

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CASE NO.

TOWN OF BRINY BREEZES, a Florida
municipal corporation;

TOWN OF GOLDEN BEACH, FLORIDA, a
Florida municipal corporation;

VILLAGE OF INDIAN CREEK, FLORIDA, a
Florida municipal corporation;

CITY OF MIAMI SPRINGS, FLORIDA, a
Florida municipal corporation;

CITY OF LIGHTHOUSE POINT, FLORIDA, a
Florida municipal corporation;

TOWN OF PALM BEACH, FLORIDA, a
Florida municipal corporation;

NORTH BAY VILLAGE, FLORIDA, a Florida
municipal corporation;

VILLAGE OF BAL HARBOR, FLORIDA, a
Florida municipal corporation;

CITY OF WESTON, FLORIDA, a Florida
municipal corporation;

CITY OF DELRAY BEACH, FLORIDA, a
Florida municipal corporation;

CITY OF SAFETY HARBOR, FLORIDA, a
Florida municipal corporation;

COOPER CITY, FLORIDA, a Florida municipal
corporation;

CITY OF CORAL SPRINGS, FLORIDA, a
Florida municipal corporation;

CITY OF ST. AUGUSTINE, FLORIDA, a
Florida municipal corporation;

CITY OF MARCO ISLAND, FLORIDA, a Florida municipal corporation;

VILLAGE OF KEY BISCAYNE, FLORIDA, a Florida municipal corporation;

CITY OF WILTON MANORS, FLORIDA, a Florida municipal corporation;

CITY OF MARGATE, FLORIDA, a Florida municipal corporation;

CITY OF DESTIN, FLORIDA, a Florida municipal corporation;

CITY OF LAUDERHILL, FLORIDA, a Florida municipal corporation;

CITY OF DEERFIELD BEACH, FLORIDA, a Florida municipal corporation;

CITY OF AVENTURA, FLORIDA, a Florida municipal corporation;

PRESIDENT OF TOWN COUNCIL ELIZABETH A. LOPER, ALDERMAN KEITH J. BLACK, ALDERMAN KATHLEEN M. GROSS and ALDERMAN WILLIAM BIRCH, elected officials of the Town of Briny Breezes;

COUNCILMEMBERS WALTER FAJET and JACKY BRAVO, elected officials of Miami Springs, Florida;

COMMISSIONER PATRICIA PETRONE, an elected official of Lighthouse Point, Florida;

MAYOR BRENT LATHAM, VICE MAYOR RICHARD CHERVONY, COMMISSIONER ANDY DARO and COMMISSIONER ANDY ROTONDARO, elected officials of North Bay Village, Florida;

MAYOR BERNARD KLEPACH, an elected official of Indian Creek, Florida;

MAYOR GLENN SINGER, an elected official of the Town of Golden Beach, Florida;

MAYOR JEFFREY P. FREIMARK, VICE-MAYOR SETH E. SALVER, COUNCILMAN DAVID ALBAUM, and COUNCILMAN DAVID WOLF, elected officials of the Village of Bal Harbour, Florida;

MAYOR MARGARET BROWN, COMMISSIONER MARY MOLINA-MACFIE, COMMISSIONER CHRIS EDDY, COMMISSIONER HENRY MEAD, and COMMISSIONER BYRON L. JAFFE, elected officials of the City of Weston, Florida;

MAYOR SHELLY PETROLIA, VICE MAYOR RYAN BOYLSTON, DEPUTY VICE-MAYOR ROB LONG, COMMISSIONER ADAM FRANKEL, and COMMISSIONER ANGELA BURNS, elected officials of the City of Delray Beach, Florida;

MAYOR JOSEPH AYOUB, COMMISSIONER ANDY STEINGOLD, COMMISSIONER CARLOS DIAZ, COMMISSIONER NANCY J. BESORE, and COMMISSIONER CLIFF MERZ, elected officials of the City of Safety Harbor, Florida;

VICE-CHAIR ERIK BRECHNITZ, an elected official of the City of Marco Island, Florida;

MAYOR SCOTT J. BROOK, VICE MAYOR SHAWN CERRA, COMMISSIONER JOSHUA SIMMONS, COMMISSIONER JOY CARTER, and COMMISSIONER NANCY METAYER BOWEN, elected officials of the City of Coral Springs, Florida;

VICE MAYOR ARLENE SCHWARTZ, COMMISSIONER ANTONIO V. ARSERIO, and COMMISSIONER JOANNE SIMONE, elected officials of the City of Margate, Florida;

MAYOR ROBERT T. WAGNER, COUNCIL MEMBER JOHN STEPHENS III, COUNCIL MEMBER TORY CJ GEILE, COUNCIL MEMBER JAMES B. BAGBY, and COUNCIL MEMBER TERESA HEBERT, elected officials of the City of Destin, Florida; and

MAYOR KENNETH R. THURSTON, COMMISSIONER MELISSA P. DUNN, and COMMISSIONER SARAI “RAY” MARTIN, elected officials of the City of Lauderhill, Florida,

Plaintiffs,

vs.

ASHLEY LUKIS, in her official capacity as Chair of the Florida Commission on Ethics; MICHELLE ANCHORS, in her official capacity as Vice Chair of the Florida Commission on Ethics; WILLIAM P. CERVONE, in his official capacity as a Member of the Florida Commission on Ethics; TINA DESCOVICH, in her official capacity as Member of the Florida Commission on Ethics; FREDDIE FIGGERS, in his official capacity as a Member of the Florida Commission on Ethics; LUIS M. FUSTE, in his official capacity as a Member of the Florida Commission on Ethics; and WENGAY M. NEWTON, SR., in his official capacity as a Member of the Florida Commission on Ethics,

Defendants.

COMPLAINT

Plaintiffs bring this action against Defendants for declaratory and injunctive relief, and state as follows:

OVERVIEW

1. This is an action by a large number of Florida municipalities and elected municipal officials challenging a recently enacted law (“SB 774”) that requires municipal elected officials in

office as of January 1, 2024, to disclose quintessentially private, highly personal financial information, including, among other things, the exact amount of their net worth and income, the total dollar value of their household goods and the precise value of every asset and amount of every liability in excess of \$1,000, on or before July 1, 2024, or otherwise face significant fines, civil penalties, and even potential removal from office.

2. SB 744 amended, among other statutes, sections 112.3144, and 99.061, Florida Statutes, and renders elected municipal officials and candidates subject to the financial disclosure requirements of article II, section 8(j) of the Florida Constitution.

3. Prior to the enactment of SB 744, elected municipal officials and candidates were required to provide financial disclosures via a document called “Form 1,” pursuant to section 112.3145, Florida Statutes, but were not subject to the requirements of article II, section 8(j). However, sections 112.3144 and 99.061, as amended by SB 774 in 2023, make all elected municipal officers and candidates subject to the filing requirements of “Form 6,” which demands much more intrusive financial disclosures as outlined in the Florida Constitution and section 112.3144. A copy of Form 1 is attached as Exhibit A, and a copy of Form 6 is attached as Exhibit B.

4. Forcing municipal elected officials and candidates to publicly disclose such private information impairs their right to privacy under the Florida Constitution. Because the right to privacy is enumerated as a fundamental right, any such impairment is impermissible unless it is the least restrictive means of achieving a compelling state interest.

5. Rather than being the *least restrictive* means of accomplishing a compelling state interest, the new financial disclosure requirements imposed on municipal officials and candidates through SB 744 are the *most restrictive* means available—stricter and more onerous than those

required of federal elected officials (including the President of the United States) and of elected officials in other states throughout the country.

6. The additional financial information required to be disclosed by Form 6 (*e.g.*, the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1, has little bearing, if any, on an elected official's municipal service, does not prevent conflicts of interest or public corruption, and does not increase public confidence in government.

7. Form 1 is a less restrictive alternative means of accomplishing the same governmental interests, as would be the less onerous disclosure forms used by the federal government or any of the other United States.

8. Indeed, municipal elected officials and candidates operated under the requirements of Form 1 for decades, and nothing in the Legislature's enactment of the new Form 6 requirement reflected that Form 1 was insufficient and necessitated a change.

9. As such, this action seeks an order (i) declaring the 2023 amendments to sections 112.3144 and 99.061, Florida Statutes, related to elected municipal officials and candidates and any penalties arising therefrom, including those in section 112.317, Florida Statutes, violate Article 1, Section 23 of the Florida Constitution, and (ii) enjoining Defendants from enforcing the disclosure requirements.

JURISDICTION AND VENUE

10. This is an action for declaratory relief, pursuant to Chapter 86, Florida Statutes, seeking to declare that the 2023 amendments to sections 112.3144 and 99.061, Florida Statutes, and any penalties arising therefrom, including those in section 112.317, Florida Statutes, are unconstitutional and invalid. The Court has jurisdiction to grant declaratory relief. *See* §§ 86.011,

86.021, 86.101, Fla. Stat. The Court further has jurisdiction to grant supplemental relief, including injunctive relief. § 86.061, Fla. Stat.

11. Venue is proper in Leon County because Defendants are all members of the Commission on Ethics, which is located and conducts business in Leon County, Florida. In addition, any enforcement of the Form 6 requirement would take place in Leon County, Florida.

12. All conditions precedent to the institution of this lawsuit have been, or will be, satisfied or waived.

THE PARTIES

13. The Plaintiffs in this action consist of Florida municipalities and current elected officials of Florida municipalities.

A. The Municipal Plaintiffs

14. The Florida municipal plaintiffs, each of which is an incorporated municipality existing under the laws of the State of Florida (collectively, “Municipal Plaintiffs”), consist of:

- a. Town of Briny Breezes, located in Palm Beach County, Florida;
- b. Town of Golden Beach, located in Miami-Dade County, Florida;
- c. Village of Indian Creek, located in Miami-Dade County, Florida;
- d. City of Miami Springs, located in Miami-Dade County, Florida;
- e. City of Lighthouse Point, located in Broward County, Florida;
- f. Town of Palm Beach, located in Palm Beach County, Florida;
- g. North Bay Village, located in Miami-Dade County, Florida;
- h. Village of Bal Harbor, located in Miami-Dade County, Florida;
- i. City of Weston, located in Broward County, Florida;
- j. City of Delray Beach, located in Palm Beach County, Florida;

- k. City of Safety Harbor, located in Pinellas County, Florida;
- l. Cooper City, located in Broward County, Florida;
- m. City of Coral Springs, located in Broward County, Florida;
- n. City of St. Augustine, located in St. Johns County, Florida;
- o. City of Marco Island, located in Collier County, Florida;
- p. Village of Key Biscayne, located in Miami-Dade County, Florida;
- q. City of Wilton Manors, located in Broward County, Florida;
- r. City of Margate, located in Broward County, Florida;
- s. City of Destin, located in Okaloosa, Florida;
- t. City of Lauderhill, located in Broward County, Florida;
- u. City of Deerfield Beach, located in Broward County, Florida, and
- v. City of Aventura, located in Miami-Dade County, Florida.

15. As a result of SB 744, as of January 1, 2024, each elected member of, and candidate for, the governing body of every Municipal Plaintiff herein is required to file a Form 6.

16. The Municipal Plaintiffs each have a strong interest in having qualified people run for, and continue to serve in, municipal elected office. The Form 6 requirement will deter qualified people from running for and serving in elected office in the Municipal Plaintiffs. In fact, the Florida League of Cities has advised that, throughout Florida, over 100 municipal elected officials have already resigned rather than be subjected to the filing of a Form 6 financial disclosure, significantly disrupting the operations of those municipalities.

17. For example, in plaintiff Briny Breezes, former Mayor Gene Adams, former Council President Christina Adams, and former Alderman and Council President Sue Thaler all resigned in December 2023 because of the Form 6 requirement. As a result of resignations,

municipalities, including Municipal Plaintiffs, have been (and/or will be) forced to expend significant public funds for filling vacancies, including temporary appointments and special elections. In addition, the vacancies have disrupted municipal operations.

18. In addition, pursuant to section 112.3144(9), a municipal elected official can be subject to “an order recommending that the officer or employee be removed from his or her public office” for refusing to file the Form 6, potentially creating even more vacancies, disrupting Municipal Plaintiffs’ operations, and causing the additional expenditure of public funds to fill those vacancies.

19. The Florida Legislature has expressly recognized the strong interest of the Municipal Plaintiffs to attract qualified candidates to run for and hold office, and the importance of ensuring that ethics laws not deter people from seeking municipal elected office:

It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

§ 112.311, Fla. Stat. The application of the Form 6 disclosure requirement does precisely what the law says it is not to do, to the detriment of the Municipal Plaintiffs: it “impede[s] unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve.” Indeed, its impact is particularly felt at the municipal level where local legislators volunteer to serve their fellow residents, often with little or no compensation.

20. The Municipal Plaintiffs thus have a statutorily recognized interest in ensuring that qualified candidates run for office and remain in office and thus have a substantial interest in this action.

B. The Elected Official Plaintiffs

21. The “Elected Official Plaintiffs” consist of the following, each of whom is currently serving as a municipal elected official:

- a. Town of Briny Breezes President of Town Council Elizabeth A. Loper;
- b. Town of Briny Breezes Alderman Keith J. Black;
- c. Town of Briny Breezes Alderman Kathleen M. Gross;
- d. Town of Briny Breezes Alderman William Birch;
- e. City of Miami Springs Councilmember Walter Fajet;
- f. City of Miami Springs Councilmember Jacky Bravo;
- g. City of Lighthouse Point Commissioner Patricia Petrone;
- h. North Bay Village Mayor Brent Latham;
- i. North Bay Village Vice Mayor Richard Chervony;
- j. North Bay Village Commissioner Andy Daro;
- k. North Bay Village Commissioner Andy Rotondaro;
- l. Indian Creek Mayor Bernard Klepach;
- m. Golden Beach Mayor Glenn Singer;
- n. Village of Bal Harbor Mayor Jeffrey P. Freimark ;
- o. Village of Bal Harbor Vice-Mayor Seth E. Salver;
- p. Village of Bal Harbor Councilman David Albaum;
- q. Village of Bal Harbor Councilman David Wolf;
- r. City of Weston Mayor Margaret Brown;
- s. City of Weston Commissioner Mary Molina-Macfie;
- t. City of Weston Commissioner Chris Eddy;

u. City of Weston Commissioner Henry Mead;

v. City of Weston Commissioner Byron L. Jaffe;

w. City of Delray Beach Mayor Shelly Petrolia;

x. City of Delray Beach Vice Mayor Ryan Boylston;

y. City of Delray Beach Deputy Vice-Mayor Rob Long;

z. City of Delray Beach Commissioner Adam Frankel;

aa. City of Delray Beach Commissioner Angela Burns;

bb. City of Safety Harbor Mayor Joseph Ayoub;

cc. City of Safety Harbor Commissioner Andy Steingold;

dd. City of Safety Harbor Commissioner Carlos Diaz;

ee. City of Safety Harbor Commissioner Nancy J. Besore;

ff. City of Safety Harbor Commissioner Cliff Merz;

gg. City of Marco Island Vice-Chair Erik Brechnitz;

hh. City of Coral Springs Mayor Scott J. Brook;

ii. City of Coral Springs Vice Mayor Shawn Cerra;

jj. City of Coral Springs Commissioner Joshua Simmons;

kk. City of Coral Springs Commissioner Joy Carter;

ll. City of Coral Springs Commissioner Nancy Metayer Bowen;

mm. City of Margate Vice Mayor Arlene Schwartz;

nn. City of Margate Commissioner Antonio V. Arserio;

oo. City of Margate Commissioner Joanne Simone;

pp. City of Destin Mayor Robert T. Wagner;

qq. City of Destin Council Member John Stephens III;

rr. City of Destin Council Member Torey CJ Geile;
ss. City of Destin Council Member James B .Bagby;
tt. City of Destin Council Member Teresa Hebert;
uu. City of Lauderhill Mayor Kenneth R. Thurston;
vv. City of Lauderhill Commissioner Melissa P. Dunn;
ww. City of Lauderhill Commissioner Sarai “Ray” Martin.

22. The Elected Official Plaintiffs are each Mayors or elected members of the governing bodies of incorporated municipalities existing under the laws of the State of Florida, who are currently in office.

23. As a result of the passage of SB 774, as of January 1, 2024, each Elected Official Plaintiff is subject to the Form 6 financial disclosure requirements of section 8, article II of the Florida Constitution, and section 112.3144, Florida Statutes, and are further subject to the fines, penalties and other enforcement mechanisms outlined therein and in sections 112.317 and 112.324, Florida Statutes, if they do not timely file Form 6 financial disclosures.

24. Each Elected Official Plaintiff is therefore required to file the requisite Form 6 (rather than the prior Form 1) on or before July 1, 2024.

25. The failure of any municipal elected official to file a Form 6, including each Elected Official Plaintiff, subjects him or her to a daily fine of \$25 per day up to a maximum of \$1,500 and, following an investigation and public hearing, a potential civil penalty of up to \$20,000 and, among other things, a potential recommendation of removal from office. *See* §§ 112.3144(8)(f), 112.324(4), 112.317, Fla. Stat.

26. The Elected Official Plaintiffs now face the Hobson’s choice of either sacrificing their constitutionally protected right to privacy by filing a Form 6 on or before the imminent

deadline of July 1, 2024, as now required by section 112.3144, or face fines, penalties, and other enforcement, including the possible removal from office. Throughout Florida, more than 100 municipal elected officials have resigned rather than agree to surrender their constitutionally protected privacy. The Elected Official Plaintiffs strongly desire to continue to serve the public and have therefore not yet resigned, but instead have chosen to challenge the new requirement.

27. Accordingly, the Elected Official Plaintiffs have each a significant interest in this action.

C. The Defendants

28. Defendant, Ashley Lukis (“Lukis”) is the Chair and a Member of the Florida Commission on Ethics (“Commission”), a commission existing pursuant to article II, section 8(h)(1) of the Florida Constitution and section 112.320, Florida Statutes. Lukis is sued in her official capacity as Chair of the Commission.

29. Defendant, Michelle Anchors (“Anchors”) is the Vice Chair and a Member of the Commission. Anchors is sued in her official capacity as Vice Chair of the Commission.

30. Defendant, William P. Cervone (“Cervone”) is a Member of the Commission. Cervone is sued in his official capacity as Member of the Commission.

31. Defendant Tina Descovich (“Descovich”) is a Member of the Commission. Descovich is sued in her official capacity as Member of the Commission.

32. Defendant, Freddie Figgers (“Figgers”) is a Member of the Commission. Figgers is sued in his official capacity as Member of the Commission.

33. Defendant, Luis Fuste (“Fuste”) is a Member of the Commission. Fuste is sued in his official capacity as Member of the Commission.

34. Defendant, Wengay M. Newton, Sr. (“Newton”) is a Member of the Commission. Newton is sued in his official capacity as Member of the Commission.

35. Lukis, Anchors, Cervone, Descovich, Figgers, Fuste, and Newton, collectively, comprise the Commission.

36. “The Agency Head is the entire Commission, which is responsible for final agency action.” *See* Statement of Organization and Operation of the Commission on Ethics, <https://www.ethics.state.fl.us/Documents/Ethics/statement%20of%20org.pdf?cp=2024127>, last accessed February 12, 2024.

37. The Commission, through each Defendant, is charged with implementing and enforcing the State’s financial disclosure laws, including, among many other things, the receipt of the Form 6 disclosure forms, training regarding Form 6, investigating alleged violations regarding Form 6 filings, imposing fines for failure to file Form 6, holding enforcement hearings regarding failure to file Form 6, making recommendations of removal from office for failure to file Form 6, and rendering legally binding advisory opinions regarding Form 6. *See* Art II, § 8(g), Fla. Const.; §§ 112.3144, 112.317, 112.320, Fla. Stat..

38. The Commission is also required to identify every person required to file the Form 6, provide notice of said requirements to each person subject to these disclosures, and ensure compliance with the disclosure requirements by each person subject thereto. *See* Art II, § 8(g), Fla. Const.; §§ 112.3144, 112.317, 112.320, Fla. Stat.

39. In addition, the Commission’s 2022 Annual Report (as well as previous annual reports) expressly requested that the Legislature enact legislation to require municipal elected officials to complete Form 6, rather than Form 1, leading to the enactment of SB 774. *See* Annual Report to the Florida Legislature for Calendar Year 2022, p. 23,

<https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202425>

(last accessed February 12, 2024). The only justification given by the Commission for its recommendation was:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

40. Nowhere in its report did the Commission conclude that there has been an increase in the need to oppose corruption or conflicts of interest at the municipal level or that Form 1 in any way was insufficient to the task of guarding against those governmental ills. In short, the Commission justified its recommendation merely by noting that municipal officials should have to disclose the same information others already disclose, without regard to the municipality's population, revenue, annual budget, or any elected municipal compensation amount, if any.

41. Plaintiffs bring this action against the state officers (namely, the members of the Commission) who have the responsibility to enforce the Form 6 requirement against municipal elected officials (including the Elected Official Plaintiffs) and seek only declaratory and injunctive relief to end the continuing violations of Article 1, Section 23 of the Florida Constitution. Plaintiffs do not seek damages in this action.

BACKGROUND

A. History of Ethical Standards in Florida

42. Beginning in the late 1960s, the Florida Legislature has enacted numerous laws regulating ethical conduct for Florida's elected officials, including laws related to the solicitation or acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure of certain information, doing business with one's agency, conflicting employment, lobbying

restrictions, dual public employment, anti-nepotism, conflicts of interest, and financial disclosure. *See generally* Chapter 112, Fla. Stat.

43. The interests that the financial disclosures are intended to serve are stated by the Commission: “Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government.” *See* Florida Commission on Ethics, Financial Disclosure Information, www.ethics.state.fl.us/FinancialDisclosure/Index.aspx, last accessed February 12, 2024.

44. In 1976, the Florida Constitution was amended to require that all elected state constitutional officers annually file a full and public disclosure of their financial interests, which is done through the state-adopted Form 6, which requires the disclosure of highly personal financial information. *See* Art. II, § 8, Fla Const.; § 112.3144, Fla. Stat. *See* Exh. B.

45. The Form 6 requirement did not apply to elected municipal officials or candidates for elected municipal office prior to 2024.

B. The Change from Form 1 to Form 6 For Elected Municipal Officials

46. Instead, until 2024, elected municipal officials have been required to make a more limited financial disclosure that nevertheless provides sufficient information to satisfy the interest of preventing conflicts of interest and public corruption and increasing public confidence in government. *See* § 112.3145, Fla. Stat. The elected municipal officials’ financial disclosure has for years been accomplished through the use of Form 1. *See* Exh. A.

47. In the 2023 legislative session, the Florida Legislature duly enacted (and the Governor signed) SB 774, which was codified at Laws of Florida 2023-09, and which amended (in relevant part) sections 99.061, 112.3144 and 112.317, Florida Statutes to change the financial disclosure requirements to now require that all elected municipal mayors and elected members of

the governing board (and candidates for such offices) file a Form 6 financial disclosure, rather than the previously required Form 1. *See* S.B. 774; § 112.3144, Fla. Stat. (2023).

C. Comparison of Form 6 to Form 1

48. Form 6 represents a highly intrusive and extreme level of required financial disclosure, mandating the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government.

49. Specifically, Form 6 requires that the official disclose:

(a) the official's exact net worth, to the penny, (b) the exact aggregate value of all household goods and personal effects, (c) the precise value of every other asset individually valued at over \$1,000 (including a description of the asset), (d) the exact outstanding amount of all liabilities in excess of \$1,000, including the name and address of the creditor, (e) every primary source of income that exceeded \$1,000 during the year, including the name and address of the source of income and the precise amount of income, (f) every secondary source of income in excess of \$1,000 from any business of which the official owns more than 5%, including the name of the business entity, the major sources of business income (namely, any that account for 10% or more of the business's revenue), and the address and principal business activity or source, and (g) any interest in certain specified types of businesses.

See Exh. A.

50. In contrast, Form 1 requires that the official disclose:

(a) the name, address and principal business active for every primary sources of income in excess of \$2,500 (but not the amount), (b) every secondary source of income in excess of \$5,000 from any business of which the official owns more than 5%, including the name of the business entity, the major source of business income (any that account for 10% or more of the business's revenue), and the address and principal business activity or source, (c) a description of all real property (but not the value) of which the official had more than a 5% ownership interest, (d) a description (but not the value) of intangible property owned by the official and valued at more than \$10,000, (e) the name and address of each creditor to whom the official owed more than \$10,000 (but not the amount owed), and (f) any interest in certain specified types of businesses.

See Exh. B.

51. The information in Form 1 and Form 6 of each filer is made publicly available through the Commission's website.

D. The Applicable Constitutional Protection

52. In 1980, the voters of Florida amended the Florida Constitution by adopting Article 1, Section 23, the "Right to Privacy," which states that "[e]very natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein." The only limitation on this right codified in the Florida Constitution is that the right "shall not be construed to limit the public's right of access to public records and meetings as provided by law." Art. I, § 23, Fla. Const.

53. Because the right to privacy is a fundamental right within Florida's constitution, the Florida Supreme Court has required that any law intruding on that right is presumptively unconstitutional and must be justified by a "compelling state interest" which the law serves or protects through the "least restrictive means." *See, e.g., Winfield v. Div. of Pari-Mutuel Wagering*, 477 So. 2d 544 (Fla. 1985).

E. The Impact of the Change From Form 1 to Form 6 For Municipal Elected Officials

54. The imposition of the Form 6 disclosure requirements at the municipal level (a) represents an unwarranted intrusion into the privacy of municipal elected officials, most of whom receive little or no compensation for their service; (b) unnecessarily risks the safety of such officials (making them targets of, among other things, robbery, identity theft, and extortion); and (c) will deter many otherwise qualified and interested citizens from running for local office.

55. The Florida League of Cities has indicated that over 100 elected municipal officials resigned on or before December 31, 2023, stating that they did not want to be subject to the Form

6 filing requirement (which applies to municipal elected officials in office beginning on January 1, 2024).

56. Requiring that uncompensated (or minimally compensated) municipal elected officials disclose their precise net worth, income and assets does not serve (let alone constitute the least restrictive means of serving) any compelling interest – Form 1 disclosures have for years provided sufficient transparency to inform the public of potential conflicts, prevent corruption, and create public confidence in government.

COUNT I

VIOLATION OF RIGHT TO PRIVACY UNDER FLORIDA CONSTITUTION

57. The Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 56, inclusive, as if fully set forth herein.

58. This count is an action for declaratory judgment, pursuant to sections 86.011, *et. seq.*, Florida Statutes, seeking a declaration from the Court that the requirement in section 112.3144, Florida Statutes, that municipal elected officials file Form 6 financial disclosures violates article I, section 23 of the Florida Constitution, and are therefore unconstitutional and invalid, and to enjoin the enforcement thereof.

59. Any law that intrudes on Florida’s Constitutional right to privacy under article 1, section 23 is presumptively unconstitutional and must be justified by a “compelling state interest” which the law serves or protects through the “least restrictive means.”

60. Form 6 requires the disclosure of highly private and confidential financial information that the Elected Official Plaintiffs have kept private and desire to continue to keep private.

61. Once disclosure occurs through the filing of Form 6 with the Commission, the highly private financial information will be readily available on the Internet by anyone for many years to come, and will be readily associated with the individual filer.

62. Although Plaintiffs recognize the government's interest in preventing conflicts of interest and deterring corruption, SB 774's expansion of section 112.3144 and the requirements of Form 6 to municipal elected officials and candidates is not narrowly tailored to this interest.

63. The highly intrusive disclosures required by Form 6 (as opposed to Form 1 or the forms used by the federal government and every other state in the United States) are not the least restrictive means to accomplish any compelling government purpose.

64. An actual controversy exists between Plaintiffs and Defendants, who have adverse legal interests of sufficient immediacy to warrant the issuance of a declaratory judgment and injunctive relief.

65. All elements necessary to support a cause of action for declaratory relief are present:

- a. There is a bona fide, actual, present need for a declaration that the requirement in section 112.3144, Florida Statutes, that municipal elected officials file Form 6 financial disclosures violates article I, section 23 of the Florida Constitution.
- b. The declaration sought deals with a present controversy as to an ascertainable set of facts.
- c. Plaintiff's constitutionally protected rights and privileges are dependent upon the law applicable to the facts.
- d. The Plaintiffs and the Defendants have an actual, present, adverse, and antagonistic interest in the subject matter of this Complaint.

- e. The antagonistic and adverse interests are all before this Court.
- f. The relief sought is not merely the giving of legal advice or providing the answer to a question propounded from curiosity, but stems from an actual controversy.

Prayer for Relief

WHEREFORE, the Plaintiffs respectfully request that judgment be entered in their favor:

- A. Declaring that the requirement in section 112.3144, Florida Statutes, that municipal elected officials (including the Elected Official Plaintiffs) and candidates file Form 6 financial disclosures violates Article I, Section 23 of the Florida Constitution.
- B. Pursuant to the Court's power to grant supplemental relief under section 86.061, Florida Statutes, temporarily and permanently enjoining the Defendants from enforcing section 112.3144 (including the imposition of any fines, penalties or other enforcement) arising from the failure of any of the Elected Official Plaintiffs or candidates or elected official of any of the Municipal Plaintiffs, for the failure to file a Form 6.
- C. Awarding Plaintiffs their costs incurred in bringing this action, and
- D. Granting such other relief as this Court deems just and proper.

Dated this __th day of February, 2024.

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