

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

PUBLIC CITIZEN, INC., *et al.*,)
)
 Plaintiffs,)
)
 v.) Civil Action No. 8:01-CV-943-T-23TGW
)
 PINELLAS COUNTY, *et al.*,)
)
 Defendants.)
 _____)

DECLARATION OF FREDERICK L. BAILEY

The following declaration is tendered in support of plaintiffs’ Motion for Summary Judgment.

I, being duly sworn, do hereby affirm and swear that the following is true to the best of my knowledge and belief:

1. My name is Frederick L. Bailey, and I am of lawful age to make this declaration. Since February 1998 I have been, and am currently, Senior Manager of Accounting for National Wildlife Federation (“NWF”), a nonprofit charity located at 11100 Wildlife Center Drive, Reston, VA 20190-5362, and my telephone number is 703-438-6219.

2. Part of my responsibilities are to file the necessary forms to keep NWF registered with each state and local jurisdiction that requires registration so that we may solicit contributions. I am therefore familiar with the registration process in Pinellas County, Florida and how it compares to the registration processes in the various states that require such registration.

3. NWF is a member of the Direct Marketing Association – Nonprofit Federation.

4. NWF is not currently registered in Pinellas County as a charity permitted to solicit charitable gifts.

5. In my experience, attempting to comply with the registration and reporting requirements of Pinellas County is more cumbersome and difficult than it is for most of the other states or localities requiring that charities register in order to solicit charitable gifts. The registration process often requires multiple contacts and negotiations with Pinellas County officials. The registration form is not consistent in either format or substance with those used by the vast majority of states and localities requiring registration.

6. In 1997 NWF successfully registered with Pinellas County. On November 25, 1998, we mailed the County a renewal application form with requested attachments and a \$120 filing fee. We received a letter dated December 2, 1998 from the Pinellas County Department of Consumer Protection (“Department”) asking for additional information, most of which had previously been submitted. On December 16, 1998, we sent the requested additional information and received a letter dated December 18, 1998 from the Department stating that our permit had been approved and enclosing it.

7. In 1999 - 2000 NWF attempted, without success, to renew its registration with Pinellas County. In November 1999, we mailed to Pinellas County a renewal form with requested attachments and our \$120 filing fee. We received a letter from the County dated December 23, 1999 informing NWF that its application had been denied. On January 7, 2000, NWF received a fax of letters from the Department that NWF had not previously received. These letters were dated November 17, 1999 and December 2, 1999, and asked NWF to provide additional information, most of which had previously been submitted with our original

registration form. The second of these letters was a Notice of Intent to Deny, which had given NWF fifteen days to comply.

8. The same day that we received the fax, January 7, 2000, NWF sent a revised renewal application with the requested attachments and additional information that had been requested in the December 1999 letters, but we noted that we had already sent the \$120 fee with the original application. We subsequently received a letter from the Department dated January 13, 2000 asking for still more information not requested in the December 1999 letters and demanding that NWF pay an additional \$120 fee. The next day, I called Ms. Susanna Tootle at the Department. She informed me that two of NWF's commercial co-venturers are not registered with Pinellas County and that because these were Internet companies, they were considered to be soliciting in Pinellas County unless they put a disclaimer on their websites stating that they do not accept donations from Pinellas County residents. (A commercial co-venturer is a commercial company that conducts sales promotions in which a portion of the proceeds go to a charity). In addition, Ms. Tootle told me that if these companies did attempt to register, all *other* charities with whom they do business must register as well or the commercial co-venturers' applications will be denied and therefore, so will the application submitted by NWF.

9. We then contacted both companies. One of them had discontinued use of NWF's name and thus was no longer an obstacle to registration in Pinellas County. I also spoke to the Chief Financial Officer of values.com, the other commercial co-venturer, who informed me that values.com would not register.

10. I received another letter from the Department, dated February 1, 2000, that indicated that it was a Notice of Intent to Deny Charitable Solicitation Application. The letter requested the same information as was requested in January and again demanded the \$120 fee. I then spoke with Mr. Larry Krick at the Department. He informed me that we had to send \$120 each time additional information was requested or else the application would be denied. He told me that NWF owed \$240, but he would accept \$120 to again consider the application.

11. After that conversation, I decided that it simply was not worth the trouble to continue to pursue obtaining a permit to solicit in Pinellas County. I informed NWF's various departments that NWF would not be registering in Pinellas County and accordingly instructed them not to solicit new members in Pinellas County and to restrict NWF's solicitation activities to existing members of NWF. Subsequently, in a letter dated March 3, 2000, the Department formally denied NWF's application for a permit.

12. For the reasons previously stated, I am familiar with the registration requirements of the State of Florida and other states in the same regard. NWF registers with and files reports to the Florida Department of Agriculture and Consumer Affairs. Registering with and reporting to Pinellas County imposes a significant financial, time, and paperwork burdens and provides no benefit to its citizens because the information is already available not only from the State of Florida, but from Guidestar (www.guidestar.org), NWF's own website; and from multiple other sources in the public domain.

13. NWF has a website (<http://www.nwf.org>) on which it solicits charitable donations. Gifts can be made on-line via credit card or by mailing them in to our address which is listed.

14. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on _____

Frederick L. Bailey, CPA
Senior Manager of Accounting
National Wildlife Federation