040984 #2

Gabriel
3/14/05

Subj: **Re: URGENT: Gabriel's disclosure/City Commission meeting, Monday, Mar. 14**
Date: 3/14/05 2:18:10 PM Eastern Standard Time
From: KAIMOWITZGain
To: dmarsh@donaldmarsh.com
BCC: GabeHK

citizen comment

PLEASE POST---NOW

At Citizens' Comments on Mar. 14, 2005:

Good evening, Mayor Hanrahan, Commissioners, Charter Officers, Members of the Public:

Call me Gabriel. I am a candidate for the Gainesville City Commission District-at-Large Seat 2.

Media this week are recognizing the ongoing effort for government to operate in the Sunshine. Unfortunately, media seem to believe they are exclusive intermediaries between government and the public. Remember how fascinated they thought we the public, we the voters, were about getting full disclosure on the autopsy photos of auto race legend Dale Earnhart?

If the public, if We the People, want to know something of interest, of importance, about federal, state, or local government, I suggest we learn to ask for ourselves. As those of you who are familiar with City Commission meetings know or should know, except for the Office of the City Clerk, Gainesville has a poor record of response to such requests.

Media point out that more than 40 per cent of the time, public agencies and employees have failed to respond in full to such requests. Let's hope that
is not the case this time. Our local commission race may depend upon it.

What I want to know at this time from Gainesville city officials and candidates for election is full disclosure of actual or potential conflicts they have between City business, and their paid or unpaid employment for other enterprises.

I especially want to know about ties between Florida's flagship University and its local community college and this city.

The University of Florida has a policy requiring candidates who seek public office to obtain permission to do so. Such candidates must disclose their interests and potential conflicts. Certainly the same would apply to those who are affiliated with the University who are elected officials, or Charter Officers or other staff perhaps who teach as adjuncts there.

I make this request for written documents, if any, from each City Commissioner, candidate, or Gainesville public employee. I would ask the City Clerk to coordinate the collection of that information or any other custodian of records who is designated.

Others also have potential conflicts they should disclose. One candidate reports she is a member of the board of the Martin Luther King, Jr., Commission. I would urge her and the City to provide records of all City tax money received by that Commission which has been under the control of County Commissioner Rodney Long since 1984.

I too have disclosures to make. I am submitted into the record this evening the latest papers filed in Kaimowitz v. City of Gainesville and the Gainesville Sun. I am submitting into the record my published statement about Gainesville in the UF Independent Alligator, Apr. 23, 2004. I am submitting a recent e-mail I got from the Mayor to advise me about the error of my ways.

But perhaps the most important disclosure is not in documentary form as yet. I am a participant-observer in this 2005 City Election. I have committed to writing a book about this campaign, about Gainesville and its town/gown schizophrenia.. Needless to say, most on the dais are featured. I disclose this information now, because of news reports today about early voting. I had intended to reveal my primary purpose in running on March 28, at the City Commission meeting on the eve of the election. For obvious reasons, I preferred to wait until the last minute, so that voters could consider the issues and the merits of the candidates, as they would under usual circumstances.

However, early voting forces me to alert voters now that Gabriel has been acting as a participant observer, to learn and report about how the City and the University of Florida are interacting during the 100th anniversary of the connection made between them by the State Legislature. I have never
published a book before, though my writings have appeared in almost every other print form.

For more information, I urge viewers to go to freeforallcandidates.com/gabriel.htm.

I will try to get as much background as I am at liberty to provide at this time on the website by the end of the week.

Also stay tuned for Gabriel's political commercial. The ad will air all day Saturday and Sunday, on WBXY-Starr 99.5. And then watch with Gabriel what happens at the University of Florida Board of Trustee meetings on Monday, Mar. 21, and Tuesday, Mar. 22.

Gainesville may never been the same again as the University seeks to land somewhere in cyberspace, perhaps far, far away from its small-town base.

Political advertisement paid for and approved by
Gabriel
for Gainesville City Commission at Large Seat 2

Subj: **Re: T2 Mr. Gabriel Kaimowitz posts--Ask Tony. Ask Rick. Ask Ed....**
Date: 3/3/05 11:28:20 PM Eastern Standard Time
From: PegeenHanrahan
To: GabeHK, penny@gru.net, townsquare@lists.gru.net
CC: adelsoj@gvillesun.com, citycomm@ci.gainesville.fl.us, cunninr@gainesvillesun.com, cgrapski@mac.com, Tgonzalez@tsg-law.com, james.lake@hklaw.com, KAIMOWITZGain, execdir@8jcba.org, chris@tharpfamily.net, snblaw@atlantic.net, cschwait@dellgraham.com, Ams@pdo1.co.alachua.fl.us, dferrero@avera.com, Sharon@sharonsperling.com, MNH@thor.co.alachua.fl.us, baldwinnt@cox.net, sboone@boonelaw.com, jmc@sa.co.alachua.fl.us, dennis_comfort@dcf.state.fl.us, burt@svic.net, Frank@FrankMaloney.us, martin@scruggs-carmichael.com, mattinglylaw@bellsouth.net, hrosenbl@mony.com, jms@sa.co.alachua.fl.us, jjopling@dellgraham.com, mms@sa.co.alachua.fl.us, hirneiseds@ci.gainesville.fl.us

Mr. Kaimowitz -

As you know I don't often respond to your email, but this seems like a useful learning opportunity.

The person you are replying to at the email address of penny@gru.net (copied below) is not an employee of the City of Gainesville. It is, in fact, Penny Wheat, who served honorably for 16 years on the Alachua County Commission. Ms. Wheat buys her private internet service from Gainesville Regional Utilities, hence the address. If she were an employee of our utility the address would be name@gru.com, not name@gru.net. In her public service I believe Penny was universally viewed as an advocate of the "little guy," and is certainly not under control of the City or any of its officials. Thus, while it is true Penny had the record of a true fiscal conservative, it is otherwise wrong to refer to her in your words as "Penny-Pincher, a GRU employee, a public employee, a City employee," or to accuse her of doing her research regarding your court proceedings on city time. This is an example of how you can undermine your own credibility by jumping to incorrect conclusions about people and situations and then stating your misinterpretations as fact. As you know, I believe your observations are sometimes acute and meaningful, but it is hard to sort through the many inaccuracies to find that which is of value.

One other thing to share is that if the City had failed to respond to your case as we have responded to other litigants because we were concerned about your status as a candidate for office, that would actually be far more inappropriate than simply following our normal course of action. When one runs for office, one should not expect to be treated better or worse than other citizens (or plaintiffs) similarly situated.

Pegeen

Pegeen Hanrahan, P.E., CHMM
Mayor of Gainesville
352-334-5015 office
PegeenHanrahan@aol.com

Subj: **Re: T2 Mr. Gabriel Kaimowitz posts--Ask Tony. Ask Rick. Ask Ed....**
Date: 3/3/2005 3:08:44 PM Eastern Standard Time
From: GabeHK
To: penny@gru.net, townsquare@lists.gru.net
CC: adelsoj@gvillesun.com, citycomm@ci.gainesville.fl.us, cunninr@gainesvillesun.com, cgrapski@mac.com, Tgonzalez@tsg-law.com, james.lake@hklaw.com, KAIMOWITZGain, execdir@8jcba.org, chris@tharpfamily.net, snblaw@atlantic.net, cschwait@dellgraham.com, Ams@pdo1.co.alachua.fl.us, dferrero@avera.com, Sharon@sharonsperling.com, MNH@thor.co.alachua.fl.us, baldwinnt@cox.net, sboone@boonelaw.com, jmc@sa.co.alachua.fl.us, dennis_comfort@dcf.state.fl.us, burt@svic.net, Frank@FrankMaloney.us, martin@scruggs-carmichael.com, mattinglylaw@bellsouth.net, hrosenbl@mony.com, jms@sa.co.alachua.fl.us, jjopling@dellgraham.com, mms@sa.co.alachua.fl.us
BCC: PegeenHanrahan

54°F

the independent florida alligator ONLINE
WE INFORM YOU DECIDE

Monday, August 23, 2004 | Updated at 1:00 a.m.

OPINIONS GUEST COLUMN

Gainesville, UF poised to enhance town-gown relationship

Gabe Kaimowitz is an attorney in Gainesville.

Like the unofficial spokesman touting Wendy's, I too speak for a place that has become dear to me. For the first time in 12 years, I am proud to be from Gainesville.

This city in the last few months has proven itself willing to absorb a wide range of views about such diverse topics as the location of a new Wal-Mart, placement of inclusive housing and appropriate solutions for tensions between blacks and whites.

Look around. Listen. You will find a creative, caring community. You soon can become an expert guide for parents and other visitors as you explore our streets under a diverse tree canopy. You can find everything from a world-class butterfly attraction to nationally recognized art festivals and music concerts, from visiting cranes to a standing herd of cattle near the main post office.

I am confident you will find sights and sounds off campus and on to enhance your stay. As someone who has lived in, worked in and visited great town-gown examples, such as Madison, Wis., Ann Arbor, Mich., Chapel Hill, N.C., Berkeley, Calif., Cambridge, Mass., and New Haven, Conn., I assure you we are prepared to join their ranks.

Not only is this the right place to be, but it is the right time. Never in my experience have local government and business leaders been as willing to reach out to the university, its new president, its faculty and student leadership to shape this place into a model for others.

Audiences as well as participants are welcomed in this sports/arts/intellectual mecca. For those with pioneering spirit, venture east, into a Gainesville sometimes left off realtor maps, which seem to be designed for an outdated narrower vision. Civic leaders need all the help they can get to keep a broader spectrum open for every viewpoint, regardless of race, creed or political stripe.

I can assure you that the city has come a long way from a place where a dissenter like me might find himself under arrest for uncivil disobedience. Many of us hope the range will become even greater, thanks to public-access television.

But, while we wait, check out the local Civic Media Center on West

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[redacted] University Avenue, come down to Gainesville City Hall, talk with Mayor Pegeen Hanrahan, and participate in the decisions that will affect your lives during the next few years.

The opportunities for civic participation are there. I urge you to make the most of them

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IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR ALACHUA COUNTY

GABE KAIMOWITZ, ESQ.,

Plaintiff/Attorney pro se,

vs.

CASE NO.: 03-CA-2400

GAINESVILLE, FLORIDA, and
THE GAINESVILLE SUN,

Defendants.

PLAINTIFF'S MOTION/LEGAL AUTHORITY FOR
FOR LEAVE TO TAKE DEPOSITIONS PENDING APPEAL

Plaintiff has appealed the Final Order(s) of Dismissal with Prejudice of the Second Amended Complaint, denial of a motion to disqualify Holland & Knight, as attorney for the Gainesville Sun, denial of sanctions against the City for failing to provide a representative other than counsel of record at mediation, and denial of motions as legally insufficient for disqualification of Judge Toby S. Monaco. Those are the claims on appeal warranting the need for deposition pending that appeal.

> If an appeal has been taken from a judgment of any court or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the court. In such case the party who desires to perpetuate the testimony may make a motion for leave to take the deposition upon the same notice and service as if the action was pending in the court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which the movant expects to elicit from each and (2) the reason for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay in justice, it may make an order allowing the deposition to be taken and may make orders of the character provided for by these rules, and thereupon the deposition may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

Rule 1.290(b), Florida Rules of Civil Procedure.

> **Under subsection (b) this testimony is not for use by the appellate court, but is for use should the case be remitted to the lower court for a new trial. The order required is obtained by motion if court finds that the perpetuation may prevent a failure or delay of justice, and the motion need not be verified as in the case of a petition in subsection (a). See *Caachou v. Chaachou.* 102 So. 2d 820 (D.C.A. 3d 1968).**
>
> ***Author's Comment–1967*, Rule 1.290(b), Fla. R. Civ. P.**

There already are further proceedings in this Court, while this matter is on appeal. Counsel for each Defendant has sought attorney fees from Plaintiff for his allegedly having filed a frivolous civil action against each of them in bad faith. Plaintiff has responded to those allegations. Case law cited for the Gainesville Sun makes clear that an evidentiary hearing is required before such fees can be awarded, at which testimony of witnesses can be presented.

> **We conclude that the trial court's exercise of the inherent authority to assess attorneys' fees against an attorney must be based upon an express finding of bad faith conduct and must be supported by detailed factual findings, describing the specific acts of bad faith conduct that resulted in the unnecessary incurrence of attorneys' fees. Thus a finding of bad faith conduct must be predicated on a high degree of specificity in the factual findings.**
>
> **In addition, the amount of the award of attorneys' fees must be strictly related to the attorneys' fees and costs that the opposing party has incurred as a result of the specific bad faith conduct of the attorney. Moreover, such a sanction is appropriate only after notice and an opportunity to be heard–including the opportunity to present witnesses and other evidence. Finally, if a specific statute or rule applies, the trial court should rely on the applicable rule or statute rather than on inherent authority (citation omitted).**
>
> **Moakley v. Smallwood, 826 So.2d 221, 227 (Fla. 2002).**

Further with regard to issues already on appeal, new relevant facts have come to light.

The City on or about Jan. 14, 2005, settled false arrest/42 U.S.C. §1983 claims made in federal court by a plaintiff similarly situated to Plaintiff in this action. Plaintiff here had been in touch with and obtained confidential information from the attorney for the complainant in the other action, in May 2004.

On Oct. 18, 2004 Plaintiff had reason to contact that attorney Gary Edinger, by e-mail before about the other action which had been filed in federal court, See Chiodo v. City of Gainesville, Rob Koehler, #1:04-cv-00377-MP-AK (N.D. Fla. Gainesville Div. 2004) Plaintiff informed that attorney that if this attorney would re-file his comparable claims there if he could not resolve his issues with the City on Oct. 19 by mediation.

On Oct. 14, 2004, Mr. Edinger had hand-delivered to City Attorney Marion Radson a letter with a copy of the Chiodo complaint filed on that date. Plaintiff likewise got a copy. "If the City and Mr. Koehler's counsel are interested in addressing settlement of this case before defense costs mount, we would be happy to sit down with you and discuss appropriate relief to Mr. Chiodo." On Oct. 18, Mr. Radson received a copy of the e-mail forwarded to him from Devonia L. Andrew, an assistant City Clerk. To Plaintiff's knowledge he has never had any contact, e-mail or otherwise, with Ms. Andrew.

On Oct. 25, 2004, Mr. Radson asked for and was given the opportunity to question Plaintiff at a City Commission meeting. He made no mention of the e-mail. Until the Chiodo case was resolved, neither the City nor Mr. Radson disclosed that e-mail or any other document even in response to a public records act request for "All documents, if any, on which Marion Radson, City Attorney based his remarks and questions during the Citizen Comment period, 5:45 p.m., Monday, Oct. 25, 2004....". As it did not do here, for a former Defendant, the City had processed insurance papers to provide separate counsel for the police officer.

By Nov. 10, that Dell Graham attorney reported that at "this time, internal counsel for the City of Gainesville is engaged in settlement discussions with the Plaintiff's attorney in an attempt to resolve this matter within the $100,000.00 deductible amount."

To that end, the arresting police officer's version of the Chiodo matter given on May 11, 2004, was shared with Ms. Waratuke by Mr. Koehler's attorney. The trial judge here notified the Dell Graham firm by Orders of July 16, and 17, 2003, that Plaintiff here had filed a motion for his disqualification and he was denying the application.

On Dec. 9, 2004, the Gainesville City Commission was being apprised of the discussion in a confidential session initiated by City Attorney Radson. It is not known at this time whether this litigation was discussed or even mentioned at that session. A rehearing was held on Dec. 13 in this matter. As for the Chiodo case, it should be noted that Mr. Edinger was assured of getting his settlement check including fees even before the Gainesville City Commission approved settlement. The Gainesville Sun reported the settlement. All of the foregoing has been documented in this case in the papers filed by Plaintiff in response to the frivolous motions for fees by the City. The City, at least attorney Elizabeth Waratuke, knew or should have known that the demand being made by Gainesville for attorney fees here, as recently as Jan. 12, 2005 were frivolous.

Plaintiff would seek to depose the Defendant City of Gainesville, as he unsuccessful tried to do starting in September 2003. Thereafter, the private counsel for the City was unable and unwilling in March-May 2004, and again in July-August 2004, to agree to any depositions even though this attorney responded to that law firm's inquiry about his own deposition.

Plaintiff specifically would seek to depose Mr. Radson, Ms. Waratuke, who processed both this action and Chiodo for the City, as an attorney of record, or anyone else the City would designate to explain as a matter of ultimate fact (sic) how the pleadings and claims in this litigation concerning false arrest/42 U.S.C. §1983 differed from those in Chiodo, *supra*.

Further Plaintiff would seek to depose Devonia Andrew, as to how she obtained a confidential e-mail this attorney sent to Mr. Edinger and how and why she passed it on to Mr. Radson, that is, the purpose for which it had been obtained and used by the City Attorney without notice to this attorney. Plaintiff also would depose Dan Nee, Esq., about who gave him the authority to act for the City in Mediation, and to whom he reported. The process used in the Chiodo case now is quite clear.

The working addresses for all of the aforementioned is at City Hall. Plaintiff also would seek to depose the Gainesville Police Department to explain the circumstances according to documentary evidence, reports, etc., giving rise to his arrest and that of Mr. Chiodo. Not only is this information necessary to show that Plaintiff filed a non-frivolous law suit in good faith in response to the attorney fee applications, but the information is needed especially in light of the issue of sanctions denied to him, because of the City's failure to provide someone other than a legal representative to represent Gainesville in mediation.

Finally, Plaintiff would depose his former attorney Ray Washington, 3104 S.W. 5th Ct., Gainesville, FL: 32601-9043, to show how the Defendant Gainesville Sun interfered with Plaintiff's access to him, even though the daily knew that he would be a necessary witness in this litigation to show the daily acted out of malice because of past antipathy toward this attorney. The trial judge denied the motion for disqualification of the Holland & Knight law firm which appeared for Mr. Washington, as his attorney on July 28, 2004, and refused to let Plaintiff even speak to him on that occasion, though this attorney had subpoenaed him in the other matter. That issue likewise continues to be pursued on appeal.

The foregoing provides the basis for Plaintiff's invoking of Rule 1.290, F.R.Civ.P.

WHEREFORE, having no other adequate remedy in fact or law, Plaintiff moves this Court to allow him to depose the City of Gainesville or its identified agents, and Ray Washington, for the purposes specified herein, for all purposes allowed by Rule 1.290, F.R.Civ.P.

A bona fide offer was made to agree to a stipulated order, or failing that to narrow the issues.

Certificate of Service

A copy of the foregoing has been sent by first class mail on Mar. 3, 2005, to James B. Lake, Esq., P.O. Box 1288, Tampa, FL 33601-1288, and to Thomas M. Gonzalez, Esq., Ann Marie Hensler, Esq., Thompson, Sizemore, & Gonzalez, P.A., P.O. Box 639, Tampa, FL 33601-0639.

Gabe Kaimowitz, Esq.
(Fla Bar 0633836)
P.O. 140119, Gainesville, FL 32614
(352) 375-2670 GabeHK@aol.com
Plaintiff Attorney pro se

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR ALACHUA COUNTY

GABE KAIMOWITZ, ESQ.,

Plaintiff/Attorney pro se,

vs. **CASE NO.: 03-CA-2400**

GAINESVILLE, FLORIDA, and THE GAINESVILLE SUN,

Defendants.

PLAINTIFF'S DEMAND FOR SANCTIONS AND REQUEST FOR HEARING ON THEM, AND ON DISQUALIFICATION OF THE TRIAL JUDGE

Plaintiff files this motion for sanctions pursuant to Florida statutory and case law on the basis of the terms and conditions set forth herewith. Since notice was given to counsel for each Defendant, the Gainesville Sun has renewed its motion for attorney fees, and the City of Gainesville has asked for a hearing on its motion for attorney fees. More than 21 days have gone by since Plaintiff initially served notice of his intent to file sanctions.

Plaintiff seeks a hearing on said motion and on a pending motion for disqualification of Judge Toby S. Monaco from any post-judgment matters, at any available time in June 2005, or as soon thereafter as this attorney *pro se* may be hear.

Defendant City in bad faith seeks its own hearing on sanctions, because Plaintiff has served timely notice on Feb. 11, 2005, that he himself seeks to be Commissioner-at-Large (2). Defendant City knew or should have known that the outcome of an election on March 29, 2005, and a subsequent run-off could materially affect consideration of the demand for fees.

Further, timely appeal is pending from the underlying dismissal with prejudice and should and could affect any ruling Judge Monaco would make. Finally, Defendant City did not seek a hearing for nearly two months after it filed its motion.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR ALACHUA COUNTY

GABE KAIMOWITZ, ESQ.,

Plaintiff/Attorney pro se,

vs. CASE NO.: 03-CA-2400

GAINESVILLE, FLORIDA, and
THE GAINESVILLE SUN,

Defendants.

Introduction

This Notice is being served on Jan. 31, 2005. Plaintiff will file this motion for sanctions after 21 days from service of these papers pursuant to Section 57.105(1) and (4), Florida Statutes Annotated ("F.S.A."), if Gainesville and its attorneys Thomas M. Gonzalez, Esq., and Elizabeth Waratuke, Esq., do not withdraw motions for attorney's fees, most recently "renewed" in papers mailed on Jan. 12, 2005, during that "safe harbor" period.

Plaintiff also will file such a motion for sanctions after 21 days from service of these papers pursuant to Section 57.105(1) and (4), Florida Statutes Annotated ("F.S.A.") if the Gainesville *Sun* and its attorneys Holland & Knight, and George Freeman, do not withdraw motions for attorney's fees, mostly a "second" such motion, served on Jan. 18, 2005, within the time allotted by statute for that purpose to avoid the imposition of attorney fees.

PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEY'S FEES FROM DEFENDANT GAINESVILLE AND ITS ATTORNEYS, AND SEPARATELY FROM DEFENDANT GAINESVILLE *SUN* AND ITS ATTORNEYS

COMES NOW PLAINTIFF and moves this Honorable Court for an award of Attorney's fees from Defendant Gainesville and its Attorneys and separately from Defendant Gainesville *Sun* and its attorneys.

Re: Defendant City of Gainesville

Motions (sic) for Attorney Fees were made and repeated for Gainesville without basis in law for attorney fees after final order(s) were entered against Plaintiff. Fees were sought pursuant to Section 57.105(1), F.S.A., with any opportunity, Section 47.105(4), F.S.A., for this attorney to withdraw his causes of action without pursuit of an appeal from those orders. Defendant Gainesville relied on criteria set forth in that Section 57.105(1). F.S.A., and in constitutional authority for sanctions based on assessment of bad faith for the filing of this action. Defendant Gainesville offered no case authority for the latter at all.

Even if the proper notice had been given, Plaintiff would be entitled to attorney fees for having to defend against those frivolous motion(s) offered in bad faith after the attorneys for Defendant Gainesville knew or should have known they could not satisfy the requisite criteria on either ground for a demand for fees from Plaintiff from the outset of this action. Plaintiff learned how baseless the motion(s) were when he had to research the issue to defend against them. The City's arguments fail on their face. Consider first the citations it offered:

> **To award attorney's fees to the prevailing party under section 57.105(1), Fla. Stat. (1999), a movant need only show that the losing party or losing parties attorney "knew or should have known" that a claim or defense did not have substantial support in fact or law at any time before trial,,,,Based on the ruling of this Court, and in accordance with section 57.105(1) Fla. Stat., the Defendant is entitled to attorney's fees because the Plaintiff did not produce any issues of either law or fact, this is tantamount to a finding that the action is frivolous or completely untenable, Weatherby Assocs., Inc. v. Ballack, 783 So.2d 1138, 1141 (Fla. 4th DCA 2001)(citing Muckenfuss v. Deltona Corp., 508 So.2d 340, 341 (Fla. 1987). A claim under 57.105(1) Fla. Stat. need not be pleaded before entry of final judgment. Graef v. Dames & Moore Group, Inc., 857 So.2d 257, 262 (Fla. 2d DCA 2003).**
>
> **Indeed our Supreme Court has advised that is appropriate for a litigant to wait until the conclusion of litigation before filing a claim under section 57.105 (1) to insure that such a claim is not precipitously filed. Renewed Motion, pp. 4-5.**

The choice of year for the cited statute is peculiar, since the provision was modified significantly in that year, and later:

> **The 1999 amendment to section 57.105 substantively changed the standard for awarding fees for baseless actions and defenses. Ch. 99-225, § 4, at 1406 Laws of Fla.; *Forum v. Boca Burger, Inc.*, 788 So.2d 1055, 1060-61 (Fla. 4th DCA 2001), review granted, 817 So.2d 844 (Fla. 2002). As the Fourth District noted in *Boca Burger*, cases interpreting the language of the former version of section 57.105 are now of little precedential value because the 1999 amendment altered the substantive standard for making fee determinations under the statute, Id. at 1061.**

Gahn v. Holiday Property Bond, Ltd., 826 So.2d 423, 426 (Fla. 2d DCA 2003).

But the significant changes to the statute relevant here did not stop there. Laws 2002, c. 2002-77 § 1, added subsec. (4), relating to service and filing of a motion for sanctions:

> **(4) A motion by a party seeking sanctions under this section must be served but may not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.**

Id. 57.105(1), Fla. Stat. (1999).

As noted previously, Defendant City aggressively filed its motion for sanctions after the judgment without giving Plaintiff any opportunity to withdraw. Such notice is required, since July 1, 2002. *Cf.* Maxwell Bldg. Corp. v. Euro Concepts, LLC, 874 So. 2d 709, 710-711 (4th DCA 2004). The Maxwell court specifically noted compliance, *id.*, at p. 710. Further, if there were any doubt, Florida has recognized that its state law is patterned after federal law which was altered in 1993, to assure such notice for Rule 11 violations. See, Mullins v. Kennelly, 847 So.2d 1151, 1155 (Fla. 5th DCA 2003).

For that reason alone, Defendant City would appear to have waived any claim to fees under statutory authority. But what of that unspecified Florida Supreme Court authority? That authority is cited in Graef v. Dames & Moore Group, Inc., 857 So.2d 257, *supra*.

See Ganz v. HZJ, Inc., 605 So.2d 871, 872 (Fla. 1992). That decision was rendered, before Florida law was changed in 1999, to allow a party recognizing a claim or defense to be frivolous to raise the issue during the proceedings. Further the Ganz court could not have anticipated the "safe harbor" provision enacted in Florida 10 years later which affords some protection to the alleged wrongdoer who has filed the claims or defenses in question. Further, nothing in Graef or Ganz suggests that a party believing at some point that the action is or had become groundless can remain silent to trap the unwary. In Graef, 857 So.2d, *supra* at 262, the fee seeker had raised the section 57.105(1) fee earlier, yet still found itself denied fees, because of the "surprise" element. What then must a court consider, if it were to award fees under the statutory provision, because a suit is said to be frivolous?

> **Failing to state a cause of action is not, in and of itself, a sufficient basis to support a finding that a claim was so lacking in merit as to justify an award of fees pursuant to section 57.105. Stagl v. Bridgers, 807 So.2d 177 (Fla. 2d DCA 2002). In Stagl, the complaint had been dismissed three times for failure to state a cause of action, but the record on appeal did not support the trial court's finding that there was a complete absence of a justiciable issue of law or fact. *Id.***
>
> **A finding that a party is entitled to recover attorney's fees under section 57.105 must be based upon substantial, competent evidence presented at the hearing on attorney's fees or otherwise before the court and in the record. See Strothman v. Henderson Mental Health Ct., Inc., 425 So.2d 1`185, ``85-86 (Fla. 4th DCA 1983).**

Mason v. Highlands County Bd. of Com'rs, 817 So.2d 922, 923 (Fla. 2d DCA 2002).

***See also* Read v. Taylor, 832 So.2d 219, 222 (Fla. 4th DCA 2002). The Read court also cites Papalardo v. Richfield Hospitality Servs., Inc., 790 So.2d 1226, 1228 (Fla. 4th DCA 2001).**

> **In order to award attorney's fees against a losing party, there must be a showing that the claim was so *clearly devoid* of merit both on the facts and the law as to be completely untenable (citations omitted) (emphasis is in the original.)**

Papalardo v. Richfield, 790 So.2d, *supra*, at 1228.

The First District Court of Appeal included most of the foregoing citations in its analysis most applicable here as to the process to be used when a court considers an award of fees pursuant to F.S.A. §57.105.

> **In determining whether a party is entitled to statutory attorney's fees under section 57.105, Florida Statutes, frivolousness is determined when the claim or defense was initially filed; if the claim or defense is not initially frivolous, the court must then determine whether the claim or defense became frivolous after the suit was filed. Weatherby Assoc. Inc. v. Bullack, 783 So.2d 1138, 1142 (Fla. 4th DCA 2001). In so doing, the court determines if the party or its counsel knew or should have known that the claim or defense asserted was not supported by the facts or an application of existing law. Read, 832 So.2d at 221. Boca Burger, 788 So. 2d at 1061. An award of fees is not always appropriate under section 57.105, even when the party seeking fees was successful in obtaining the dismissal of the action or summary judgment in an action. See Mullins, 847 So.2d at 1154 (citing Read, 832 So.2d at 222). In Mullins, the court noted that consistently and fairly applying the statute is problematic:**
> **"In the legal world, claims span the entire continuum from overwhelmingly strong to outrageously weak. Somewhere between these two points, courts draw a line to separate the non-frivolous from the frivolous....**
>
> **Wendy's of N.E. Florida v. Vandergriff, 865 So.2d 520, 523-24 (Fla. lst DCA 2003).**

The First District Court of Appeal also makes clear under the change in the law, in 1999, that is, since Ganz v. HZJ, Inc., 605 So.2d 871, *supra,* a trial court, with or without motion apparently can impose fees as soon as the wrongdoing becomes clear:

> **(T)he present version of the statute authorizes an award of attorney's fees "On any claim or defense *at any time* during a civil proceeding or action," §57.105, Fla. Stat. (1999)(emphasis added). This language plainly signifies that the court may award an attorney's fee for a particular claim or defense, even before the case has been concluded. It is possible then that a court may assess attorney's fees against a party who has asserted an unsupportable claim or defense, even though that party might ultimately prevail in the case on some other ground.**
>
> **Bridgestone/Firestone Inc. v. Herron, 828 So.2d 414, 417 (Fla. lst DCA 2002).**

Also in this District, the trial judge was required to find a complete absence of a justiciable issue of law or fact raised by the losing party, a suit clearly devoid of merit.

> **As a prerequisite to an award of attorney's fees pursuant to section 57.105, the trial court must find a complete absence of a justiciable issue of law or fact raised by the losing party (cites omitted). The suit must be so clearly devoid of merit both on the facts and law as to be completely untenable (cites omitted). Even if a portion of the complaint is frivolous, an award of attorney's fees is not appropriate so long as the complaint alleges some justiciable issues. (cites omitted). Furthermore, dismissal of a suit does not necessarily justify an attorney fee award if the suit can be considered to have been non-frivolous at its inception (cite omitted). If a suit can pass muster at the time it is initially presented, subsequent developments that render the claim without justifiable merit in law or fact should not subject the losing party to attorney's fees (cites omitted).**

Langford v. Ferrera, 823 So.2d 795, 796-797 (Fla. lst DCA 2001).

Despite this District's insistence on such rigor, the private counsel for the City Defendant wants statutory attorney fees on the basis of the final order made and repeated without change after rehearing, except to correct the two cases mis-cited by the Court, and

> **in accordance with section 57.105(1), Fla. Stat., the Defendant is entitled to attorney's fees because the Plaintiff did not produce any issues of either law or fact, this is tantamount to a finding that the action is frivolous or completely untenable. Weatherby Assocs., Inc. v. Ballack, 783 So.2d 1138, 1141 (Fla. 4th DCA 2001)....**

Renewed Motion, p. 4.

The Weatherby Assocs., Inc. v. Ballack, as well as the internal cite also relied upon by the City here was distinguished, in Vasquez v. Provincial South, Inc., 795 So. 2d 216, 218 (Fla. 4th DCA 2001), in part because, as here, the order on which Defendant City relies lacks express findings of fact. The Vasquez court opined that in such circumstances, Weatherby Assocs., Inc., generalities did not apply, since the 1999 change in the law, *id.*

> **Florida favors access to the courts and has interpreted section 57.105 to provide a remedy only where the plaintiff's complaint is completely untenable.... Based on the above cited authority, we agree with the Appellant that the trial court erred by failing to make specific findings that...the Appellant's claim was frivolous and completely untenable,**

***Id.*.**

But what makes the City of Gainesville's action patently frivolous is that its attorney, including Ms. Waratuke, specifically moved to settle and to grant $12,000 for damages, and more than $4,000 in fees, on similar facts and state and federal legal authority for the plaintiff in Charles Chiodo vs. Rob Koehler, individually, and City of Gainesville, a Florida municipal corporation, Case No. 1:04cv377MMP/AK (N.D. Fla. Oct. 15, 2004). Plaintiff would stress that he sets forth the following comparison in this instance only to show that his civil action was not so obviously devoid of merit on the basis of law and facts to warrant the Defendant City's frivolous demand for fees from Plaintiff while it relied on comparable law and facts to deduce that Mr. Chiodo was entitled to damages.

Let's compare:

1. A. Plaintiff here, then 68, a member of the Florida Bar, alleged he was falsely arrested on Monday, Oct. 28, 2002 by several Gainesville police officers at the last Gainesville City Commission meeting before a scheduled referendum on Nov. 5, 2002, on creation of a proposed Equal Opportunity Charter Office for the municipality. Plaintiff had been speaking out against the creation of the Office at City Commission meetings since July 2002. Plaintiff continued to speak after the Mayor stated that he had to relinquish the podium. Then Mayor Tom Bussing in response to a discrimination complaint filed by Plaintiff stated that he had not wanted Plaintiff to be arrested. Plaintiff was held over night without bail at the Alachua County Jail. The charge of trespass later was dropped by the state attorney.

B. Chas Chiodo, then 56, was arrested by an Orlando Police Officer Rob Koehler, on May 11, 2004, at the corner of University Avenue and Northwest 13th Street. He was arrested for public display of a sign with an American flag extending from a person's buttocks.

Chiodo was charged with exposing minors to an obscenity. Chiodo admitted that his work was obscene but said children were exposed to worse obscenities such as the depictions of the torture of prisoners at Abu Ghraib prison in Iraq. He refused to put away the sign when he was asked to do so by the officer. He was held over night at the Alachua County jail. Chiodo was reported to have hired Geoffrey Mason, who was acting for the local chapter of the National Lawyers Guild.

2. A. In June 2003, Plaintiff filed this action for monetary and injunctive relief in state court. Plaintiff initially sued the City on state claims, including one for false arrest. *However, in amended pleadings, Plaintiff also alleged that the actions taken against him by Gainesville constituted a denial of First Amendment rights, by a municipality acting under color of law in violation of 42 U.S.C. § 1983.* Plaintiff moved for the judicial disqualification of the assigned Judge. He served those papers on Elizabeth Waratuke, assistant City Attorney, though he had reason to believe a private counsel would be chosen at the direction of City Attorney Marion Radson. Indeed, the trial judge notified the law firm of Dell Graham about the litigation on the assumption apparently that it was representing the City. The trial judge denied the motion for his recusal. No answer ever was filed for the City. No discovery was made. No case management conference ever was held.

B. In October 2004, Chiodo filed a comparable 42 U.S.C. §1983 action, in federal court with a pendant state claim for false arrest. Ms. Waratuke was assigned. The City designated a Dell Graham attorney to represent the arresting officer. For Chiodo, replacing his attorney was Gary Edinger, who was reporting to the Tampa American Civil Liberties Union ("ACLU").

On behalf of the ACLU, Edinger previously had filed an *amicus* brief in support of the City of Gainesville when the City was being sued for providing health benefits to employees' unmarried domestic partners. In that action, in Martin v. City of Gainesville, Edinger was acting for the national ACLU in New York. (There is a local Gainesville chapter, which apparently was not involved in either the Chiodo or the Martin cases.)

Mr. Chiodo moved for judicial disqualification of the assigned jurist, Senior Judge Maurice M. Paul. Judge Paul rejected the motion in Chiodo v. City of Gainesville, Rob Koehler, #1:04-cv-00377-MP-AK (N.D. Fla. Gainesville Div. 2004) No answer ever was filed for the City. No discovery was made. No case management conference ever was held.

3. A. On Nov. 2, 2002, without mentioning the referendum on the Equal Opportunity Charter Office which The Gainesville Sun had supported for months, the daily reported that Plaintiff here had been arrested. The paper quoted the city manager in that account as saying that such arrests had occurred before. The manager later denied he ever said such a thing. The paper did not report on the incident or the ensuing litigation at any time thereafter.

B. On May 13, 2004, the Gainesville Sun reported, "They say one man's trash is another man's treasure, but in the case of a poster designed by a local activist, one man's political statement is another man's pornography, "No butts about it, poster leads to jail." On May 22, the Sun reported that the charges against Mr. Chiodo were dropped, and separately included mention favorable to him in its darts and laurels editorial. On Oct. 16: "An Alachua County man, arrested earlier this year by Gainesville Police for carrying a homemade sign showing an American flag protruding from a person's buttocks, is suing the city and the officer for what the lawsuit calls an unlawful arrest."

4A. In the spring of 2004, Plaintiff twice offered to settle with the City, through attorney Joe Little. City Attorney Marion Radson first said there was no interest in settlement on any basis. On the second occasion, Mr. Radson indicated that he would take such an offer to the City if Plaintiff were to reduce it to writing. Plaintiff provided the writing to assistant City Attorney Dan Nee, on May 28. Mr. Radson did not respond. The trial judge never scheduled mediation at any time during the first year of the action, though local rule requires such a mediation before a case management conference. Such a conference was started on May 28, but not concluded.

Plaintiff could not get agreement from the other parties about mediation and so was required to move for it. On Aug. 25, the motion was granted, after a hearing necessitated by Defendants' counsel to agree to what the law required. Thereafter, the City's private counsel took over the mediation, made himself unavailable during the 30 day period when the jurist insisted the process be started and concluded, and then scheduled it for Oct. 19, 2004. A hearing was scheduled on that same day, on the motions to dismiss, to begin at 1:15 p.m., at the court house on the day of the mediation, which was scheduled unilaterally by Defendant Gainesville's attorney to start at 9 a.m. At the mediation, and thereafter, City's attorneys have claimed that one of them Dan Nee represented Gainesville with full authority to negotiate.

> **Appellant, a lawyer, was counsel in a lawsuit in which mediation was ordered. Appellant did not attend the mediation hearing, and he told his clients that they did not have to attend. Appellee, whose counsel did attend the mediation hearing, moved to assess attorney's fees and costs against appellant, and the court entered a judgment for attorney's fees and costs, which is the subject of this appeal. We affirm the assessment of attorney's fees against counsel under the court's inherent power to do so. Patsy v. Patsy, 666 So.2d 1045 (Fla. 4th DCA 1996) and cases cited therein.**

Nunes v. Ferguson Enterprises, Inc., 703 So.2d 491 (Fla. 4th DCA 1997).

4B. On Oct. 14, 2004, Mr. Edinger hand-delivered to Mr. Radson a letter with a copy of the Chiodo complaint filed on that date. "If the City and Mr. Koehler's counsel are interested in addressing settlement of this case before defense costs mount, we would be happy to sit down with you and discuss appropriate relief to Mr. Chiodo. As always I appreciate your careful consideration of this constitutional claim." On Oct. 18, Mr. Radson received a copy of an e-mail forwarded to him from Devonia L. Andrew, an assistant City Clerk. To Plaintiff's knowledge he has never had any contact, e-mail or otherwise, with Ms. Andrew. The e-mail from Plaintiff to Mr. Edinger and others discussed this attorney's possible intervention in the Chiodo matter, if a mediation scheduled for Oct. 19 would be unsuccessful. As the e-mail indicates, Plaintiff and Mr. Edinger previously had communicated about coordination of the two action. On Oct. 25, 2004, Mr. Radson asked for and was given the opportunity to question Plaintiff at a City Commission meeting. He made no mention of the e-mail. Until the Chiodo case was resolved, neither the City nor Mr. Radson disclosed that e-mail or any other document even in response to a public records act request for "All documents, if any, on which Marion Radson, City Attorney based his remarks and questions during the Citizen Comment period, 5:45 p.m., Monday, Oct. 25, 2004....". As it did not do here, for a former Defendant, the City had processed insurance papers to provide separate counsel for the police officer. By Nov. 10, that Dell Graham attorney reported that at "this time, internal counsel for the City of Gainesville is engaged in settlement discussions with the Plaintiff's attorney in an attempt to resolve this matter within the $100,000.00 deductible amount." To that end, the arresting police officer's version of the Chiodo matter given on May 11, 2004, was shared with Ms. Waratuke by Mr. Koehler's attorney.

On Dec. 9, 2004, the Gainesville City Commission was being apprised of the discussion in a confidential session initiated by City Attorney Radson. It is not known at this time whether this litigation was discussed or even mentioned at that session. A rehearing was held on Dec. 13 in this matter. As for the Chiodo case, it should be noted that Mr. Edinger was assured of getting his settlement check including fees even before the Gainesville City Commission approved settlement. The Gainesville Sun reported the settlement. All of the foregoing has been documented in this case in the papers filed by Plaintiff in response to the frivolous motions for fees by the City. The City, at least attorney Elizabeth Waratuke, knew or should have known that the demand being made by Gainesville for attorney fees here, as recently as Jan. 12, 2005 were frivolous.

Re: The Defendant Gainesville Sun

Plaintiff concedes that The Gainesville *Sun* provided him with adequate notice to withdraw his civil action, as required by Section 57.105.(4), F.S.A., *supra*. But the Sun attorneys then made no meaningful reference to the statutory basis whatsoever, after they stated only with regard to the facts that the pleadings

> **lacked the requisite factual and legal support. For example, as a matter of law, the Sun's article at issue was not materially false and was privileged. Likewise the facts alleged did not constitute an actionable misrepresentation or breach of contract. Finally, because the article at issue was not defamatory, Mr. Kaimowitz's conspiracy theory was legally and factually deficient."**

The Gainesville Sun's Motion and Second Motion (sic) for Attorneys' fees, each time on page 2.

The foregoing legal authority is equally applicable here to show Defendant Sun counsel knew or should have known it had not met their burden to demand fees on statutory grounds. They did cite legal authority to support their demand for fees based on Plaintiff's "bad faith."

> **We conclude that the trial court's exercise of the inherent authority to assess attorneys' fees against an attorney must be based upon an express finding of bad faith conduct and must be supported by detailed factual findings, describing the specific acts of bad faith conduct that resulted in the unnecessary incurrence of attorneys' fees. Thus a finding of bad faith conduct must be predicated on a high degree of specificity in the factual findings.**
>
> **In addition, the amount of the award of attorneys' fees must be strictly related to the attorneys' fees and costs that the opposing party has incurred as a result of the specific bad faith conduct of the attorney. Moreover, such a sanction is appropriate only after notice and an opportunity to be heard–including the opportunity to present witnesses and other evidence. Finally, if a specific statute or rule applies, the trial court should rely on the applicable rule or statute rather than on inherent authority (citation omitted).**
>
> **Moakley v. Smallwood, 826 So.2d 221, 227 (Fla. 2002).**

Like Gainesville's attorney, the *Sun*'s counsel as noted did cite applicable statute, but made no attempt to meet its criteria. As for bad faith, the Sun's counsel provided his own when he deliberately tried to mislead Plaintiff into believing that the law on point only allowed this attorney an opportunity to prove his good faith, by testimony or otherwise. It would evident to anyone who has read the trial judge's final order(s), that the jurist does not believe Plaintiff is even capable of acting in good faith. But that is not the criteria.

The burden would be on the Sun to persuade the trial judge to make an express finding of bad faith conduct and must be supported by detailed factual findings, describing the specific acts of bad faith conduct that resulted in the unnecessary incurrence of attorneys' fees. And therein lies the basis for this demand for attorneys' fees for responding to the Sun's frivolous demand for fees when it knew or should have known that it could not sustain that proof.

How not? Both the original and renewed final order make clear that the trial judge faulted Plaintiff for a host of filings he regarded as improper–but not a single one was identified in any pleading or in reference to any pleading answered by the Sun.

The Sun did answer some of the motions cited by the trial judge, but in none was any reference made either to the alleged offensive paragraphs or to their having been filed in bad faith. Indeed, the Sun does not claim that at time before the final orders that Plaintiff acted in bad faith, of that those instances cited by the judge without a single related legal citation resulted in expenditure of attorney fees. All the judge in fact was doing was finding examples from papers alleging that he and his predecessor the Honorable Larry G. Turner acted improperly from the outset, and in concert with the goals of Judge Wallace Jopling and that jurist's Dell Graham partner son John, to discredit Plaintiff.

WHEREFORE having no other adequate remedy at law or in equity, Plaintiff moves for an unbiased judge to award attorney fees for the time he has taken to answer the frivolous papers submitted in bad faith separately by each Defendant and its counsel.

Certificate of Service

A copy of the foregoing has been sent by first class mail on Mar. 3, 2005, to James B. Lake, Esq., P.O. Box 1288, Tampa, FL 33601-1288, Attorney for the Gainesville Sun, and to Thomas M. Gonzalez, Esq., Ann Marie Hensler, Esq., Thompson, Sizemore, & Gonzalez, P.A., P.O. Box 639, Tampa, FL 33601.

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Eighth Judicial Circuit of Florida

Chambers of
STAN R. MORRIS
Chief Judge

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Stacy Thackrey
Judicial Assistant

May 21, 2002

The Honorable Charles T. Wells
Chief Justice
Florida Supreme Court
500 South Duval Street
Tallahassee, FL 32399-1925

IN RE: GABE KAIMOWITZ vs THE FLORIDA BOARD OF REGENTS
CASE NO. 01-1996-CA-3260 & 01-1998-CA-1134 ALACHUA COUNTY

Dear Justice Wells:

As Chief Judge of the Eighth Judicial Circuit, I am requesting you assign a judge from outside the eighth circuit to preside over a contempt proceeding collateral to the underlying lawsuits listed above. This matter has been pending for an extended period of time and was previously assigned by the Chief Justice to Senior Judge Michael Salmon of the Eleventh Circuit. The contempt matter was almost concluded when Judge Salmon was stricken with an illness. Almost a year elapsed before it became apparent that another judge would be needed. A tentative settlement was close, but in the interim the respondent Kaimowitz has petitioned to withdraw his plea to the contempt. I believe proceedings will need to be recommended and proceed to a factual determination of the existence of the contempt.

I recently conducted a case management hearing and all parties are anxious to proceed with the underlying matter. I have assigned the underlying lawsuits to Judge Larry Turner in our circuit civil division. I do believe it appropriate to seek a separate jurist to handle the contempt. I do not think a judge from the Eighth or Third Circuits would be appropriate. Many of our judges have been recused or excused themselves and Senior Judge Wallace Jopling of the third circuit is the one who initiated the contempt by Rule to Show Cause based upon Mr. Kaimowitz's conduct in the underlying trial over which Judge Jopling was presiding. He has now recused himself.

I would request you attend to this matter as soon as time may allow you to do so.

Alachua Co.-Defendant's
Exhibit 517
Case #96-CA-3260
Date: 11-15-04

Sincerely,

Stan R. Morris
Chief Judge

SRM/sgt
CC: Gabe Kaimowitz
John F. Dickinson, Esquire
Margaret Phillips, Esquire
Jeanne Singer, Assistant State Attorney

RESOLUTION 99-137

RESOLUTION SUPPORTING IMPROVEMENTS TO THE STATE OF FLORIDA'S EXISTING SYSTEM OF AFFIRMATIVE ACTION; PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida actively has promoted systems of affirmative action (e.g., for the encouragement of minority representation on boards, commissions, councils and committees); and

WHEREAS, the need for such action has been recognized by numerous state and local government, boards and agencies to remedy past discriminations (e.g., on the basis of race, color, national origin, religion, sex, marital status, age and disability in employment, housing, public accommodation); and

WHEREAS, there continues to be a need for active promotion of businesses owned and operated by women or members of defined minority groups at the state and local levels to remedy past exclusion of such groups from full and equitable participation in the public sector; and

WHEREAS, the County Commission on November 9, 1999, adopted Resolution 99-117, to oppose a proposed state-wide anti-affirmative action ballot initiative; and

WHEREAS, a petition titled "the Florida Equal Opportunity Initiative" is being circulated asking Florida's registered voters to support continued affirmative action measures in education, public contracting and public employment; and

WHEREAS, the Alachua County Commission now wishes also to go on record as supporting improvements to the present systems of affirmative action in the State of Florida;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

1. That the Board of County Commissioners strongly supports the following:

a. measures to improve but not set aside any aspects of said system of affirmative action laws, regulations, policies, procedures and practices that already exist in Florida;

b. the Florida Equal Opportunity Initiative.

2. The County Manager is hereby authorized to transmit copies of this resolution to Governor Jeb Bush, the Florida Supreme Court, all members of the Alachua County Legislative Delegation, all Boards of County Commissioners in the State of Florida and to the Executive Director of the Florida Association of Counties.

DULY ADOPTED in regular session, this 14 day of December, A.D. 1999.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: Dave Newman Vice Chair
Penelope Wheat, Chair

ATTEST:
J. K. "Buddy" Irby, Clerk

(SEAL)

APPROVED AS TO FORM:
Robert Swaim IV
Alachua County Attorney