the drug trade but not others is not an invitation for municipal regulation." (*American Financial, supra,* 34 Cal.4th at p. 1259, 23 Cal.Rptr.3d 453, 104 P.3d 813.) For example, the Legislature may well have concluded vehicle forfeiture as too severe a sanction to impose on drug buyers, who are generally viewed with greater sympathy and leniency than drug sellers and manufacturers." Just as those that commit misdemeanors in the case at bar are looked at differently than those that commit felonies.

Additionally, the court in *American Financial* court, *supra.*, stated, "Where the Legislature has adopted statutes governing a particular subject matter, its intent with regard to occupying the field to the exclusion of all local regulation is not to be measured alone by the language used but by the whole purpose and scope of the

legislative scheme." … and, "State regulation of a subject may be so complete and detailed as to indicate an intent to preclude local regulation … In this connection it may be significant that the subject is one which ... requires uniform treatment throughout the state."

It is submitted, that in the case at bar, the "FCFA" is an extremely comprehensive Act, including extensive procedural due process protections, that clearly indicates an intent to preclude local regulation.

State v. Gonzales, 483 N.W.2d 736,737-738 (Minn. Ct. App. 1992), follows the same rule to find that the failure of state forfeiture statutes to include certain offenses evidences an implied legislative intent to exclude such omitted offenses from forfeiture and thereby preempt local ordinance permitting forfeiture for such offenses.

The "FCFA" defines "contraband" as, "Any personal property, including ... any ... vehicle of any kind ... which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any *felony,* whether or not comprising an element of the felony..." Fla. Stat. (2002), §932.704(2)(a)5. (Emphasis supplied.)

Therefore, inasmuch as the "FCFA" requires a *felony* to forfeit a vehicle, any ordinance that purports to authorize the forfeiture of vehicles used in connection with a *misdemeanor* is in direct conflict with the Act's limitation to felonies, and

has been preempted by said "FCFA," under the rule *of expressio unius est exclusio alterius.*

The City of Dania Beach and the City of West Palm Beach also cite two New York cases, *Grinberg v. Safir,* 694 N.Y.S.2d 316 (Sup.Ct. 1999)[4] and *Property Clerk of N.Y. City Police Dept. v. Ferris*, 568 N.Y.S.2d 577 (Sup.Ct. 1991).

It is respectfully submitted, that those cases are distinguishable from the law of Florida.

Specifically, in the *Grinberg* case, *supra.,* the court noted that "Article 13-A [the State Statute] does not limit or supersede Administrative Code Section 14-140" [the city's ordinance], citing the *Property Clerk of N.Y. City Police Dept.* case, *supra.,* and "[n]othing in Article 13-A's legislative history indicates that the State intended to occupy the field."

This is wholly unlike the situation in Florida, where the State legislature in the "FCFA" provided that "[i]t is the policy of this state that law enforcement agencies *shall* utilize the provisions of the Florida Contraband Forfeiture Act to deter and prevent the continued use of contraband articles for *criminal purposes*

[4] This case cited by Amicus Curiae is a trial court opinion, however further research done by the undersigned has revealed that on appeal this ruling was affirmed by the Supreme Court, Appellate Division, which is an intermediate appellate court in the New York judicial system, on the same level as our Florida District Courts of Appeal.

while protecting the proprietary interests of innocent owners and lienholders.." (Emphasis supplied.)

Further, preemptive intent is also shown by the history of the Florida Contraband Forfeiture Act. When enacted as Chapter 74-385, House Bill No. 2930, showed on its face the Legislature's intent to provide "uniform procedures for confiscation of vessels, motor vehicles and aircraft containing contraband articles." Therefore, the Florida Legislature's expressed intent was to establish uniformity and exclusiveness in procedures for confiscating the instrumentalities of crime.

Amicus Curiae, City of Miami, cites *Kalodimos v. Village of Morton Grove,* 470 N.E.2d 266, 275 (Ill. 1984), for the observation that, “Home rule allows local governments to attempt solutions, “free from veto by voters and elected representatives of other parts of the State who might disagree with the particular approach advanced by the representatives of the locality involved or fail to appreciate the local perception of the problem.””

This observation is interesting, however “Home Rule” is not without the limitations heretofore discussed above (express and implied preemption/conflict, etc.).

The City of Dania Beach and the City of West Palm Beach as well as Amicus Curiae, City of Miami, cite the Illinois case of *People v. Jaudon*, 718 N.E.2d 647 (Ill.Ct.App.1999).

Amicus Curiae, City of Dania Beach and the City of West Palm Beach, quote from the *Jaudon* case, *supra.*, "Here it is apparent that there is no preemption by the State because there is no specific or express statement within [the state statutes] declaring the State's exclusive exercise of dominion over property seized at the time of arrest or, more particularly, property seized relative to an arrest for unlawful possession of a firearm."

Again, this is wholly unlike the situation in Florida, where the State legislature in the "FCFA" did provide that "[i]t is the policy of this state that law enforcement agencies *shall* utilize the provisions of the Florida Contraband Forfeiture Act to deter and prevent the continued use of contraband articles for *criminal purposes* while protecting the proprietary interests of innocent owners and lienholders.." (Emphasis supplied.)

Also again, the history of the "FCFA" shows the Legislature's expressed intent to provide "uniform procedures for confiscation of vessels, motor vehicles and aircraft containing contraband articles."

Further, with regard to home rule units, the Illinois Constitution, Art. VII, §6(i), provides that home rule units are granted the right to exercise such powers,

"concurrently with the State…to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive." (Emphasis supplied.)

Additionally, unlike the Florida Constitution, the Illinois Constitution, Art. VII, §6(g)(h), provides specific methods by which the General Assembly may preempt home rule power.

It should be noted, that the Florida Constitution does not contain a provision specifically designating the circumstances or procedures to be utilized when the state desires to preempt the powers of municipalities under home rule. Further, as noted above, Florida recognizes implied preemption.

Amicus Curiae, City of Miami, cites the case of *City of Boca Raton v. Gidman*, 440 So.2d 1277 (Fla. 1983), another pre-*Barragan* case, *supra.*, that allows for implied preemption.

As noted in *Santa Rosa County v. Gulf Power Company*, 635 So.2d 96 (Fla. 1st DCA 1994), "Florida law recognizes two kinds of preemption: express and implied. The former requires that the statute contain specific language of preemption directed to the particular subject at issue. *See Hillsborough County v. Florida Restaurant Ass'n,* 603 So.2d 587, 590 (Fla. 2d DCA 1992). Implied preemption occurs if a legislative scheme is so pervasive that it occupies the entire field, creating a danger of conflict between local and state laws. *Id.* at 590-91.

"Implied preemption" should be found to exist only in cases where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature." *GLA and Associates, Inc. v. City of Boca Raton*, 855 So.2d 278 (Fla. 4th DCA 2003); *Tallahassee Mem'l Reg'l Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So.2d 826, 831 (Fla. 1st DCA 1996) (citing *Tribune Co. v. Cannella,* 458 So.2d 1075 (Fla.1984); *Hillsborough County v. Fla. Rest. Ass'n,* 603 So.2d 587 (Fla. 2d DCA 1992)).

In the case at bar, the "FCFA's" legislative scheme is so pervasive as to evidence an intent to preempt the entire area of forfeiture of vehicles used in the commission of crime. Further, as evidenced by the Legislature's intent to provide a uniform procedure for the confiscation of such vehicles, a strong public policy exists that the area should be considered preempted by state law.

Additionally, in their attempt to justify the forfeiture (impoundment) procedure of the City of Hollywood ordinance, Amicus Curiae, City of Miami, states, "There are a number of *Florida statutes* which authorize impoundments of vehicles, and nothing suggests that those impoundments are subject to the Florida Forfeiture Act." It is submitted, that comparing a state statute with a state statute is far different than comparing a state statute with a municipal ordinance through a preemption analysis.

With regard to the conflict between the ordinance and the "FCFA," since in order to forfeit (impound) pursuant to the "FCFA", there must have been a *felony* committed, any ordinance that permits the forfeiture (impoundment) of a vehicle for a *misdemeanor* cannot coexist.

Put another way, in order to comply with the ordinance (forfeiture/impoundment for a misdemeanor), one must violate the requirement of a "felony" in the "FCFA."

There is also conflict because the City of Hollywood ordinance involves an invasion of fundamental property rights, however fails to provide necessary due process protections as provided for in the "FCFA." It has been held that forfeiture schemes must comport with due process. *Department of Law Enforcement v. Real Property,* 588 So. 2d 957 (Fla. 1991).

An ordinance must not conflict with any controlling state statute, and if any doubt exists as to the extent of a power attempted to be exercised which may affect the operation of a state statute, the doubt is to be resolved against the ordinance and in favor of the statute. *City of Miami Beach v. Rocio Corp.,* 404 So.2d 1066,1069 (Fla. 3rd DCA 1981).

CONCLUSION

Based on the foregoing, it is respectfully submitted, that this Honorable Court should answer the certified question in the affirmative, thereby declaring that

the Florida Contraband Forfeiture Act preempts local governments from adopting ordinances imposing forfeiture of personal property for misdemeanor offenses, and that said impoundment ordinance conflicts with State law, and therefore the City of Hollywood Impoundment Ordinance, Sec. 101.46, City of Hollywood Code, is void, unenforceable and invalid.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing Respondents' Supplemental Answer Brief to the Amicus Briefs of the City of Miami and the Cities of Dania Beach and West Palm Beach, and the adoption thereof by the Palm Beach League of Cities, Inc. and the City of Hallandale Beach was mailed this ____ day of November, 2005, to: Daniel L. Abbott, City Attorney, Office of the City of Hollywood Attorney, 2600 Hollywood Boulevard, Room 407, Hollywood, Florida 33020 *(City of Hollywood)*; Trela J. White, Esquire, CORBETT AND WHITE, P.A., 309 Lake Ave., Lake Worth, Florida 33460 *(Palm Beach County League of Cities, Inc.)*; David Jove, City Attorney, Office of the Hallandale Beach City Attorney, 400 S. Federal Highway, Hallandale Beach, Florida 33009 *(City of Hallandale Beach, Florida)*; Warren Bittner, Assistant City Attorney, Office of City Attorney Jorge L. Fernandez, 945 Miami Riverside Center, 444 S.W. 2nd Ave., Miami, Florida 33130-1910 *(City of Miami)*; Robert S. Glazier, Esquire, 540 Brickell Key Drive, Suite C-1, Miami, Florida 33131 *(City of Miami)*;

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY, that this Respondents' Supplemental Answer Brief has been submitted in Times New Roman 14-point font in compliance with the Florida Rules of Appellate Procedure.

Respectfully submitted,

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