

IN THE SUPREME COURT OF FLORIDA

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FILED

SID J. WHITE

OCT 6 1989

CLERK, SUPREME COURT

By _____
Deputy Clerk

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Case No. 74,747

THE FLORIDA HOUSE OF REPRESENTATIVES;)
TOM GUSTAFSON, as Speaker of the Florida)
House of Representatives and as a)
citizen and taxpayer of the State of)
Florida; and T.K. WETHERELL, as Chairman)
of the Committee on Appropriations, as)
Speaker-designate of the Florida House)
of Representative and as a citizen of)
the State of Florida,)

Petitioners,)

vs.)

BOB MARTINEZ, Governor of the State of)
Florida; JIM SMITH, in his capacity)
as Secretary of State of Florida; and)
GERALD LEWIS, in his capacity as)
Comptroller of the State of Florida,)

Respondents.)

RESPONSE TO PETITION FOR WRIT OF MANDAMUS

COMES NOW the Respondent Gerald Lewis in his capacity as Comptroller of the State of Florida, by and through his undersigned Counsel, and in response to the Order to Show Cause issued by this Court on September 26, 1989, would show:

1. Gerald Lewis, in his capacity as Comptroller of the State of Florida is a nominal party to this action by virtue of his duty to issue his warrant for the disbursement of state funds where that disbursement violates no express or implied provision of law. Article IV, Sec. 4(d), Fla.

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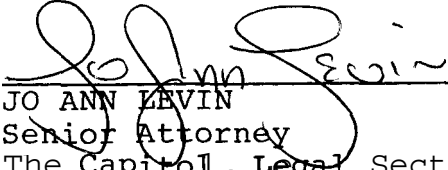
Const. Brown v. Firestone, 382 So.2d 654; Martinez v. Florida Legislature, 542 So.2d 358 (Fla. 1989).

2. As nominal respondent, the Comptroller does not intend to address the merits of the Writ of Mandamus unless ordered to do so by this Court.

3. As Comptroller, the Respondent Gerald Lewis stands ready and willing to abide by any order of this Court relating to his official duties in the issues before this court.

Respectfully submitted,

WILLIAM G. REEVES
General Counsel



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Fla. Bar No. 254495
Attorney for Respondent
Gerald Lewis

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Response to Petition for Writ of Mandamus has been furnished by U.S. Mail this 6th day of October, 1989 to Kevin X. Crowley, Esquire, Cobb Cole & Bell, 315 South Calhoun Street, Suite 500, Tallahassee, Florida 32301, Attorney for Petitioners; to Honorable Bob Martinez, Office of the Governor, The Capitol, Tallahassee, Florida 32399; to