

March 30, 2015

Via Email Only: Leslie.Jacobs@myfloridalegal.com

Ms. Leslie Jacobs
Office of the Attorney General
Florida Department of Legal Affairs
The Capitol PL-01
Tallahassee, FL 32399-1050

RE: Proposal for Legal Representation
Weidner v. Scott, Leon County Circuit Court Case No. 37-2015-CA-283

Dear Ms. Jacobs:

Bryant Miller Olive, P.A., is pleased to submit this proposal for legal representation in the referenced matter. The complaint identifies two defendants, the Governor individually and “the Florida Cabinet, a joint collegial body.” We propose to represent the latter, with the understanding that the individual Cabinet members each will have his or her own counsel.

With 45 years of experience representing Florida governments in complex matters, we regularly counsel clients on operational issues like those raised in the complaint. Our former government attorneys have practical experience applying and complying with the important open government policies embodied in statutes like the Sunshine Law and the Public Records Law. We also have a proven track record of success in defending against similar cases brought by the plaintiff’s attorney. *See Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755 (Fla. 2010).

Many of our government clients have internal legal offices, but draw on our litigation resources in high-profile and politically sensitive cases and cases of first impression. *See, e.g., Miccosukee Tribe of Indians of Fla. v. South Fla. Water Mgmt. Dist.*, 48 So. 3d 811 (Fla. 2010). Our litigation practice is shaped by the demands of our government clients. For this case, we propose a team of experienced and cost-effective attorneys who possess both deep subject matter expertise and proven litigation skills. We take a team approach to every matter, putting client needs ahead of individual lawyer personalities. This team approach stems from our broader practice, where we regularly work on complex matters with many others at the table.

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For this matter, we propose the team of Susan Churuti, Fred Springer, and Ellie Neiberger. Board-certified in City, County and Local Government Law by the Florida Bar, Ms. Churuti regularly litigates open government issues, including the *Sarasota Citizens* case, which involved the same plaintiff's attorney as this matter and similar Sunshine Law issues. She served as the Pinellas County Attorney for over twenty years. Her peers elected her as the President of the Florida Association of County Attorneys, which in 2008 honored her with the Ethics in Government Award. Ms. Churuti remains at the forefront of battles over open government and is well-versed in their nuances. See, e.g., *Chmielewski v. City of St. Pete Beach*, -- So. 3d -- (Fla. 2nd DCA 2014) (2014 WL 4212742); *Anderson v. City of St. Pete Beach*, -- So. 3d -- (Fla. 2nd DCA 2014) (2014 WL 5151321). She regularly teaches other lawyers about the Sunshine Law and other open government issues, most recently in February 2015 at the Florida Bar's continuing legal education seminar entitled *Sunshine Law, Public Records & Ethics for Public Officers and Public Employees*. Ms. Churuti is based in our Tampa office.

Fred Springer, based in Tallahassee, also has years of practical experience with open government issues. While working for the Department of Management Services between 2001 and 2007, Mr. Springer regularly handled such matters. For example, in designing an award-winning training and certification program as required by section 287.057(16), Florida Statutes, Mr. Springer ensured that the program educated agencies about the decision in *Silver Express Co. v. Miami-Dade Cmty. College*, 691 So. 2d 1099 (Fla. 3d DCA 1997), which held that the Sunshine Law applied to contract selection committees. Attuned to the practical problems that decision might cause, he was also instrumental in working with stakeholders and policymakers in the passage of Chapter 2006-284, Laws of Florida, which amended the Public Records Law and the Sunshine Law to accommodate agencies' business needs by creating temporary exemptions during the procurement process.

In the courts, Mr. Springer has been involved with high-profile open government matters like *Media Gen. Convergence, Inc. v. Chief Judge of the Thirteenth Jud. Cir.*, 840 So. 2d 1008 (Fla. 2003). Other high-profile cases include the *Miccosukee Tribe* matter referenced above, *Bush v. Gore*, 531 U.S. 98 (2000), and *Gore v. Harris*, 773 So. 2d 524 (Fla. 2000). Mr. Springer routinely handles more routine open government issues, and he regularly litigates a broad range of cases on behalf of governments. Recently concluded matters include, for example, *FDIC v. Baldini*, Case No. 1:12-cv-07050 (S.D. W. Va.) (pursuing D&O liability action by receiver for failed bank), and *Dump the Pumps, Inc. v. Florida Keys Aqueduct Auth.*, Case No. 14-2415 (DOAH) (defending challenge to environmental permit for wastewater system). Mr. Springer is a member of the ABA Litigation and Public Contract Law Sections, and of the Florida Bar Government Lawyer and Administrative Law Sections.

Ms. Churuti and Mr. Springer will be supported by Ellie Neiberger, who is also based in Tallahassee. Ms. Neiberger graduated first in her class from the Florida State University College of Law in 2009, and later that year she was honored by the Supreme Court of Florida for highest performance on the bar exam. *Florida Trend* magazine named her as a "Legal Elite Up

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and Comer” in 2012, 2013, and 2014, and she has been selected as one of *Super Lawyers’* 2015 “Florida Rising Stars.” She has worked with Ms. Churuti and Mr. Springer on a variety of litigation matters, including the post-2009 cases referenced above. She has also represented government clients in such matters as *Cardelle v. Miami Beach Fraternal Order of Police*, 593 Fed. Appx. 898 (11th Cir. 2014), and *Branch v. FDIC*, 475 Fed. Appx. 745 (11th Cir. 2012). Ms. Neiberger has spoken at conferences about Sunshine Law issues, and she has published a variety of articles, including *Judge-Friendly Briefs in the Electronic Age*, Florida Bar Journal (2015), and *Honest Services Fraud: Federal Prosecution of Public Corruption at the State and Local Level*, Florida Bar Journal (2010).

BMO will bring to the defense team a useful mix of cost-effective litigation skills, extensive subject matter expertise, and practical operational insight. We regularly advise and defend collegial bodies like the Cabinet, and we know how to work in multi-party/multi-attorney scenarios. We are flexible in structuring the engagement’s business terms, including the use of fee caps and other creative fee structures. Expressed as an hourly rate, we propose a blended rate of \$295.

We appreciate the opportunity to express our interest in joining the defense team. We recognize the significance of this case, and trust the Cabinet will make this important decision wisely. Please let us know if we can provide any additional information to aid this process.

Respectfully,



Frederick J. Springer