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July 20, 2006

Dear Judicial Candidate,

Enclosed you will find the Florida Family Policy Council's 2006 Judicial Voters' Guide Questionnaire. We'd appreciate your reply to our Questionnaire on or before Monday, August 14, 2006. Your responses will reach voters through a mass distributed Voter's Guide which will be printed and/or posted online before the November election.

The Florida Family Policy Council is a 501(c)(3), non-profit, educational organization. Accordingly, our voters' guide is strictly a educational reporting service. We do not "rate" or "score" candidates in any way. We will report your responses (or lack thereof) without comment. As a judicial candidate, we understand that you are subject to the Florida Code of Judicial Conduct. However, we believe your responses are constitutionally protected under *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), which struck down a Minnesota Judicial Canon that prohibited judicial candidates from "announc[ing] their views on disputed legal or political issues" on First Amendment grounds. Further, it is understood that your responses to the questions indicate your current view on issues and do not constitute any pledge, promise, or commitment or intended to create the appearance of a pledge, promise, or commitment to reach any particular result in a case.

If you remain concerned that you may not answer our Questionnaire under the Code of Judicial Conduct, then we suggest you call and seek an advisory opinion from:
Judge Robert T. Benton, Judicial Ethics Advisory Committee,
301 S. Martin Luther King Jr. Blvd., Tallahassee, FL 32399 * Phone (850) 487-1000, x204

As a lawyer running for judicial office, you are subject to the Code of Judicial Conduct under the Lawyer's Code of Professional Conduct 4-8.2b. We also suggest you call and seek an advisory opinion as to whether or not you can reply to this from the following:
Ethics Department, Florida Bar, 651 E. Jefferson St., Tallahassee, FL 32399
Phone: (800) 235-8619

Please complete the enclosed questionnaire, and return it to us no later than Monday, August 14, 2006. A) in the enclosed self-addressed envelope, B) by fax at (407) 251-0023 or C) by e-mailing a PDF file document to Info@FLfamily.org.

We appreciate your response by MONDAY, AUGUST 14, 2006 to meet our production and distribution schedule. Thank you for your cooperation. If you have any questions, please call me at 407-251-5130.

Sincerely,

John Stemberger
President & General Counsel
Florida Family Policy Council

JTS/st
Enclosure

Office of the President:
4853 S. ORANGE AVENUE, SUITE C • ORLANDO, FLORIDA 32806
PHONE: 407.251.1957 • FAX: 407.251.0023
www.FLFamily.org

Florida Family Policy Council is associated with Dr. James Dobson and Focus on the Family

The Florida Family Policy Council's
2006 Statewide Judicial Candidate Questionnaire

Full Name (please print) _____

1. What is your current marital status? _____

2. If you have children, how many? _____

3. Do you have any military experience? No Yes If yes, what branch? _____

4. Of what charitable, community, civic, fraternal, or religious organizations are you a member?

5. To what charitable, community, civic, fraternal or religious organizations have you made contributions in the past three (3) years?

6. Which of the current Justices of the U.S. Supreme Court most reflects your judicial philosophy?
_____ Decline to respond* _____ Refuse to respond

7. Which of the current Justices of the Florida Supreme Court most reflects your judicial philosophy?
_____ Decline to respond* _____ Refuse to respond

8. Do you agree with the following statement? "The Florida Constitution recognizes a right to same-sex marriage."
 Agree Disagree Undecided Decline to respond* Refuse to respond

9. *In re: TW*, 551 So. 2d 1186 (Fla. 1989), held that a Florida law requiring parental consent before a minor child can undergo an abortion surgery was unconstitutional under Art. I, Sec. 23 of the Florida Constitution. The Florida Supreme Court held that "The challenged statute fails because it intrudes upon the privacy of the pregnant minor from conception to birth". The *TW* court also ruled that "where parental rights over a minor child are concerned," neither the state's interest in protecting a minor child nor the "preservation of the family unit...is sufficiently compelling under Florida law to override Florida's privacy amendment." Do you agree with the Court's ruling in *In re: TW*?
 Agree Disagree Undecided Decline to respond* Refuse to respond

(OVER)

* This response indicates that I would answer this question but believe that I am prohibited from doing so by Florida Canons of Judicial Conduct 3B(10) and 7A(3)(a) and (d)(1), which forbid judges and judicial candidates from making "pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office." In addition, I would answer this question, but believe that if I did so, then I will be required to recuse myself as a judge in any proceeding concerning this answer on account of Florida Canons 3E(1) and 3E(1)(D), which require a judge to disqualify himself or herself when "the judge's impartiality might reasonably be questioned..." or when he or she "has made a public statement that commits, or appears to commit, the judge with respect to: (i) parties or classes of parties in the proceeding; (ii) an issue in the proceeding; or (iii) the controversy in the proceeding."

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10. In *Krischer v. McIver*, 697 So. 2d 97 (Fla. 1997), the Florida Supreme Court held that a statute prohibiting assisted suicide did not violate Art. I, Sec. 23 (the Privacy Clause) of the Florida Constitution, because any asserted privacy interest in assisted suicide was outweighed by State's compelling interests in preserving life, preventing suicide, and maintaining integrity of medical profession. Do you agree with the court's decision in *Krischer*?

Agree Disagree Undecided Decline to respond* Refuse to respond

11. *Lofton v. Kearney*, 157 F. Supp. 2d 1372 (Fla. 2001), held that a Florida law prohibiting homosexual adoption does not violate the Equal Protection Clause of the U.S. Constitution. Do you agree with this holding?

Agree Disagree Undecided Decline to respond* Refuse to respond

12. *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006), held that Florida's educational voucher program (the "Florida Opportunity Scholarship Program") violated the Florida Constitution because it "diverts public dollars into separate private systems parallel to and in competition with the free public schools that are the sole means set out in the Florida Constitution for the State to provide for the education of Florida's children." Do you agree with the reasoning of *Bush v. Holmes*?

Agree Disagree Undecided Decline to respond* Refuse to respond

13. In *Delgado v. State*, 776 So. 2d 233 (Fla. 2000), the Florida Supreme Court relied upon legal precedent in New York and other states and added the new element of "surreptitiously" to Florida's statutory definition of burglary. The text of the Florida's Statute on burglary, Fla. Stat. § 810.02(1) (1989), does not contain the term "surreptitiously" in its definition: "Entering or remaining in a structure or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain." Do you agree with the court's addition of the required element of "surreptitiously" to Florida's burglary statute?

Agree Disagree Undecided Decline to respond* Refuse to respond

Signature _____ Date _____

Please return this questionnaire no later than Friday, August 4, 2006 by one of three ways:

- A. Mail in the enclosed stamped, self-addressed envelope to:
Florida Family Policy Council
4853 South Orange Avenue, Suite C
Orlando FL, 32806
- B. Via Facsimile to (407) 251-0023
- C. Create a PDF file and E-Mail to Info@FLfamily.org

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