IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO.: 2016-031886 CA 01

FLORIDA RETAIL FEDERATION, INC., et. al.,

Plaintiffs,

vs.

THE CITY OF MIAMI BEACH, FLORIDA

Defendant.
_____/

AMICUS CURIAE BRIEF OF TALBOT "SANDY" D'ALEMBERTE AND OTHER LEGAL SCHOLARS LISTED ON NEXT PAGE IN SUPPORT OF THE CITY OF MIAMI BEACH

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SUMMARY OF ARGUMENT

The State of Florida's statutory preemption of local minimum wage laws, §218.077, Fla. Stat. (2016), was invalidated by the subsequently adopted Minimum Wage Constitutional Amendment, Art. X, §24, Fla. Const. Because of the breadth of home rule authority in Florida, and because of the voters' rejection of the preemptive statute, the City of Miami Beach's minimum wage law is a permissible exercise of home rule powers as established in Art. VIII, §2, Fla. Const.

In 2004, the Minimum Wage Amendment adopted a new statewide minimum for Florida workers, while simultaneously allowing local governments to set wage minimums above that statewide floor. Stated simply, the Amendment was intended to both set a statewide minimum wage floor and to guarantee the ability of local governments to respond to local conditions that might make an even higher minimum appropriate. The Amendment, adopted by an overwhelming majority in rapid response to the State's preemption of local minimum wages, only makes sense if understood as not just a citizen effort to enact a statewide minimum wage, but also to repudiate state preemption, to protect home rule authority to set a higher local minimum wage, and to immunize those local minimum wages from state preemption going forward. The State's argument that the preemption statute survived the constitutional amendment ignores the text, purpose, structure, and history of the constitutional initiative.

In its brief, the State has ignored well-established rules of constitutional interpretation, choosing to describe the case as a technical dispute over how best to harmonize a state statute with a subsequently adopted constitutional amendment. But at its core, the State's position in this case reveals a determination to ignore the will of the voters, a disregard of the fundamental transformation of the state-local relationship that took place with the adoption of the constitutional home rule provision, and a continuation of its relentless assault on home rule initiative authority. As a matter of well-established legal doctrine, Miami Beach's minimum wage fits comfortably within the scope of powers guaranteed to home rule governments in the Florida Constitution and should be sustained as immune from preemption by the State.

INTEREST OF THE PARTIES

Talbot "Sandy" D'Alemberte is the Dean Emeritus of the Florida State University College of Law and the President Emeritus of Florida State University. His is also a former president of the American Bar Association and of the American Judicature Society. A leading expert on the Florida Constitution, D'Alemberte chaired the 1977-78 Constitutional Revision Commission, has argued numerous Florida Constitutional cases, and is the author of the commentary on the Florida State Constitution (Oxford Univ. Press, 2nd ed., 2016).

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The authors of this brief are professors at U.S. law schools. We come to the issues presented in this case from our vantage points as professors of state and local government law, state constitutional law, civil rights law, and legislation law. As academics, we understand the historical background and development of home rule across the country over the last century and a half. We are also familiar with the ways in which home rule has improved lives and communities all around the country. We have seen the benefits that come from state recognition of strong home rule initiative powers to address local problems with local solutions. Acting with

hostility towards home rule, the Florida legislature has embarked on a dangerous course of action whose goal is the evisceration of home rule authority in Florida. We submit this brief to provide our interpretation of the constitutional amendment and an analytical backdrop of local minimum wage authority in Florida in the hope that Florida's judicial branch will provide the necessary response to stem the tide of legislative usurpation of constitutionally protected home rule authority.

ARGUMENT

I. The State ignores the text, history, purpose, and structure of the constitutional initiative.

A. The language of the Minimum Wage Amendment to the Florida Constitution explicitly recognizes local power to adopt a minimum wage.

The constitutional amendment stipulates that it "shall not be construed to preempt or otherwise limit the authority of the state legislature *or any other public body* to adopt or enforce any other law . . . that provides for payment of *higher* or supplemental wages or benefits." Art. X, §24(f), Fla. Const. (emphasis added). The plain language of this section can only be understood as freeing Florida's local governments from the pre-existing statutory ban on the action it explicitly protects. It would simply make no sense for the clear text of a constitutional amendment to recognize and protect the rights of **all public bodies** in the State to raise wages above the statewide level if the amendment is interpreted to deny the ability of the only public bodies in the state, apart from the legislature, likely to raise the minimum wage. Those who voted to adopt the amendment could not have believed that the

State would be able to continue to preempt that wage-setting power.

Other sections of the amendment provide additional textual evidence that the amendment invalidated state preemption of local minimum wage ordinances. Although the State retains some power over minimum wage levels under the Amendment, that power is explicitly limited to "measures appropriate for the implementation of this amendment." Art. 10, § 24(f), Fla. Const. Preemption of local minimum wage authority is certainly not appropriate for the implementation of an amendment that explicitly recognizes local government wage-setting authority and seeks to ensure that Floridians receive "a minimum wage that is sufficient to provide a decent and healthy life . . ." Art. 10, §24(a), Fla. Const. Finally, the Minimum Wage Amendment incorporates the standards of the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. §218 (2012). That law, in turn, explicitly recognizes local flexibility to adopt a higher minimum wage. 29 U.S.C. §218(a) (providing that "no provision of [FLSA] or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the [federal] minimum wage . . ."). The incorporation of FLSA standards into the wage-setting scheme adopted by the people of Florida underscores the importance of maintaining the freedom of local governments to exceed the state minimum.

In sum, the explicit constitutional language rebuts the State's claim that the Amendment authorizes continued state preemption of local minimum wages.

Multiple references to local minimum wage laws necessarily assume the validity of those laws, and hence, the invalidity of state preemption.

B. If the court concludes that the constitutional amendment's meaning is not clear on its face, it must consider the history, the purpose, the evil sought to be avoided, and the structure of the constitutional amendment in order to determine the intent of the voters.

The Florida courts have stressed that voter intent is paramount in the interpretation of a constitutional amendment. *Brinkmann v. Francois*, 184 So. 3d 504, 509 (Fla. 2016). Because the constitutional amendment in this case is "remedial," in that it repudiated the pre-Amendment denial of local government power, it must be construed broadly to effectuate voter intent. *Hester v. State Bd. of Admin.*, 158 Fla. 567, 30 So. 2d 356 (1947). To determine that intent, the Court should examine "the purpose of the provision, the evil sought to be remedied, and the circumstances leading to its inclusion in our constitutional document." In re *Apportionment Law Appearing as Senate Joint Resolution 1 E*, 414 So. 2d 1040, 1048 (Fla. 1982). In this case, all of those factors strongly support the conclusion that the State's preemptive statute has been nullified by the constitutional amendment.

The history of the minimum wage battle in Florida clearly shows that the electorate intended to prohibit the State from preempting local minimum wages. The dispute first surfaced in the 1990s and early 2000s, when Florida local governments

began to adopt "Living Wage Laws"[1] at levels above the federal minimum. In 2003, the Florida Legislature passed §218.077, Fla. Stat. expressly preempting all local power to establish wages at any level other than in compliance with the federal minimum.

The citizens' response to this statute was quick and decisive. In 2004, just one year after the adoption of the preemption statute, nearly 3/4 of Florida voters approved a citizen-initiated amendment to the state Constitution. The Florida Minimum Wage Amendment, Amendment 5, amended Article10 of the Florida Constitution in two fundamental ways. First, the Amendment enacted a statewide minimum wage of $6.15 per hour (with annual inflationary adjustments). Second, the Amendment emphasized that it was intended to preserve the power of all units of government in Florida to set a higher wage. Specifically, the text of the constitutional amendment made clear that it "shall not be construed to preempt or otherwise limit the authority of . . . any other public body to adopt or enforce any other law . . . that provides for payment of higher or supplemental wages or benefits . . . ." Art. X, §24(f), Fla. Const.

The State argues that the constitutional amendment should be interpreting as having left intact the state law that prompted the citizen initiative in the first place.

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[1] The term "living wage" law generally refers to municipal ordinances that set wage minimums both for the local government's own employees as well as the employees of their contractors or others who benefitted from city grants. *See* William Quigley, Full-Time Workers Should Not Be Poor, 70 Miss. L.J. 889 (2001).

That interpretation is completely inconsistent with the sequence of events leading up to the adoption of the constitutional initiative. It simply makes no sense to construe a state constitutional protection of local minimum wage setting authority as impliedly accepting the State's continued preemption of that very same power. There would be no need to emphasize and guarantee the ability of other public bodies to go above the statewide minimum if those public bodies were assumed to be powerless to do so. Under the State's interpretation, the Amendment's reference to preserving local power becomes unnecessary, in fact meaningless, surplusage.

When read in light of the "context, . . . related statutory provisions, and the legislative history surrounding its passage," *Maddox v. State*, 923 So. 2d 442, 446 (Fla. 2006), it becomes clear that the only sensible and straightforward reading of the Minimum Wage Amendment is that it was intended to repudiate State preemption, to restore the pre-existing local power to establish minimum wages, and to guarantee local government immunity from future State attempts to preempt local minimum wages. Interpreting the constitutional amendment in the hyper-technical way proposed by the State would run afoul of the Florida courts' frequent admonition that a court must "avoid a literal interpretation that would result in an absurd or ridiculous conclusion." *Id.* at 446. *See also Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984).

C. The entire structure of the constitutional amendment is inconsistent with continued state preemption power over local minimum wages.

To analyze the way in which the Amendment fits into Florida's constitutional structure, a basic principle of state constitutional law is important: state constitutions, unlike their federal counterparts, are limits, not grants, of power. *See generally Bush v. Holmes*, 919 So. 2d 392, 406 (Fla. 2006), *citing Savage v. Bd. of Pub. Instruction*, 101 Fla.1362, 133 So. 341, 344 (1931). The Minimum Wage Amendment must be construed from that vantage point – that it was adopted by the voters to impose multiple limits on the pre-Amendment plenary state power. As the Court has stated in a similar case: "In a long line of decisions our Supreme Court has held that when the constitution prescribes the method of doing a thing, it impliedly prohibits legislation prescribing a different manner of doing it." *Advisory Opinion to Governor*, 156 Fla. 48, 22 So. 2d 398 (1945).

The facts of the *Advisory Opinion* case are remarkably similar to the case at bar. That case involved a Florida constitutional provision that established legislator pay, which was "not to exceed six dollars a day for each day of session, and mileage to and from their homes to the seat of government . . . ." *Id.* at 399. That provision was deemed to impliedly prohibit any legislative action that would supplement legislator reimbursement or salary. Though the constitutional provision at issue did not expressly prohibit legislative action to authorize additional reimbursements, the court found the implied prohibition essential to the meaning of the constitutional

provision.

Similarly, the Minimum Wage Amendment details a number of permissible actions for the legislature in the field of wage regulation:

> The state legislature may by statute establish additional remedies or fines for violations of this amendment, raise the applicable Minimum Wage rate, reduce the tip credit, or extend coverage of the Minimum Wage to employers or employees not covered by this amendment. The state legislature may . . . adopt any measures appropriate for the implementation of this amendment.

Art. X, §24(f), Fla. Const. To paraphrase the *Advisory Opinion* court: By "prescribe[ing] the method [by which the State may regulate wages]," the Minimum Wage Amendment "impliedly prohibits legislation prescribing a different manner of [regulating wages]." *Advisory Opinion to Governor*, 22 So. 2d at 399. Thus, under established state law principles, reaffirmed recently in *Abdool v. Bondi*, 141 So. 3d 529, 541 (Fla. 2014), the clear and precise list of permissible state activities regarding minimum wages impliedly prohibits the preemption law that the State seeks to defend here.

II. Raising the local minimum wage is well within the scope of Miami Beach's constitutionally protected home rule powers.

Although the State does not challenge Miami Beach's home rule authority to raise the minimum wage in the absence of state preemption, it is important to underscore how easily the Miami Beach minimum wage fits within Florida's constitutional system of home rule. The 1968 creation of home rule in Florida brought about a radical transformation of the state-local relationship.

Prior to 1968, local governments in Florida were subject to Dillon's Rule, a rule of strict judicial construction used to interpret grants of authority from the legislature to local governments.[2] That narrow and constraining approach to local power was specifically rejected in the Florida Constitution's establishment of home rule in 1968. This constitutional amendment[3] envisioned both broad municipal flexibility to experiment with regulations deemed appropriate for the home rule unit's citizens as well as a narrowing of the previously plenary legislative and judicial powers to meddle with those local issues. With the State's transfer of broad power to "exercise any power for municipal purposes," Florida's home rule municipalities were released from the need to obtain specific state authorization for each municipal regulatory initiative and were left free to engage in policy making regarding local matters.

In *City of Miami Beach v. Fleetwood Hotel, Inc.* 261 So. 2d 801 (Fla. 1972), the Florida Supreme Court had its first opportunity to interpret the home rule

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[2]Under the Dillon's Rule regime, grants of local government authority from the State would be construed strictly against the local government and would only be interpreted as transferring the following powers: "(1) those granted in express words; (2) those necessarily or fairly implied in . . . the powers expressly granted; and (3) those essential to the accomplishment of the [purposes of the state law.]" *See* Richard Briffault & Laurie Reynolds, Cases and Materials on State and Local Government Law 327 (8th ed. 2016).

[3] "Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law." Fla. Const., art. 8, § 2(b).

provision. In that case, however, the court failed to recognize the intent of the 1968 amendment to transform both the state-local relationship and to reduce the scope of judicial review of local home rule ordinances. Rather, the court invalidated a Miami Beach rent control ordinance, reasoning that "[a]bsent a legislative enactment authorizing the exercise of such a power by a municipality, a municipality has no power to enact a rent control ordinance." *Id.* at 804. Applying the pre-home rule strict construction approach of Dillon's Rule, the court concluded that "[i]f doubt exists as to the extent of a power . . . , the doubt is to be resolved against the ordinance and in favor of the statute." *Id.* at 806 (citing the pre-home rule case of *City of Coral Gables v. Seifert*, 87 So. 2d 806 (Fla. 1956)).

In swift response to that narrow judicial holding, the Florida Legislature passed the Municipal Home Rule Powers Act ("MHRPA"), §166.021, Fla. Stat. (2008). This law detailed the legislature's clear understanding that the home rule regime protected in the state constitution was intended to authorize wide-ranging municipal discretion to deal with local problems. The statutory language emphasizes that: "(4) The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution." *Id.* In the words of Florida's preeminent constitutional commentator: "The power to make local government decisions is increasingly removed from the legislature . . . and given to local officials." Talbot D'Alemberte, The Florida State Constitution 254 (2d ed. 2017).

Since the adoption of the MHRPA, Florida courts have consistently defined "municipal purpose" broadly and with deference to local initiative. In *Boschen v. City of Clearwater*, 777 So. 2d 958, 963 (Fla. 2001), for example, the court stated that: "Article VIII, section 2, Florida Constitution, has been construed repeatedly as giving municipalities broad home rule powers . . . ." *See also City of Casselberry v. Orange County Police Benevolence Ass'n*, 482 So. 2d 336, 339 n.2 (Fla. 1986); *City of Boca Raton v. Gidman*, 440 So. 2d 1277 (Fla. 1983).

It is clear that the scope of local home rule powers in Florida is broad enough to encompass the municipal power to adopt the law whose validity is challenged here as having been preempted. Standing alone, the question whether a local minimum wage constitutes a valid municipal purpose is easily answered in the affirmative. Labor conditions, costs of living, and average incomes are all specific local conditions that may justify a home rule municipality's decision to adopt a minimum wage that will respond to its own specific circumstances.

Courts in other states have upheld local minimum wage laws as a valid exercise of home rule authority – that is, as a matter pertaining to local or municipal affairs. Just last month, the Supreme Court of Missouri upheld St. Louis's minimum wage, citing with approval the ordinance's purpose to "promote the general welfare, health and prosperity of the City of St. Louis by ensuring that workers can better support and care for their families and fully participate in the community." *Cooperative Home Care, Inc. v. City of St. Louis, Mo.*, __ So.3d __, 2017 WL

770971 *8 (Mo. Feb. 28, 2017). New Mexico's highest court took a similar approach: "We conclude that setting a minimum wage is unquestionably a public purpose and that such legislation is within the police and general welfare power of a New Mexico municipality." *New Mexicans for Free Enterprise v. The City of Santa Fe*, 138 N.M. 785, 126 P.3d 1149, 1162 (2005). The Maryland Court of Appeals, in an opinion issued more than forty-five years ago, also upheld local power to adopt a minimum wage, noting that Baltimore's local conditions and higher cost of living justified municipal action. *City of Baltimore v. Sitnick*, 254 Md. 303, 255 A. 2d 376, 384 (1969).

What bears repeating here is the important point that the Miami Beach minimum wage is well within the scope of its home rule powers. As the State's power to preempt has been removed by the constitutional amendment at issue in this case, the Miami Beach minimum wage stands squarely as a viable and legitimate exercise of its home rule authority to deal with municipal affairs.

III. The State's actions in this case must be seen in the context of its frontal assault on home rule authority in Florida.

This case is about much more than how to harmonize a state statute with a subsequently adopted, voter-initiated, constitutional amendment. Though the State cloaks its argument as a reasonable appeal to a plain language interpretation of a state constitutional provision, it is in reality nothing more than a back door continuation of its curtailment of Florida municipalities' constitutionally protected home rule powers. This preemptive statute is but one of a large number of laws with

which the State is moving, one step at a time, to dismantle home rule authority in Florida.

Municipal home rule power, of course, is not absolute. It is subject to the overriding general statutory schemes of the State, subject to uniform statewide policies, and subject to the limit that local governments can supplement, but not undercut, minimum statewide standards. The legislature that passed the Municipal Home Rule Powers Act understood home rule in that way, stressing in that statute that home rule initiative powers must be given wide latitude. *See* Fla Stat. §166.021.

The current Florida legislature, however, has turned that basic tenet on its head. Instead of leaving local governments free to use home rule powers to experiment with new policies and to respond to local situations and local problems, it has put Florida municipalities on a short leash, continually micro-managing and selectively targeting specific home rule powers for removal. In essence, today's local governments in Florida may continue to exercise their home rule powers only so long as they stay within the narrow range of regulations deemed politically acceptable by a hostile State government. At an ever increasing rate, the State legislature has deprived home rule units of power in areas where the local governments should be able to respond to local needs and the preferences of local residents with regulations that deal with problems in the way that is most appropriate for the unique confluence of demographic, geographic, economic, and social factors that are present in a particular municipality.

In reality, the State's so-called "preemption" legislation has morphed well beyond its original essence as a tool to assure the consistency of local policy with a statewide regulatory framework or general statewide minimum standards. Preemption in Florida today has degenerated into a series of narrow, unprincipled attacks on the decision-making authority of local communities. In the process, it has eroded the protection guaranteed to home rule by the Florida Constitution. Florida legislators have forgotten that their constitution anticipates that localities in Florida will frequently regulate and exercise their local discretion to deal with problems in their own individual ways, without State approval or State authorization, and often in ways that the State would not choose to adopt at the state level. Policy experimentation and the ability to respond to unique local situations are essential aspects of a strong and vibrant home rule system. The State's relentless preemption of specific powers has eroded that system and left local governments unable to deal with local problems.

The preemption statute at issue in this case is one example of the State's hostility to home rule power. But there are many other examples. In recent years, the Florida legislature has passed laws prohibiting local regulation of smoking, §386.209, Fla. Stat.; of fire sprinklers, §553.73(17), Fla. Stat.; of nutrition and food policy, §509.032, Fla. Stat.; of the sale or use of polystyrene (Styrofoam) products, §500.90, Fla. Stat.; of hoisting equipment, §489.113(11), Fla. Stat.; of beekeeping, §586.10, Fla. Stat.; of fuel terminals, §163.3206(3), Fla. Stat.; of wireless alarm

systems, §553.793, Fla. Stat.; of paid sick leave and other employment benefits such as vacation time, §218.077,; of moving companies, §507.13, Fla. Stat.; of bio-medical waste in city landfills, §381.0098(8), Fla. Stat.; of plastic bags, §403.7033, Fla. Stat.; and even of milk and frozen desserts, §502.232, Fla. Stat.. Each of these laws is nothing more than a targeted removal of a specific home rule power, part of no general statewide program other than a general statewide program to invalidate the decisions of locally elected governments that have chosen to embrace policies that differ from the preferences of a state legislative majority.

Several recent legislative developments deserve special mention here, because they illustrate new levels of state legislative hostility toward local self-determination. In §790.33, Fla. Stat. (2016), the legislature both removed local authority to regulate firearms and imposed up to $5,000 in personal liability and the threat of removal from office for any local elected official found guilty of "enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging on [the field of firearm regulation]." §790.33(3)(a). Imposing financial penalties on legislators for their votes is an unprecedented and extreme use of preemption powers, in clear conflict with the right to local self-government expressly conferred by the Florida Constitution on home rule units.

And finally, perhaps as an indicator of things to come, two recently introduced bills reveal that the legislature is poised to stop at nothing to eliminate home rule in Florida. Consider HB 17, which would strip local governments of the ability to

regulate any "business, profession, and occupation unless the regulation is expressly authorized by law." H.B. 17, 2017 Leg., Reg. Sess. (Fla. 2017). Requiring a local government to obtain express state permission to act is the very antithesis of the local autonomy protected by constitutional home rule. SB 1158 would go even further, expressly preempting local "regulation of matters relating to commerce, trade, and labor" and "authorizing a local government to seek nullification of an ordinance, rule, or regulation of another [local government] upon the affirmative vote of the governing body of the local government that the ordinance, rule, or regulation" is in violation of the statute's broad prohibition. S.B. 1158 2017 Leg., Reg. Sess. (Fla. 2017). In other words, this bill would give one municipality the power to invalidate another municipality's ordinance. Quite simply, these laws are astonishing in their blatant disregard of the basic constitutional foundations of Florida's state and local government law.

Considering the breadth and amount of legislative preemption in Florida, it is evident that the legislature has embarked on a campaign to snuff out local self-government. The legislature's actions are clearly and fundamentally inconsistent with the constitutional protection extended to home rule powers. In fact, the laws display legislative intent to return Florida to the era of Dillon's Rule, in which municipal power to act depended on explicit statutory authorization, and local powers were narrowly construed. Though that may be the legislature's goal, the Florida Constitution stands squarely in its way.

Taken in their entirety, these laws do nothing to advance general statewide policies. Rather, they narrowly target for prohibition one discrete home rule power at a time. It may well be the case that this preemptive onslaught has crossed the line from legitimate general state preemption to illegitimate state destruction of Florida municipalities' constitutionally protected home rule powers – and it is likely that the constitutionality of the most far-reaching attempts to roll back home rule in Florida will be litigated in the future.

As the National League of Cities recently noted: "State preemption limits the ability of cities to address critical local issues and to uphold the values of those living in their communities. Our call for local control is intended to give cities the ability to adapt and to have the tools they need to build stronger economies, promote innovation and move their states—and ultimately the country—forward." National League of Cities, City Rights in an Era of Preemption: A State-by-State Analysis (2017). While the State can adopt a valid statewide program that applies uniform minimum statewide standards, it should not be allowed to eviscerate home rule pursuant to continual and narrowly targeted hostile divestitures of constitutionally protected local power.

But regardless of the outcome of such future challenges, the legislature's ongoing attack on the spirit of home rule provides important context for the current case. And it explains why the drafters of the minimum wage constitutional amendment included the express non-preemption provision, which removes any

doubt that the legislature's attempt to preempt local action around minimum wages conflicts with the constitution.

CONCLUSION

This court should recognize that the Florida Constitution's Minimum Wage Amendment has unequivocally invalidated and repudiated the State's preemption of local minimum wage laws, that the Miami Beach minimum wage ordinance is well within the scope of its home rule powers, and that the State's endless stream of preemption laws constitutes an unconstitutional interference with the protection of home rule guaranteed by the Florida Constitution.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the Florida Courts E-Filing Portal and served upon all interested parties via electronic service generated by the e-Portal system on this ____ day of March, 2017 to:

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