UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

WILLIAM H. HARRELL, JR., et al., Plaintiffs, v. THE FLORIDA BAR, et al., Defendants.	) Civil Action No. 3:08-cv-15-VMC-TEM

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DISMISS

The Florida Bar's motion to dismiss marks its second attempt to defeat this Court's jurisdiction over plaintiffs' challenge to Florida's attorney advertising rules. In a pair of earlier motions, the Bar argued that plaintiffs lacked standing to challenge the rules, and that even if they did have standing, the Court should nevertheless abstain from deciding the case. Doc. Nos. 12, 13. This Court denied the motions, holding that each of the plaintiffs had established an injury for standing purposes. *See* Order of Feb. 29, 2008 ("Order"). In its latest motion, the Bar argues that even if plaintiffs had standing to challenge the rules when the complaint was filed, that standing was lost when the Bar's Board of Governors, three weeks after plaintiffs had filed their complaint, reversed the Standing Committee on Advertising's conclusion that Harrell's slogan "Don't settle for less than you deserve" characterized the quality of his services in violation of Rule 4-7.2(c)(2).

Although the Bar now couches its motion in terms of mootness instead of standing, its argument is nevertheless precluded by this Court's denial of its previous motion to dismiss. As the Court recognized there, plaintiffs' injuries arise not only from the Bar's rejection of the particular ads attached to the complaint, but on the chilling effect arising from the imposition of

the Bar's prior restraint on speech. *See* Order 28-31. The Court also recognized that plaintiff Public Citizen has an independent basis for standing arising from the First Amendment rights of its Florida members to receive advertising information. *See* Order 12-15. These members are injured not as much by denial of access to a *single* advertisement as by the broad chilling effect that the rules cast over *all* lawyer advertising in the state. Regardless of the Bar's latest position on the permissibility of any particular ads, both these recognized bases for standing remain intact: Harrell retains his interest in remaining free of prior restraint, and Public Citizen retains its interest in protecting its members' right to receive information about available legal services provided by all members of the Florida Bar.

Even as to the particular ads addressed by the Board of Governors' recent vote, the case is not moot. As the Eleventh Circuit has emphasized, "voluntary cessation of offensive conduct will only moot litigation if it is clear that the defendant has not changed course simply to deprive the court of jurisdiction." *Nat'l Advertising Co. v. City of Miami*, 402 F.3d 1329, 1333 (11th Cir. 2005). The Board here took its vote "on its own initiative" just three weeks after plaintiffs filed their complaint, in a closed session attended by the Bar's counsel in this case. *See* Tarbert Aff. ¶ 8; Exh. 1 (Minutes of Board of Governor's Meeting of Feb. 1, 2008), at 4 ¶ 11; Exh. 2 (Defs.' Amended Resp. to Pls.' Interrogatories), at 7 ¶ 12. The Bar has not explained why the Board disagreed with the Standing Committee's unanimous opinion or why this case differs from the Bar's prior decisions holding similar slogans to be prohibited. Nor does Harrell have any way to learn the Board's rationale given that the record of the closed session, which the Bar claims is privileged, does not appear in the Bar's minutes. Exh. 1 at 4 ¶ 11; Exh. 2 at 7 ¶ 12. In any case, the Bar does not even attempt to argue that the vote was anything other than what it appears to be—a litigation tactic designed to deprive this Court of jurisdiction and thus insulate the Bar's

system of prior restraint from constitutional scrutiny.

Moreover, as both the Supreme Court and the Eleventh Circuit have repeatedly held, a defendant attempting to establish mootness must show that it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Nat'l Advertising Co.*, 402 F.3d at 1333 (internal quotation omitted). The Bar cannot make that showing here. To the contrary, the Bar's decision to prohibit Harrell's slogan even after having repeatedly approved it over the course of more than six years demonstrates that it considers itself free to change its position on the permissibility of particular advertising techniques at any time, regardless of its members' reliance on its prior decisions. As the Bar's counsel in this case publicly stated in defending the Bar's decision to prohibit Harrell's slogan, "the fact that something is approved does not mean that the bar is forever bound to it and cannot change its policy." Julie Kay, *Bar's Lawyer Ad Rules Disputed*, The National Law Journal, Feb. 4, 2008, at 4.

Finally, the Board's vote, as described by Tarbert, established only "that the statement 'Don't settle for less than you deserve' does not characterize the quality of legal services being offered in violation of Rule 4-7.2(c)(2)." *See* Defs.' Resp. to Mot. for Prelim. Inj. Exh. A (Letter from Elizabeth Clark Tarbert to William H. Harrell, Feb. 6, 2008), at 2. As plaintiffs explained in response to the Bar's previous motion to dismiss, the Bar has also prohibited ads very similar to Harrell's under a range of other rules. Pls.' Resp. to Mot. to Dismiss 8-13. The Bar, contrary to its own assertions, has never assured Harrell that he will not be prosecuted for running his ads under any of these rules, or explained why the rules would not apply to Harrell's ads. Harrell can thus have no confidence that, in the absence of an injunction, the Bar will not prosecute him after this litigation is complete.

I. THE BAR'S MOOTNESS ARGUMENT IS PRECLUDED BY THIS COURT'S DENIAL OF THE PREVIOUS MOTION TO DISMISS.

The Bar contends that this case arises from "two very specific" issues: (1) the Bar's decision to reject the commercials Harrell submitted for approval because the slogan "Don't settle for less than you deserve" would violate Rule 4-7.2(c)(2)'s prohibition on statements about quality of services, and (2) the likelihood that the Bar would find the same advertisements to violate other rules. Mot. to Dismiss of May 1, 2008 ("Motion"), at 2. This cramped characterization of the case fundamentally misconstrues both the nature of the complaint and this Court's previous rejection of the Bar's jurisdictional arguments. Even setting aside the two issues the Bar identifies, this Court has already held that Harrell has standing to challenge the rules' chilling effect on his commercial speech, and that Public Citizen has standing to defend the rights of its members to receive information about available legal services. *See* Order 15, 28-29 (noting that "an actual injury can exist when the plaintiff is chilled from exercising her right to free expression or foregoes expression in order to avoid enforcement consequences.") (quoting *Wilson v. State Bar of Ga.*, 132 F.3d 1422, 1428 (11th Cir. 1998)); *id.* at 31 (noting that the Bar's rules have chilled Harrell from running some of his ads "because he is uncertain of his rights and whether he will be disciplined for doing so"). Nothing about the Board of Governors' recent vote casts this Court's prior holdings into doubt.

A. Plaintiffs William H. Harrell and Harrell & Harrell

Regardless of the Bar's current position on the permissibility of specific aspects of Harrell's advertising, the rules' core constitutional infirmity—their imposition of a prior restraint on speech—remains intact. Harrell's allegation of a prior restraint on his future ad submissions is, as this Court has already held, sufficient to satisfy the requirement of standing. *See* Order 28-29, 31. Without attempting to reconcile its position with this Court's prior holding, the Bar

argues that Harrell lacks standing to challenge prior restraints on his future speech because the impact of the rules on his future advertisements is "imaginary" or "speculative." Motion 7. That Harrell will be prohibited from publishing future advertisements prior to Bar approval, however, is not speculative at all—it is the necessary and inevitable effect of the Bar's prior restraint rule. Because he is an advertising lawyer in Florida, Harrell is unable to run *any* future ads without obtaining the Bar's prior approval and thus subjecting himself to the prior restraint and censorship of Bar authorities. *See Thornhill v. Alabama*, 310 U.S. 88, 97 (1940) (holding that standing in a prior restraint case is "not based upon any assumption that application for the license would be refused or would result in the imposition of other unlawful regulations").

Moreover, the impossibility of predicting whether ads will be considered to be "manipulative," "misleading," "likely to confuse," or prohibited by some other provision of the rules is one of plaintiffs' primary arguments for the rules' unconstitutionality. Plaintiffs cannot be expected to predict which features of Harrell's planned future ads will run afoul of which substantive restrictions because the vagueness and arbitrary application of the rules make it impossible to predict their application in any particular case. Because of this uncertainty, and because of the high cost of producing broadcast advertisements, the Bar's vague rules compel Harrell and other attorneys to include only the blandest content to minimize the possibility of censorship, or even to forego advertising altogether. In these circumstances, the constitutionally significant injury is the plaintiff's self-censorship. See *ACLU v. The Fla. Bar*, 999 F.2d 1486, 1492 (11th Cir. 1993); *see also CAMP Legal Def. Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1275 (11th Cir. 2006) (holding that it is "the existence, not the imposition, of standardless

requirements that causes [the] injury").[1]

In any case, the Bar is wrong to assert that the complaint identifies "[n]o advertisements other than the ones reviewed by Bar staff and the Standing Committee." Motion 4. In addition to noting the chilling effect of the rules on his future submissions generally, Harrell specifically alleged, and stated in his declaration, that he designed a television advertisement featuring his family and dogs. Cmplt ¶ 26; Harrell Decl. (attached to Pls.' Mot. for Prelim. Inj.) ¶ 8. The advertisement emphasized the family-friendly nature of the firm and its charitable contributions, showcased the firm's facilities, including an on-site gymnasium established to promote the health of its employees, and included other scenes and messages that focused on the theme of "family." Cmplt ¶ 26; Harrell Decl. ¶ 8. Harrell was forced to abandon plans for this advertisement because it would have violated the rules at issue here, including the rules against characterizing the quality of a lawyer's services, making "unsubstantiated" statements, "manipulative" visual and verbal depictions, and background noises. Cmplt ¶ 26; Harrell Decl. ¶ 8(a)-(d). Instead, Harrell was forced to broadcast minimalist ads that he considered to be less interesting and less effective. Cmplt ¶ 26; Harrell Decl. ¶ 8. These ads, pursuant to the Bar's rules, featured a plain black background, instrumental music, and pictures of lawyers from the

[1] The Bar relies for its position, as it did in its prior motion, on *Wilson v. State Bar of Georgia*, 132 F.3d 1422 (11th Cir. 1988). As this Court has already noted, however, *Wilson* supports plaintiffs' position that, "[i]n the [First Amendment] realm, . . . an actual injury can exist when the plaintiff is chilled from exercising her right to free expression or forgoes expression in order to avoid enforcement consequences." Order at 28-29; *see also Al-Amin v. Smith*, 511 F.3d 1317, 1334 (11th Cir. 2008) (holding that in a First Amendment case, a chilling effect on speech is enough to give rise to a First Amendment claim); *Houston Chronicle Pub. Co. v. League City*, 488 F.3d 613, 618 (5th Cir. 2007) (holding that a chilling effect is enough to give rise to injury for standing purposes); *N.H. Right to Life v. Gardner*, 99 F.3d 8, 13 (1st Cir. 1996) (same).

firm. Cmplt ¶ 26; Harrell Decl. ¶ 8. Harrell's specific allegations that he would produce more effective advertisements but for the Bar's rules is itself sufficient to establish his standing. *See ACLU*, 999 F.2d at 1492 (holding that a plaintiff stating that he "intends to engage in a specific course of conduct arguably affected with a constitutional interest . . . does not have to expose himself to enforcement to be able to challenge the law").[2]

Finally, even setting aside the impact of the rules on Harrell's future ads, Harrell still has standing to challenge the Bar's prior restraint rule because he has already subjected himself to potential discipline under that rule. As the complaint explains, the Bar's decision to prohibit Harrell's slogan after he had invested six years into its development left him with no choice but to air his ads without Bar approval despite the Bar's warnings that to do so could subject him to discipline. Compl. ¶¶ 31-33. Harrell's failure to obtain approval before airing the ads as required by the prior-restraint rule violated Rule 4-7.7(a)(1)(A)'s requirement that "[a]ll television and radio advertisements required to be filed for review must be filed at least 15 days prior to the lawyer's first dissemination of the advertisement." At the least, Harrell is entitled to seek declaratory and injunctive relief against the imposition of discipline for his failure to abide by the Bar's censorship regime.

---

[2] *See also Fla. Bar v. Went For It*, 515 U.S. 618 (1995) (addressing plaintiffs' challenge to a Florida attorney solicitation rule that the plaintiffs had never violated); *Edenfield v. Fane*, 507 U.S. 761 (1993) (holding unconstitutional Florida's restrictions on solicitation by accountants where the plaintiff had not engaged in the prohibited forms of commercial speech but alleged that, "but for the prohibition," he would have done so); *Jacobs v. The Fla. Bar*, 50 F.3d 901, 904 (11th Cir. 1995) ("A plaintiff stating that he intends to engage in a specific course of conduct arguably affected with a constitutional interest, doe not have to expose himself to enforcement to be able to challenge the law."); *Schwartz v. Welch*, 890 F. Supp. 565, 567, 568 (S.D. Miss. 1995) (finding standing for plaintiff-attorneys to challenge advertising restrictions where each had claimed to have restricted or discontinued their advertisements as a result of the

B. Plaintiff Public Citizen

The Board of Governors' vote regarding Harrell's ad has no impact on Public Citizen's standing to challenge the rules on behalf of its members. As this Court has already recognized, Public Citizen's standing arises from its allegation that "the rules . . . injure Florida consumers, including Florida members of plaintiff Public Citizen, by preventing them from receiving truthful, non-misleading information about legal services and legal rights." Order 7 (quoting Compl. ¶ 36). The chill created by the Bar's rules affects the First Amendment right of Public Citizen's Florida members to receive information, just as it affects the right of advertising lawyers to distribute it. *See Doe v. Sincer*, 175 F.3d 879, 882 (11th Cir. 1999). Moreover, plaintiffs alleged that the Bar's rules prohibit not just Harrell's ads, but "a wide range of useful and informative advertising by . . . other lawyers and law firms" as well. Order 7 (quoting Compl. ¶ 36). The Bar is thus wrong to suggest that Public Citizen's standing depends on the approval of Harrell's ads. To the extent that the Bar is arguing that Public Citizen's allegations of injury are insufficiently specific to give rise to standing, plaintiffs have already addressed this contention in detail in their response to the Bar's first motion to dismiss. For purposes of opposing the current motion, it is sufficient to say that the Bar's approval of Harrell's advertisements does nothing to undermine this Court's conclusion that Public Citizen has standing to represent the interests of its Florida members.

II. THE BAR'S VOLUNTARY CHANGE IN POLICY AFTER THE FILING OF THIS CASE DOES NOT DEPRIVE PLAINTIFFS OF STANDING.

Even as to the specific ads that were the subject of the Board's vote, the Bar has not shown mootness. "It is well settled that a defendant's voluntary cessation of a challenged

---

rules).

practice does not deprive a federal court of its power to determine the legality of the practice" unless it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Friends of Earth, Inc. v. Laidlaw Envtl. Svcs.*, 528 U.S. 167, 189 (2000) (internal quotations and citations omitted). Again, this Court's prior decision denying defendants' prior motion to dismiss largely settles this issue. In that motion, the Bar argued that it was planning to eliminate one of the rules that plaintiffs challenged—the prohibition on background noises. *See* Order 22-23. Relying on the Eleventh Circuit's decision in *ACLU v. The Florida Bar*, 402 F.3d at 1333, this Court held that the possibility that the Bar would change its rule was irrelevant given that, even if the rule were changed, the Bar remained free to "revert back to the prior rule," "replace the challenged rule with a rule equally offensive to plaintiffs," or "engage in any pattern of decision that they find to be suitable at any time." Order 22-23. For the same reason, defendants' arbitrary cessation argument here also fails. Despite the Bar's change of position on Harrell's slogan, it remains free to prohibit Harrell from further use of the slogan and from using other aspects of his advertisements that violate different rules.

A. "Don't settle for less than you deserve"

As the Eleventh Circuit emphasized in *National Advertising Co.*, "voluntary cessation of offensive conduct will only moot litigation if it is clear that the defendant has not changed course simply to deprive the court of jurisdiction." 402 F.3d at 1333. The circumstances surrounding the Board of Governors' vote in this case strongly suggest that this is exactly what happened here. The Board took its vote in a closed meeting, attended by the Bar's counsel in this case, just three weeks after plaintiffs filed their complaint. Exh. 1 at 4 ¶ 11; Exh. 2 at 7 ¶ 12. In making its decision, the Bar ignored its procedure for appeals of advertising decisions, instead taking the question up "on its own initiative." Tarbert Aff. ¶ 8. The Bar offers no explanation for the

Board's decision that would explain the Board's action as anything other than a litigation tactic designed to deprive this Court of jurisdiction to decide the constitutionality of the Bar's rules. If defendants could so easily escape jurisdiction, they could indefinitely avoid federal review simply by relenting on any issues brought before the federal courts, only to reassert their previous positions again later.[3]

The circumstances of the Bar's change of position are nearly identical to those in *Bacchus v. Benson*, No. 07-186 (N.D. Fla. Nov. 13, 2007) (unpublished, attached as Exh. 3)**.** In *Bacchus*, the plaintiff challenged a cease-and-desist order by the Florida Department of Business and Professional Regulation prohibiting her from speaking at a hearing about geological issues on the ground that to do so would constitute the "unlicensed practice of geology." *Id.* at 1-2. Three months after Bacchus filed suit challenging the constitutionality of the department's action, the department rescinded its order and sent Bacchus a letter stating that "the Department is no longer of the opinion that probable cause exists in the above-referenced matter." *Id.* at 6-7. Judge Hinkle found the letter insufficient to establish that the case was moot, noting that the defendants' new position "came only on the courthouse steps," a factor that the Court held "cut[] strongly" against the defendants' claim of mootness. *Id.* at 8-9.

The Board's decision here shares other similarities with *Bacchus*. First, as in *Bacchus*, the Board provided no explanation for its change of position. *Id.* at 7. Because the Board conducted

[3] The Bar continues to insist that Harrell should have requested review of his ads by the Board of Governors before challenging the Bar's rules in this Court. Defendants pursued this same position in their motion to abstain, which this Court denied. As the Court recognized, requiring Harrell to seek review with the Board of Governors would subject him to the very system of prior restraint that he is challenging here. Order 27-28. The First Amendment does not require administrative exhaustion before recourse to the federal courts, and Harrell is thus not

its vote in secret, and because the Bar asserts that the minutes of the session are privileged, plaintiffs cannot know why the Board overruled the Standing Committee's unanimous decision that the slogan improperly characterized the quality of Harrell's services. *See* Exh. 1 at 4 ¶ 11; Exh. 2 at 7 ¶ 12. Like the defendant in *Bacchus*, the Bar here "has not said what it thought the [rule] meant originally, or what it thinks the [rule] means now, or what changed its mind." *Bacchus*, No. 07-186, at 7. Nor has the Bar explained how the slogan "Don't settle for less than you deserve," which it now considers to be permissible, is any different than other slogans it has previously held to improperly characterize quality of services, such as "Do not settle for anything less," "Choosing a good lawyer shouldn't happen by accident. Don't settle for less than you deserve," "Don't let your family settle for less," and "Why settle for less when you can have an entire team of attorneys, investigators, and legal assistants all on your side?" *See* Exh. 2 at 8-9 ¶ 15.

Moreover, as in *Bacchus*, the defendants here have taken no "action to confirm [their] change of position." *Bacchus*, No. 07-186, at 7. *Bacchus* noted that, "[w]hen an agency adopts an ordinance or rule or expends funds, there is more reason for confidence that it will not revert to the old way." *Id.* at 8. The Bar here, like the defendant in *Bacchus*, adopted no new ordinance or rule, instead providing, as in *Bacchus*, "only a letter." *Id.* There is nothing preventing the Bar from changing its position yet again the next time Harrell submits an advertisement for review. *See* Kay, *Bar's Lawyer Ad Rules Disputed*, *supra* (quoting the Bar's counsel in this case as saying that "the fact that something is approved does not mean that the bar is forever bound to it and cannot change its policy"). This point distinguishes the case from *Christian Coalition of*

---

required to submit to the Bar's arbitrary process of decisionmaking.

Alabama v. Cole, 355 F.3d 1288 (11th Cir. 2004), on which the Bar relies. Not only did the state in *Christian Coalition* take the formal step of withdrawing the enforceable advisory opinion that was the subject of the lawsuit, but its sincerity in doing so was reinforced by a recent Supreme Court decision declaring a similar rule in another state unconstitutional. *Id.* at 1290. In contrast, the Bar's decision here could change at any time, is not prohibited by any judicial decisions, and is not even marked with the formality of appearing in the Board of Governors' minutes. As far as plaintiffs are aware, there is no public record of the Bar's decision. *See* Exh. 2 at 8-9 ¶ 15.

Indeed, the Bar's insistence that Harrell should take comfort in its newly developed position is ironic, given that it had previously approved Harrell's slogan in dozens of ads over the course of six years before changing course and deciding that the slogan was prohibited while, in the process, ignoring Harrell's contention that its prior findings of compliance should be binding on it. *See* Exh. 4 (Defs.' Resp. to Pls.' Req. for Prod., Appeal of Staff Opinion). Because the Bar has already changed its position as to Harrell's slogan twice; there is no reason to believe it will not do so again.

B. Other Aspects of Harrell's Ads

Finally, contrary to the Bar's assertions, Harrell has no reason to believe that he is safe from discipline based on aspects of his ads other than his slogan. The Bar claims that, under Rule 4.7-7(a)(1)(F), the Board of Governors' "approval" of Harrell's ads prohibits it from disciplining him for those ads. Motion 10. The Board's vote as described by Tarbert, however, is much more limited in scope than the Bar's argument would suggest. The Board did not purport to decide whether Harrell's ads violate other rules or to offer a general "approval" of Harrell's ads. *See* Tarbert Aff. ¶ 8 ("The Board found that the *phrase* did not violate Rule 4-7.2(c)(2) and *it* was approved for use.") (emphasis added). As explained in Tarbert's letter to Harrell, the Board

voted only to conclude that the phrase "Don't settle for less than you deserve" did not characterize the quality of Harrell's services in violation of Rule 4-7.2(c)(2). *See* Defs.' Resp. to Mot. for Prelim. Inj. Exh. A. The Board's conclusion that one aspect of Harrell's ads is permissible is not an "approval" or "finding of compliance" of Harrell's ads as required by Rule 4.7-7(a)(1)(F), and thus does not protect Harrell from prosecution for other aspects of his ads never considered by the Board. As in *Bacchus*, the Bar's reassurances are, at most, equivocal, and are thus not sufficient to satisfy the Bar's heavy burden of proving that the case has become moot. *Bacchus*, No. 07-186, at 7.[4]

As plaintiffs explained in response to the Bar's last motion to dismiss, the Bar has previously prohibited ads very similar to Harrell's under a wide variety of other rules. Pls.' Resp. to Mot. to Dismiss 8-13. Moreover, there is particular reason to fear that the Bar would find a violation here. In publicly discussing the Standing Committee's decision on Harrell's ads, one committee member said that "the committee was concerned" that "Don't settle for less than you deserve" was misleading, because "[i]t's a misrepresentation to imply that the client deserves anything or there will be a settlement." Gary Blankenship, *Suit Challenges Florida's Lawyer Advertising Rules*, The Florida Bar News, Feb. 1, 2008. Under these circumstances, it is far from "absolutely clear" that Harrell will not be subjected to discipline if the Court were to dismiss the case. Accordingly, the Bar's assertion of mootness fails.

[4] Tarbert asserts in her affidavit, without explantion, that the "effect" of the Board of Governor's decision was to approve Harrell's ads. Tarbert Aff. ¶ 10. Because the Board's proceedings were conducted in secret, it is impossible for Harrell to verify this assertion. Nevertheless, Tarbert's conclusion is, at most, a legal opinion. As the Bar has already said, Tarbert has no control over the disciplinary process. Order at 31 n.15. Harrell therefore can draw little comfort from her interpretation of the Board's secret proceedings.

CONCLUSION

The Court should deny defendants' motion to dismiss.

Respectfully submitted,

/s/Gregory A. Beck
Gregory A. Beck
DC Bar No. 494479, *pro hac vice*
Brian Wolfman
DC Bar No. 427491, *pro hac vice*
PUBLIC CITIZEN LITIGATION GROUP
1600 20th St., NW
Washington, DC 20009
Phone: (202) 588-1000
Fax: (202) 588-7795
gbeck@citizen.org

David M. Frank
Florida Bar No. 997854
LAW OFFICE OF DAVID M. FRANK, P.A.
1584 Metropolitan Blvd., Suite 102
Tallahassee, FL 32308
Phone: (850) 894-5729
Fax: (850) 894-5728
Email: davidfrank65@comcast.net

Dated: May 15, 2008

CERTIFICATE OF SERVICE

I certify that on May 15, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

Barry S. Richard
Bridget K. Smitha
Greenberg Traurig, LLP
101 E College Ave
PO Box 1838
Tallahassee, FL 32302
richardb@gtlaw.com
smithab@gtlaw.com

Counsel for Defendants

/s/ Gregory A. Beck
Gregory A. Beck