IN THE DISTRICT COURT OF APPEAL,
THIRD DISTRICT, STATE OF FLORIDA

THE STATE OF FLORIDA,

Appellant,

Case No. 3D14-2062
L.T. Case No. 11-13661-CA 25

vs.

FLORIDA WORKERS' ADVOCATES, WORKERS' INJURY LAW & ADVOCACY GROUP, and ELSA PADGETT.

Appellees.

AMICI CURIAE BRIEF OF THE FLORIDA CHAMBER OF COMMERCE AND THE FLORIDA JUSTICE REFORM INSTITUTE IN SUPPORT OF APPELLANT

KATHERINE E. GIDDINGS, B.C.S (949396)
katherine.giddings@akerman.com
KRISTEN M. FIORE (25766)
kristen.fiore@akerman.com
elisa.miller@akerman.com
michele.rowe@akerman.com
Akerman LLP
106 East College Avenue, Suite 1200
Tallahassee, Florida 32301
Telephone: (850) 224-9634
Telecopier: (850) 222-0103

GERALD B. COPE, JR. (251364)
gerald.cope@akerman.com
vanessa.berman@akerman.com
Akerman LLP
One Southeast Third Ave, 25th Floor
Miami, Florida 33131
Telephone: (305) 374-5600
Telecopier: (305) 374-5095

WILLIAM W. LARGE (0981273)
william@fljustice.org
Florida Justice Reform Institute
210 South Monroe Street
Tallahassee, FL 32301-1824
Telephone: (850) 222-0170
Telecopier: (850) 222-1098

Attorneys for *Amici Curiae* The Florida Chamber of Commerce and Florida Justice Reform Institute

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STATEMENT OF INTEREST

Amici Curiae, the Florida Chamber of Commerce (the "**Chamber**") and the Florida Justice Reform Institute (the "**Institute**"), file this *Amici Curiae* Brief in support of Appellant, the State of Florida (the "**State**").

The Chamber is a not-for-profit corporation encompassing Florida's largest federation of businesses, chambers of commerce, and business associations with its principal place of business in Tallahassee. The Chamber consists of more than 139,000 member businesses, who employ more than three million employees. With leave of court, the Chamber submits amicus curiae briefs on issues of interest to the business community and public at large, such as this case, in which the trial court held the workers' compensation immunity statute unconstitutional. [V4 1298-1317.][1] The 139,000 member businesses maintain workers' compensation insurance, and the outcome of this case could dramatically impact such coverage and the immunity afforded to employers, which is provided in exchange for those employers providing work-place insurance coverage to their employees.

The Institute is Florida's leading organization of concerned citizens, small business owners, business leaders, doctors, and lawyers who are working towards the common goal of achieving predictability and personal responsibility through civil litigation reform and the promotion of fair and equitable legal practices. The

[1] All record references are to volume and page number (*e.g.*, [V1 1] references Record Volume 1, page 1).

Institute was founded as a not-for-profit organization in 2005. The Institute focuses solely on civil justice in Florida. Since its founding, the Institute has worked toward issues such as workers compensation reform, improvement of the Florida judicial system, and protecting Floridians from the social and economic toll of unwarranted litigation. Like the Chamber, with leave of court, the Institute submits amicus curiae briefs on issues of interest to the business community and the public at large.

The trial court's order (the "**Order**") has extremely broad implications for issues of concern to the Institute, the Chamber, and their members.

SUMMARY OF THE ARGUMENT

Businesses need order and predictability to function effectively. Two extremely important components of those needs are (**1**) a reliable and available system for compensating workers for workplace injuries; and (**2**) a fair judicial process that affords due process and follows the well-established rules of engagement. Using a new, unprecedented, and improper procedure, the trial court held the existing workers' compensation system unconstitutional without a fair adversary proceeding.

Florida has long been committed to the proposition that, to hold a statute unconstitutional, there must be a fair process conducted by litigants who have a real controversy in which both sides of the constitutional question are fully and fairly presented. The trial court wholly ignored this basic, fundamental proposition.

First, the only parties to the Order holding the workers' compensation system unconstitutional were intervenors. Originally, Julio and Nelida Cortes sued Velda Farms, LLC, for a workplace injury. After Velda Farms asserted workers' compensation immunity as a defense, the Corteses amended their complaint to add a count to declare the workers' compensation exclusive remedy statute unconstitutional. Two advocacy groups, Florida Workers' Advocates ("**FWA**") and Workers' Injury Law & Advocacy Group ("**WILG**") (collectively "the

Intervenors"), were allowed to intervene. Velda Farms then withdrew its defense of workers' compensation immunity—thus wholly eliminating any live workers' compensation issue from the case. That should have ended any constitutional claim regarding workers' compensation. Instead, the trial court dismissed the count on workers' compensation as to Velda Farms but also severed that count as to the Intervenors and allowed it to proceed with only WILG and FWA, and later another intervenor, Elsa Padgett, as "parties" to that count. There was no plaintiff. There was no defendant. The trial court even restyled this severed portion of the case from *Cortes v. Velda Farms* to a new caption: *WILG, FWA, and Padgett v. State of Florida*—even though a complaint was never filed against the State of Florida and the State was never properly made a party to this case. Allowing the constitutional claim to proceed in this matter violated the restrictions on intervention and rendered the order a nullity.

Second, a declaratory judgment action can only be brought by a party who has a real controversy—otherwise the declaratory judgment constitutes nothing more than an impermissible advisory opinion. In this case, once Velda Farms withdrew its workers' compensation defense, there was no longer any controversy regarding the workers' compensation issue in this case. Yet the trial court allowed Ms. Padgett and the two advocacy groups to intervene and pursue a declaratory judgment holding the workers' compensation statute unconstitutional. It did so

even though none of the Intervenors ever filed a complaint in this case; Ms. Padgett was never a Velda Farms' employee; she never filed her own case against her own employer; her employer was not a party to this suit; and there was no defendant to defend the constitutionality of the workers' compensation statute. Because the Intervenors had no real controversy with any adverse party, the Order constitutes an inappropriate advisory opinion and the standing requirements of the declaratory judgment statute were simply not satisfied.

Third, and equally as important, there was no adversary proceeding. As noted, Ms. Padgett never made a claim against her own employer and never joined her employer as a defendant. As a matter of law and common sense, Ms. Padgett was requesting a declaration of unconstitutionality ostensibly so she might be able to bring a tort suit against her employer at some date in the future. Plainly, her employer was an indispensable party. The Florida Supreme Court explicitly disapproved of the exact procedure followed in this case in *Sarasota-Fruitville Drainage Dist. v. Certain Lands Within Said Dist. Upon Which Drainage Taxes for the Year 1952 Have Not Been Paid*, 80 So. 2d 335, 337 (Fla. 1955). In that case, as here, a plaintiff sought a declaration of unconstitutionality where there was no adverse party. The Supreme Court held that procedure to be impermissible and that case is still good law.

The Order creates great uncertainty for the business community and all Floridians. If allowed to stand, the Order will create substantial uncertainty statewide, resulting in confusion in the area of workers' compensation as well as an avalanche of litigation. It should be reversed.

ARGUMENT

Standard of Review.

The Institute and the Chamber agree with the State that the standard of review is *de novo. Crist v. Fla. Ass'n of Criminal Def. Lawyers, Inc.*, 978 So. 2d 134, 139 (Fla. 2008) ("Because the issue before the Court involves the determination of a statute's constitutionality and the interpretation of a provision of the Florida Constitution, it is a question of law subject to *de novo* review."); *Volusia Cnty. v. Aberdeen at Ormond Beach, L.P.*, 760 So. 2d 126, 130 (Fla. 2000) (orders granting summary judgment are reviewed *de novo*).

Argument.

THE ORDER HARMS FLORIDA BUSINESSES BECAUSE IT DECLARES FLORIDA'S WORKERS' COMPENSATION SYSTEM UNCONSTITUTIONAL IN THE ABSENCE OF ANY ACTUAL CONTROVERSY OR ADVERSE PARTY AND WITHOUT A FAIR ADVERSARY PROCEEDING.

A. Florida's Workers Compensation System Provides Beneficial Certainty And Predictability For Both Employers And Employees Alike.

Florida's workers compensation system has existed since 1935. *See* Ch. 17481, § 2, Laws of Fla. (1935). It serves a critical function in balancing the rights of injured employees and their employers. Florida's comprehensive set of workers' compensation laws act to assure the quick and efficient delivery of disability and medical benefits to injured workers and to facilitate workers' return to employment at a reasonable cost to employers. § 440.015, Fla. Stat. A vital aspect of this

mutual renunciation of rights is the concept of workers' compensation exclusivity/immunity. *See Baker v. Airguide Mfg., LLC*, No. 3D13-2878, 2014 WL 5462528, at *2 (Fla. 3d DCA Oct. 29, 2014) (citing *Cabrera v. T.J. Pavement Corp.*, 2 So. 3d 996, 998 (Fla. 3d DCA 2008)).

Employees who fall within the Workers' Compensation Act's scope are generally compensated regardless of the employer's fault in causing their injuries. *See* §§ 440.09, 440.10(2), Fla. Stat. In exchange, employers complying with the Act are given immunity from civil suit by the employee, except in cases where "[t]he employer deliberately intended to injure the employee" or "[t]he employer engaged in conduct that the employer knew . . . was virtually certain to result in injury or death to the employee . . . ." § 440.11(1)(b), Fla. Stat.

The Florida Supreme Court succinctly set forth the purpose of workers' compensation in *De Ayala v. Florida Farm Bureau Casualty Insurance Co.*, 543 So. 2d 204 (Fla. 1989):

> Florida's worker's compensation program was established for a twofold reason: (1) to see that workers in fact were rewarded for their industry by not being deprived of reasonably adequate and certain payment for workplace accidents; and (2) to replace an unwieldy tort system that made it virtually impossible for businesses to predict or insure for the cost of industrial accidents.

Id. at 206; *see also Taylor v. Sch. Bd. of Brevard Cnty.*, 888 So. 2d 1, 3 (Fla. 2004) (same). "[I]mmunity is the heart and soul of this legislation which has, over the years been of highly significant social and economic benefit to the working man,

the employer and the State." *Seaboard Coast Line R.R. Co. v. Smith*, 359 So. 2d 427, 429 (Fla. 1978).

In *Mullarkey v. Florida Feed Mills, Inc.*, the Supreme Court pronounced that workers' compensation permits "[p]rotracted litigation [to be] superseded by an expeditious system of recovery" and stated:

> [T]he concept of exclusiveness of remedy embodied in Fla. Stat. § 440.11, F.S.A. appears to be a rational mechanism for making the compensation system work in accord with the purposes of the Act. In return for accepting vicarious liability for all work-related injuries regardless of fault, and surrendering his traditional defenses and superior resources for litigation, the employer is allowed to treat compensation as a routine cost of doing business which can be budgeted for without fear of any substantial adverse tort judgments. Similarly, the employee trades his tort remedies for a system of compensation without contest, thus sparing him the cost, delay and uncertainty of a claim in litigation.

268 So. 2d 363, 366 (Fla. 1972).

As required by law, almost all Florida employers must obtain, pay for, and provide workers' compensation insurance to their employees. §§ 440.02-440.03, 440.38, Fla. Stat. Yearly, tens of thousands of employees in Florida are compensated for their work-related injuries solely through workers' compensation. Given the tremendous number of claims made, allowing even a fraction of these claims to be litigated would incredibly burden employers by embroiling them in unwarranted and unnecessary tort litigation. It would cost employers hundreds of millions of dollars to defend the avalanche of cases that would be certain to occur

if the workers' compensation system were declared to be unconstitutional. The costs through higher liability insurance premiums and damages to insured employers could be overwhelming. Importantly, the protection afforded to Florida's employees through workers' compensation insurance also would be eliminated.

In this case, the trial court declared the workers' compensation immunity statute to be facially unconstitutional in the absence of a real controversy and in the absence of an adversary proceeding. [V4 1298-1317.] No defendant was present to represent the employers' side of the issue. [*See id.*] Allowing the workers' compensation system to be declared unconstitutional and dismantled in this manner is not only wrong as a matter of law; it also eviscerates fundamental concepts governing court proceedings and will cause great harm and uncertainty in the business community.

B. Allowing The Constitutional Claim To Proceed With Only Intervenors As Parties Violated The Restrictions on Intervention And Rendered The Order A Nullity.

In this case, Julio and Nelida Cortes filed a three-count complaint against Velda Farms, alleging Mr. Cortes was injured while working for Velda Farms. [V1 8-12.] Velda Farms raised workers' compensation immunity as an affirmative defense, after which, the Corteses amended the complaint to add count IV, asserting the workers' compensation immunity statute was unconstitutional. [V1

27-40, 45-62.] Two advocacy groups, WILG and FWA, were allowed to intervene only as to that issue. [V1 108-13.] Thereafter, Velda Farms withdrew its affirmative defense of workers' compensation immunity. [V1 116.] At that point in the litigation, there was no longer any party adverse to Intervenors' interests because workers' compensation immunity was no longer at issue. However, rather than dismissing them from the case, the trial court took unprecedented action.

First, because there was no longer any live controversy between the plaintiffs (the Corteses) and the defendant (Velda Farms), the trial court dismissed the workers' compensation count as to Velda Farms. [V2 243-46.] But at the request of the two advocacy groups, the trial court did not entirely dismiss the workers' compensation immunity count from the case. [*See id.*] Instead, in addition to dismissing that count as to Velda Farms, the trial court also severed that count and allowed it to proceed with only WILG and FWA, and later another intervenor, Elsa Padgett, as "parties" to that count. [*Id.*; V1 100-113; V2 466-73; A007; V4 1302-03.] The court allowed Ms. Padgett to join the case as a third intervenor—finding that, because she claimed to be an injured employee, all of the Intervenors had the right to proceed as "petitioners" on their argument that the workers' compensation immunity statute is unconstitutional. [V4 1302-03] Incredibly, the court did so even though (1) Ms. Padgett was not, and had never been, an employee of Velda Farms; (2) Ms. Padgett never filed her own lawsuit

against her own employer; (3) workers' compensation immunity was no longer at issue in the case; (4) there was no longer any defendant to defend against Intervenors' arguments; (5) no intervenor filed a complaint in intervention; and (6) there was no live controversy between any parties named or served in the action on this issue. The trial court then recaptioned this portion of the lawsuit from *Cortes v. Velda Farms* to a new caption: *FWA and WILG v. State of Florida*. [V2 245.]

In that same order, the trial court directed that the workers' compensation count "shall go forward" "against the State of Florida, Office of the Attorney General pursuant to the February 15, 2012 service on the Attorney General of a Notice of Constitutional Question and Plaintiff's compliance with Rule 1.071, Florida Rules of Civil Procedure." [V2 244.] Apparently, the trial court was under the mistaken impression that service under those provisions was sufficient to make the Attorney General a party to the action. Service under Rule 1.071, which mandates the giving of notice of a constitutional challenge, requires service on the Attorney General or local state attorney. Fla. R. Civ. P. 1.071(b). However, Rule 1.071 also explicitly states that the service of such notice "does not require joinder of the Attorney General or the state attorney as a party to the action." Service of process on a party to an action is governed under Rule 1.070, not Rule 1.071. *See* Fla. R. Civ. P. 1.070.

The trial court thereafter repeated its error by finding in its July 28, 2014 order granting the Attorney General an "opportunity to give this court the benefit of its position in this matter" that: "To date, the Court has not received a response from the State of Florida's Attorney General's Office, even though the record indicates proper service." [V4 1248 (emphasis added).]

The Attorney General properly responded to that order by detailing why the trial court had no jurisdiction to rule on the issue given the lack of any plaintiff or defendant and no actual controversy between adverse parties. [V4 1250-70.] The trial court nevertheless proceeded with the action—with only the Intervenors as parties—issuing a final order declaring section 440.11 facially unconstitutional on August 13, 2014. [V4 1298-1317.]

The trial court's error was compounded by the fact the Attorney General was never afforded an opportunity to review the proposed August 13, 2014 final order prior to execution by the trial court—even though the trial court believed the Attorney General was being served with copies of all documents. The proposed order was submitted to the trial court via a cover letter, which copied four attorneys, none of whom was with the Attorney General's office. [V5 1419-1447]. Accordingly, although the trial court believed the Attorney General was a proper respondent, clearly the Intervenors' counsel did not—otherwise, Intervenors' counsel would not have sent an *ex parte* communication to the trial court including

a proposed order for the trial court's signature. *See, e.g.*, *Perlow v. Berg-Perlow*, 875 So. 2d 383, 390 (Fla. 2004) (*per se* reversible error when trial court accepts verbatim proposed final judgment submitted by one party without an opportunity for comments or objections by the other party because there is an appearance that the trial judge did not exercise his or her independent judgment in the case). Notably, in this case, the proposed judgment and the final judgment actually rendered by the trial court are remarkably similar. *Compare* Proposed Final Judgment [V5 1421-1447] with Actual Final Judgment [V4 1298-1317].

The trial court effectively gave the Intervenors a platform from which it could declare—in the absence of any plaintiff, any defendant and any real controversy—a statute of state-wide application impacting all employees and employers to be unconstitutional. Obviously, this was an error of law because an intervenor takes the pleadings as it finds them when it intervenes. *See Omni Nat'l Bank v. Ga. Banking Co.*, 951 So. 2d 1006, 1007 (Fla. 3d DCA 2007). Here, when count IV was dismissed, the Intervenors had no claim to pursue so the circuit court lost jurisdiction to consider any claim by the Intervenors as to that count. *See Hoechst Celanese Corp. v. Fry*, 693 So. 2d 1003, 1008 (Fla. 3d DCA 1997); *E. Cnty. Water Control Dist. v. Lee Cnty.*, 884 So. 2d 93, 94 (Fla. 2d DCA 2004).

An order entered without jurisdiction is a nullity and has no legal effect. *Reddick v. State*, 898 So. 2d 1186, 1187 (Fla. 3d DCA 2005) ("Because the trial

court does not have jurisdiction, its order denying the motion is a nullity.") (citing *Daniels v. State*, 712 So. 2d 765 (Fla. 1998)); *Wilkinson v. Clarke*, 91 So. 3d 897, 898 (Fla. 2d DCA 2012) ("Because the final summary judgment was entered without jurisdiction, it is a nullity.") (quoting *Napoleonic Soc. of Am., Inc. v. Snibbe*, 696 So. 2d 1243, 1243 (Fla. 2d DCA 1997)); *Dragomirecky v. Town of Ponce Inlet*, 891 So. 2d 633, 634 (Fla. 5th DCA 2005) ("[A]n order entered without jurisdiction is a nullity, and cannot be considered harmless error."). Accordingly, on this basis alone, this Court should vacate the Order.

C. The Circuit Court Lacked Authority To Enter The Order Because The Workers' Compensation Immunity Issue Was Moot And There Was No Real Controversy At The Time The Order Was Entered—Thus The Order Constitutes An Impermissible Advisory Opinion.

The Order also constitutes an impermissible advisory opinion because the workers' compensation issue was moot and there was no real controversy at the time the Order was entered. The Intervenors simply could not show a "present, ascertained or ascertainable state of facts or present controversy as to a state of facts"; or that there is "some person or persons who have . . . an actual, present, adverse, and antagonistic interest in the subject matter"; or that "the antagonistic and adverse interests are all before the court by proper process." *Williams v. Howard*, 329 So. 2d 277, 282 (Fla. 1976) (quoting *May v. Holley*, 59 So. 2d 636, 639 (Fla. 1952)).

It is well-settled Florida law that Florida courts cannot render what amounts to an advisory opinion if parties show only the possibility of an injury based on hypothetical facts that may or may not occur in the future, which is exactly what occurred in this case. *See Santa Rosa Cnty. v. Admin Comm'n, Div. of Admin. Hearings*, 661 So. 2d 1190, 1193 (Fla. 1995) ("Florida courts will not render, in the form of a declaratory judgment, what amounts to an advisory opinion at the instance of parties who show merely the *possibility* of legal injury on the basis of a hypothetical state of facts which have not arisen and are only contingent, uncertain, [and] rest in the future.") (citations omitted) (emphasis in original); *see also Brautigam v. MacVicar*, 73 So. 2d 863, 866 (Fla. 1954) (courts will not concern themselves with abstract questions of law that may never be involved in an actual dispute); *State v. Lewis*, 72 So. 2d 823, 825 (Fla. 1954) (courts will decline to consider a question presented where there are no adversaries and hence no actual controversy); *Ervin v. Taylor*, 66 So. 2d 816, 817 (Fla. 1953) (same); *Brady v. P3 Grp. (LLC)*, 98 So. 3d 1206, 1209-10 (Fla. 3d DCA 2012) (recognizing the general standing requirement that every case must involve a real controversy as to the issue or issues presented).

The Order in this case was entered without any real controversy between parties. Once Velda Farms withdrew its workers' compensation defense, there was no longer any workers' compensation issue in this case. Yet the trial court allowed

Ms. Padgett and the two advocacy groups to intervene and pursue a declaratory judgment holding the workers' compensation statute unconstitutional. As noted, it did so even though Ms. Padgett never filed a complaint in this case; she was never a Velda Farms employee; she never filed her own case against her own employer; her employer was not a party to this suit; and there was no defendant to defend the constitutionality of the workers' compensation statute. Because the Intervenors had no real controversy with any adverse party, the Order constitutes an inappropriate advisory opinion and the standing requirements of the declaratory judgment statute were simply not satisfied.

D. The Order In This Case Declares Florida's Workers' Compensation System To Be Unconstitutional Without A Fair Adversary Proceeding.

The Florida Supreme Court has explicitly held that, even where a plaintiff is properly present, a declaration of unconstitutionality cannot be made in the absence of an adverse party. *See Sarasota-Fruitville Drainage Dist. v. Certain Lands Within Said Dist. Upon Which Drainage Taxes for the Year 1952 Have Not Been Paid*, 80 So. 2d 335, 337 (Fla. 1955). Thus, even if Intervenors could properly be considered proper parties to bring a declaratory judgment, no such judgment can issue where there was no adverse party. As the Supreme Court held in *Sarasota-Fruitville*, "[t]he effect of a decision in this case would be nothing more than [an] opinion in a non-adversary proceeding where only the plaintiff is present concerning the constitutionality of a solemn act of the Legislature." *Id.*

The Court determined that the only appropriate result in such a case is to not allow it to go forward. *See id*. ("Under these circumstances the proceeding [must be] dismissed *sua sponte*."). That case is still good law. In the absence of an adverse party and the lack of a fair adversary proceeding, the trial court was required under *Sarasota-Fruitville* to dismiss Count IV in its entirety.

The Order should be reversed because it was entered with no adverse party and no fair adversary proceeding.

E. If Allowed To Stand, The Order Will Create Substantial Confusion And Uncertainty Statewide, Resulting In Confusion In The Area Of Workers' Compensation As Well As An Avalanche of Litigation.

The Order creates great uncertainty for the business community and all Floridians. Declaring the workers' compensation immunity statute to be unconstitutional adversely impacts the hundreds of thousands of employers and employees in Florida who depend on the workers' compensation system to bring certainty to benefits for on-the-job injuries and the immunity that is received in exchange for providing those benefits. Declaring it to be unconstitutional in the absence of any adversary proceeding also eviscerates fundamental concepts governing court proceedings. It allows any plaintiff (or intervenor for that matter) to file declaratory judgment actions where no real controversy exists and where no defendant is named or served. Allowing a case to proceed to judgment under these

circumstances will create substantial confusion and uncertainty statewide because it turns the proper purpose of declaratory judgment actions on its head.

This chaos will inevitably result in a litany of unwarranted, new cases filed by plaintiffs in what is already an overburdened court system—both in a significant increase in the number of workers' compensation lawsuits and in the number of lawsuits generally. The Order has received wide-spread attention in the business community. And even though the Order is a circuit court decision, it will encourage and embolden litigants to seek impermissible advisory opinions in circuit courts throughout this state. It is no secret the court system simply cannot handle such an increase in caseload. The Florida Office of the State Courts Administrator reported that the total statewide county and circuit court case filings in fiscal year 2012-2013 alone reached nearly 4 million (3,904,301).[2]

Just three weeks ago, the Florida Supreme Court discussed the current state of Florida's trial courts in its annual Certification of Need for Additional Judges. *In re Certification of Need for Additional Judges*, --- So. 3d ---, 2014 WL 7236937 (Fla. Dec. 22, 2014). In finding a significant number of additional judges were needed, the Court noted that "in a post-recessionary period competing demands for state funding persist across state government." The Court also noted, among other

[2] Florida Office of the State Courts Administrator, Overall Statistics, *available at* http://www.flcourts.org/core/fileparse.php/250/urlt/reference-guide-1213-overall-statistics.pdf.

factors, "high jury trial rates, increases in motions and hearings, and the emergency of more complex civil cases as factors that continue to increase trial court workload." The Court further recognized factors such as a loss of support staff, slower case processing times, crowded dockets, and long waits to access judicial calendars. As the Court's certification order reflects, the state court system clearly lacks the capacity to absorb the hundreds, if not thousands, of cases that could result from the Order. These tort-based lawsuits would divert already scarce judicial resources away from legitimate claims.

The Order should be reversed because it is prohibited by Florida law, creates significant uncertainty for employers and employees alike in the workers' compensation area of the law and also will create significant chaos in the state's overburdened court system.

CONCLUSION

For the reasons expressed in this *Amici Curiae* Brief and the Initial Brief filed on behalf of Appellant, the State of Florida, the *Amici* respectfully request that this Court reverse the circuit court's order.

Respectfully submitted,

s/Katherine E. Giddings

KATHERINE E. GIDDINGS, B.C.S (949396)
katherine.giddings@akerman.com
KRISTEN M. FIORE (25766)
kristen.fiore@akerman.com
elisa.miller@akerman.com
michele.rowe@akerman.com
Akerman LLP
106 East College Avenue, Suite 1200
Tallahassee, Florida 32301
Telephone: (850) 224-9634
Telecopier: (850) 222-0103

GERALD B. COPE, JR. (251364)
gerald.cope@akerman.com
vanessa.berman@akerman.com
Akerman LLP
One Southeast Third Ave, 25th Floor
Miami, Florida 33131
Telephone: (305) 374-5600
Telecopier: (305) 374-5095

WILLIAM W. LARGE (0981273)
william@fljustice.org
Florida Justice Reform Institute
210 South Monroe Street
Tallahassee, FL 32301-1824
Telephone: (850) 222-0170
Telecopier: (850) 222-1098

Attorneys for *Amici Curiae* The Florida Chamber of Commerce and Florida Justice Reform Institute

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically uploaded to the Third District Court of Appeal's eDCA and further certify that a true and correct copy of the foregoing was furnished by E-Mail to the counsel for the parties listed on the Service List below on January 12, 2015:

/s/ Katherine E. Giddings
KATHERINE E. GIDDINGS, B.C.S.

SERVICE LIST

Allen Winsor, Solicitor General
Adam S. Tanenbaum,
Chief Deputy Solicitor General
Office of the Attorney General
The Capitol, PL01
Tallahassee, FL 32399-1050
allen.winsor@myfloridalegal.com
adam.tanenbaum@myfloridalegal.com
Counsel for the State of Florida

Mark L. Zientz, Esq.
Two Datran Center, Ste. 1619
9130 So. Dadeland Blvd.
Miami, FL 33156
mark.zientz@mzlaw.com
marlene@mzlaw.com
Counsel for Intervenor FWA

Michael J. Winer
110 N. 11th Street, Second Floor
Tampa, Florida 33602
mike@mikewinerlaw.com
starla@mikewinerlaw.com
Counsel for Amicus

Richard A. Sicking, Esq.
1313 Ponce de Leon Blvd., Ste. 300
Coral Gables, FL 33134
sickingpa@aol.com
Counsel for Intervenor Padgett

Kenneth B. Bell
Gunster, Yoakley & Stewart PA
215 S. Monroe Str., Suite 601
Tallahassee, Florida 32301
kbell@gunster.com
Counsel for Amici

Ricardo Morales, Esq.
7950 West Flagler Street, Suite 104
Miami, Florida 33144
rmorales@rmoraleslaw.com
Counsel for Intervenor FWA

Martin D. Stern, Esq.
Hinshaw & Culbertson LLP
One E. Broward Blvd., Ste. 1010
Fort Lauderdale, FL 33301
mstern@hinshawlaw.com
kcardenas@hinshawlaw.com
Counsel for Defendant Velda Farms

Ramon Malca, Esq.
Malca & Jacobs, P.A.
5975 Sunset Dr., Ste. 801
Miami, FL 33143
rmalca@malcaandjacobs.com
Counsel for Intervenor WILG

Geoffrey Bichler
Bichler, Kelley, Oliver & Longo
541 S. Orlando Ave., Suite 310
Maitland, Florida 32751
geoff@bichlerlaw.com
Counsel for Amicus

John S. Seligman, Esq.
Friedman & Friedman, P.A.
2600 Douglas Road, Ste. 1011
Coral Gables, FL 33134
john@friedmantriallawyers.com
jesely@friedmantriallawyers.com
andrea@friedmantriallawyers.com
Counsel for Plaintiffs Mr. & Ms. Cortes

CERTIFICATE OF FONT SIZE

I HEREBY CERTIFY that the font used in this brief is the Times New Roman 14-point font and that the brief complies with the font requirements of Rule 9.210(a)(2).

/s/ Katherine E. Giddings
KATHERINE E. GIDDINGS, B.C.S.