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**Case No. 5D17-0287**

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DISTRICT COURT OF APPEAL, STATE OF FLORIDA  
FIFTH DISTRICT

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*GEORGE ROSARIO*  
Appellant,

v.

*GLEN C. WILSON AND CITY OF GROVELAND, FLORIDA,*  
Appellees.

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On appeal from a Non-Final Order of  
the Circuit Court of the Fifth Judicial Circuit,  
in and for Lake County, Florida

Lower Court Case No. 35-2017-CA-000010

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**ANSWER BRIEF OF APPELLEE CITY OF GROVELAND, FLORIDA**

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### 3. STATEMENT OF THE CASE AND FACTS

#### A. The parties

The appellant is George Rosario. He was the defendant/respondent in the proceedings below.

The appellees are Glen C. Wilson and the City of Groveland, Florida (“the City”). Wilson was the plaintiff/petitioner in the proceedings below. The City was a defendant/respondent in the proceedings below.

#### B. Nature of the case

This case arises out of Wilson’s allegation that Rosario, the current Mayor of the City, lacks the necessary qualifications to hold the office of Mayor and should, therefore, be removed from office. *See generally* Rosario App. B. Wilson claims that in 1987, Rosario was adjudged guilty of a felony in Pennsylvania. *Id.* at 8, 16–21.<sup>1</sup> Wilson argues that because of this felony, pursuant to Article VI, Section 4 of the Florida Constitution, Rosario is ineligible to hold office in Florida and has never had his right to hold public office restored. *Id.* at 8. Wilson claims that pursuant to § 3.06 of the City Charter, the City Council has a ministerial duty to declare a forfeiture of office if any council member, such as the City Mayor, lacks any qualification for office prescribed by law. *Id.* at 8–9. Wilson claims the City has

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<sup>1</sup> Citations to party appendixes submitted in this appeal are noted as “\_\_\_ App. \_\_\_ at \_\_\_,” identifying (1) the party who submitted the appendix, (2) the appendix exhibit letter, and (3) the pdf page number of the respective appendix.

failed to declare a forfeiture of Rosario's office, and claims he has no adequate remedy at law. *Id.* at 9.

In his original Complaint, filed on January 4, 2017, Wilson sought, *inter alia*, a temporary injunction enjoining the City from recognizing the authority of Rosario as City Mayor or Councilmember. *Id.* at 9–10. On this same date, the trial court held an evidentiary hearing. *See* Rosario App. C at 24. At 4:28 p.m. on that date, the trial court issued a Temporary Injunction. *See* Rosario App. D at 26–27. The trial court concluded Rosario had a substantial likelihood of succeeding on the merits, given the language of Article VI, Section 4 of the Florida Constitution. It also found Wilson had no adequate remedy at law to address a violation of Article VI, Section 4. Finally, it found irreparable harm would likely result absent entry of an injunction and that the injunction would serve the public interest. Accordingly, the trial court enjoined the City from recognizing the authority of Rosario as the City's Mayor or as a City Councilmember. *Id.*

Rosario, who was not a party to this lawsuit at the time of entry of this Temporary Injunction, now challenges the entry of this Temporary Injunction.

On appeal, the City is styled as an Appellee responding to Rosario's appeal. However, the City does not oppose Rosario's appeal, which challenges the Temporary Injunction on the basis of issues concerning Rosario's individual due process rights. Instead, the City offers this Brief in an effort to assist this Court in

understanding the issues and procedural posture associated with the Temporary Injunction, and to otherwise preserve the City's arguments in opposition to the Temporary Injunction.

### **C. Course of proceedings**

On January 4, 2017, Wilson commenced this action. *See* Rosario App. B at 8. Therein, at Count I of his original Complaint, he sought an Alternative Writ in Mandamus requiring the City to show cause why a Writ of Mandamus should not be issued to have the City immediately declare a forfeiture of Rosario's office. *Id.* at 8–9. In Count II, Wilson sought a temporary injunction enjoining the City from recognizing the authority of Rosario as Mayor or Councilmember. *Id.* at 9–10. Wilson specifically alleged Rosario took office in November of 2016, and since that time, he has voted in the majority with the City Council on several 3-2 votes regarding significant matters, despite his alleged lack of qualification to hold office. *Id.* at 9, ¶¶ 12–13. Wilson alleged generally that he has no adequate remedy at law and that he has a substantial likelihood of prevailing on the merits of his claims. *Id.* at 9, ¶¶ 14–15.

On the same date as the filing of Wilson's original Complaint, the trial court held an evidentiary hearing on Wilson's request for the temporary injunction. *See* Rosario App. C at 24. Although the City Attorney for the City was present at that hearing, she was not properly notified of the lawsuit or the hearing, as (1) the hearing

occurred on the same date as the commencement of the action, and (2) Wilson's Notice of Hearing was not timely filed until 4:07 p.m., well after the scheduled hearing time of 3:30 p.m. *See* Rosario App. B at 8, C at 24. Despite this lack of notice, at 4:28 p.m. on that same day, the trial court issued the challenged Temporary Injunction, thereby enjoining the City from recognizing the authority of Rosario as the City's Mayor or as a City Councilmember.<sup>2</sup> *See* Rosario App. D at 26–27.

On January 9, 2017, Wilson filed an Amended Complaint. *See* Rosario App. E at 28. Therein, he generally alleged the same salient facts raised in his original Complaint and relied upon by the Court in its rulings. He reiterated his claims under Counts I and II against the City for mandamus and injunction, basing them on the orders entered by the Court. *Id.* at 28–30. Wilson also added Rosario as a defendant/respondent. He added new claims for (Count III) an injunction against Rosario from exercising his authority as a public office holder, and (Count IV) a writ of quo warranto requiring Rosario's forfeiture of office and voiding any and all official acts of Rosario, and any and all municipal actions passed pursuant to Council votes passed by Rosario. *Id.* at 30–31.

On January 24, 2017, the City filed its Motion to Dismiss Plaintiff's Amended Complaint, Quash Alternate Writ in Mandamus, and Dissolve Temporary

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<sup>2</sup> The trial court also issued an Alternate Writ in Mandamus. However, that Writ is not at issue on this appeal.

Injunction. *See* City App. A at 5. The City’s motion is currently pending before the trial court. On February 6, 2017, the trial court entered an Order staying the case pending this appeal. *See* City App. B at 23.

**D. Disposition in the lower tribunal**

On January 4, 2017, the lower court issued a Temporary Injunction, which stated:

**I. Findings of Fact**

1. George Rosario is a convicted felon. See Plaintiff’s Evidence Exhibit “1” a Certified Copy of George Rosario’s Criminal Record from First Judicial District of Pennsylvania dated December 23, 2016. There is no evidence in the record to show George Rosario’s civil rights, including the right to hold public office, was restored.
2. George Rosario currently holds the office of Mayor/Council Member for the City of Groveland.
3. The City has taken municipal action and plans to take municipal action based on the authority of George Rosario as a public office holder.
4. Plaintiff/Petitioner is a tax payer and citizen of the City Groveland.

**II. Conclusion of Law**

5. Plaintiff/Petitioner has a substantial likelihood of succeeding on the merits because Article VI, Section 4 of the Constitution of the State of Florida prohibits convicted felons, including convicted felons from other states, from holding office in Florida until restoration of civil rights.
6. Plaintiff/Petitioner has no adequate remedy at law as damages are insufficient to address a violation of Article VI, Section 4 of the Constitution of the State of Florida.

7. Irreparable harm will likely result absent entry of this injunction because the City intends to rely on the authority of George Rosario as a public office holder in making significant municipal decision in the future, including settlement of lawsuits and termination of the City Manager.
8. This injunction serves the public interest because the Constitution of the State of Florida bars convicted felons from holding public office in the State of Florida.
9. The movant shall post a \$2,500.00 bond which the trial court determines, based on the representations and evidence before it at this time, are the City's foreseeable damages if this injunction were wrongfully issued.
10. This injunction becomes effective upon the posting of the bond.

### **III. Injunction**

11. Until further order of this Court, the City is hereby enjoined from recognizing the authority of George Rosario as the City of Groveland Mayor or as a City of Groveland Council Member in the City of Groveland.

*See* Rosario App. D at 26–27.

As stated, on January 24, 2017, the City filed a Motion to Dismiss Plaintiff's Amended Complaint, Quash Alternate Writ in Mandamus, and Dissolve Temporary Injunction. *See* City App. A at 5. The City's motion remains pending in the lower court.

On January 26, 2017, Rosario filed his notice of appeal, and this appeal followed.

#### **4. SUMMARY OF THE ARGUMENT**

As noted above, although the City is styled as an Appellee responding to Rosario's appeal, it does not oppose Rosario's appeal, which challenges the Temporary Injunction on the basis of issues concerning Rosario's individual due process rights. The City takes no position with regard to propriety of the notice given to Rosario as to the hearing on and issuance of the Temporary Injunction. Instead, the City offers this Brief in an effort to assist this Court in understanding the issues and procedural posture associated with the Temporary Injunction, and to otherwise preserve the City's arguments in opposition to the Temporary Injunction.

The City's position is that the lower court's Temporary Injunction should be reversed and dissolved. Although City Attorney Anita Geraci was present at the temporary injunction hearing on January 4, 2017, neither she nor the City were given reasonable notice of either the original Complaint or the hearing so as to allow the City sufficient time to develop its arguments in opposition. Accordingly, in light of this due process issue, at a minimum, the City maintains that it should be given an opportunity to oppose the Temporary Injunction and assert in the lower court any and all arguments it may raise to dissolve the injunction.

As to the merits of the Temporary Injunction, the trial court erred in granting the injunction. First, Wilson failed to provide evidencing showing the unavailability of other adequate remedies at law. To the contrary, other adequate remedies at law

are clearly available to Wilson and are more appropriate for this action. These include (1) petitioning the Governor of Florida to remove Rosario pursuant to FLA. STAT. § 114.01(1)(h); (2) seeking relief through a writ of mandamus; or (3) seeking relief through a writ of quo warranto. Second, Wilson failed to show a substantial likelihood of success on the merits as Wilson’s exclusive remedy for a determination of Rosario’s right to hold office is by way of writ of quo warranto. Third, and finally, injunctive relief was unavailable to Wilson as Wilson improperly sought to have the trial court involve itself in political matters.

## **5. ARGUMENT**

### **A. Standard of review**

“Generally[,] a trial court’s denial or granting of a temporary injunction is subject to an abuse of discretion standard of review.” *DiChristopher v. Bd. of Cnty. Comm’rs*, 908 So. 2d 492, 495 (Fla. 5th DCA 2005); *see also H&M Hearing Assocs., LLC v. Nobile*, 950 So. 2d 501, 503 (Fla. 2d DCA 2007) (applying same standard of review). The party appealing the temporary injunction “carries a heavy burden to demonstrate that the court’s ruling was clearly improper.” *DiChristopher*, 908 So. 2d at 495.

However, the abuse of discretion standard of review should only be applied to the extent the trial court’s order is based on factual findings. Any legal conclusions are subject to de novo review. *E.I. DuPont De Nemours and Co. v.*

*Bassett*, 947 So. 2d 1195, 1196 (Fla. 4th DCA 2007); *see also Cashcall, Inc. v. Office of Attorney Gen., Dep't of Legal Affairs*, 173 So. 3d 1056, 1057 (Fla. 2d DCA 2015) (applying this hybrid standard of review on appeal of temporary injunction); *Post-Newsweek Stations Orlando, Inc. v. Guetzloe*, 968 So. 2d 608, 610 (Fla. 5th DCA 2007) (noting that standard of review on appeal of an injunction is *de novo* where issue on appeal is the application of law to undisputed facts); *Animal Rights Found. of Fla., Inc. v. Siegel*, 867 So. 2d 451, 462–63 (Fla. 5th DCA 2004) (Sawaya, J., concurring in part and dissenting in part) (noting that on appeal of a temporary injunction, “purely legal matters should be reviewed *de novo*”).

## **B. Improper Notice to City Attorney**

As an initial consideration, the trial court’s Temporary Injunction should be reversed and dissolved as the City was not given reasonable notice of Wilson’s Complaint, his request for temporary injunctive relief, or the hearing on the temporary injunction, so as to allow the City meaningful opportunity to prepare in order to present evidence and legal argument in opposition.

In *Fla. High Sch. Activities Ass’n v. Mander ex rel. Mander*, 932 So. 2d 314 (Fla. 2d DCA 2006), the Second District Court of Appeal considered the issue of reasonable notice in the context of the issuance of a temporary injunction. Mander, a student at East Pasco Adventist Academy, filed an action seeking to enjoin the Florida High School Activities Association (FHSAA) from barring her from

participating in volleyball or any other activity offered by a public school. *Id.* at 315. She filed a verified motion for temporary injunction on August 9, 2005, and the trial court “immediately issued a temporary restraining order against the FHSAA.” *Id.* The facts showed that the complaint, summons and the motion for temporary injunction were faxed and mailed to the representatives of the respective defendants on the date the complaint and the motion were filed. Based on these facts, the Second District Court of Appeal found the notice given to the FHSAA was legally insufficient. *Id.* at 315.

Likewise, in *Fla. High Sch. Activities Ass’n v. Benitez*, 748 So. 2d 358, 359 (Fla. 5th DCA 1999), the Fifth District Court of Appeal also found that notice given to defendants was legally insufficient. There, the plaintiff filed her complaint, seeking an order directing the FHSAA to allow her to continue to play soccer at her high school. The complaint was faxed to FHSAA offices at 10:19 a.m. on February 9, 1999. On the same date, a notice of hearing was faxed to the FHSAA at 11:08 a.m., notifying them that a hearing on the plaintiff’s request for temporary injunction would be held at 1:30 p.m. that afternoon. At 12:34 p.m., the FHSAA faxed to the presiding trial judge a motion to quash the notice of hearing and motion to appear at hearing by telephone. The trial judge granted the temporary injunction that same date at 1:30 p.m. *Id.* at 358–59.

On appeal, this Court found “[t]he late notice to FHSAA by facsimile does not constitute adequate notice under the facts of this case. Notice for temporary injunction purposes means a meaningful opportunity to prepare in order to present evidence and secure a record of the proceedings.” *Id.* at 359. Accordingly, because it appeared that no efforts have been made to provide FHSAA with a meaningful opportunity to be heard prior to the entry of the temporary injunction, this Court reversed the trial court’s order. *Id.* at 359–60.

Applying these principles to the instant case, although the City Attorney was present at the hearing on the request for temporary injunction, Wilson’s counsel clearly failed to give the City reasonable notice of the Complaint, the request for injunctive relief, or the Notice of Hearing. The Complaint was filed on the same date as the evidentiary hearing. *See* Rosario App. B, C, D. In the Notice of Hearing, Wilson’s counsel does certify that he sent the City Attorney a true and correct copy of the Notice; however, Wilson’s counsel certifies that this was sent to the City Attorney on January 4, 2017, the same date as the filing of the Complaint and the same date as the hearing. Rosario App. C at 25. Further, although the Notice states that the hearing was scheduled to occur at 3:30 p.m., it bears an electronic filing stamp of 4:07 p.m. *Id.* at 24. The Court entered the Temporary Injunction at 4:28 p.m. that day, a mere twenty-one (21) minutes after the filing of the Notice. Rosario App. D at 27. Given these facts, under *Benitez*, the notice provided to the City was

legally insufficient. The eleventh-hour notice to the City Attorney did not provide the City with a meaningful opportunity to prepare for the hearing in order to present either evidence or legal arguments in opposition to the temporary injunction. Accordingly, the entering of the Temporary Injunction by the trial court was wholly improper.

Furthermore, even if the Court finds that the Temporary Injunction is not due to be overturned based on the issue of reasonable notice, the City should, at a minimum, be permitted to present to the trial court the substantive issues of the legal sufficiency of the Temporary Injunction raised both in the arguments below and in the City's pending Motion to Dismiss Plaintiff's Amended Complaint, Quash Alternate Writ in Mandamus, and Dissolve Temporary Injunction. In its order granting a stay of the case, the trial court stated:

The Court notes that the Defendant, CITY OF GROVELAND, has filed a Motion to Dismiss the Amended Complaint with Prejudice even though counsel for the City of Groveland was present when the prior Orders were entered and did not oppose them.

*See* City App. B at 23. Counsel for the City is now concerned that the trial court intends to not consider the substantive arguments raised in opposition to the Temporary Injunction, as well as the trial court's Alternate Writ in Mandamus and the remainder of the claims raised in the Amended Complaint.

The City maintains that, regardless of the City Attorney's presence at the court's evidentiary hearing on Wilson's request for temporary injunctive relief, the City must still, nonetheless, be permitted to challenge the substantive merits of the Temporary Injunction. Previously, the First, Second, Third, and Fifth District Courts of Appeal all required a threshold showing of "changed circumstances" or "changed conditions" for a party to satisfy its burden of moving to dissolve or modify a temporary injunction pursuant to Florida Rule of Civil Procedure 1.610(d). *See Planned Parenthood of Greater Orlando, Inc. v. MMB Prop.*, No. SC15-1655, 2017 WL 709484, at \*4 (Fla. Feb. 23, 2017) (collecting cases). However, the Florida Supreme Court recently analyzed this issue and rejected this requirement, finding that "requiring a threshold showing of changed circumstances when moving to modify or dissolve a temporary injunction is incompatible with equity principles when a party shows clear misapprehension of the facts or clear legal error on the part of the trial court in entering the temporary injunction." *Id.* at \*5.

As explained below and in the City's pending Motion to Dismiss, the City raises many arguments showing that the trial court engaged in clear error in entering the Temporary Injunction. Accordingly, pursuant to the Florida Supreme Court's recent ruling in *MMB Properties*, the City should, at a minimum, be permitted to challenge the Temporary Injunction on the basis of clear legal error.

### **C. Failure to Establish Elements Warranting Temporary Injunction**

Injunction is a discretionary, equitable remedy. *See Plissner v. Goodall Rubber Co.*, 216 So. 2d 228, 229 (Fla. 3d DCA 1968) (suits for injunction are governed by equitable principles); *State Road Dep't v. Newhall Drainage Dist.*, 54 So. 2d 48, 50 (Fla. 1951) (“[T]he matter of granting an injunction rests largely in the discretion of the trial court, to be governed by the facts and circumstances of the particular case.”). It is a drastic and extraordinary remedy that should be granted sparingly and only after the moving party has alleged and proven facts entitling it to relief. *See, e.g., Reliance Wholesale, Inc. v. Godfrey*, 51 So. 3d 561, 564 (Fla. 3d DCA 2010); *Wade v. Brown*, 928 So. 2d 1260, 1261 (Fla. 4th DCA 2006). To warrant a temporary injunction, a plaintiff must establish: “(1) irreparable harm will result if the temporary injunction is not entered; (2) an adequate remedy at law is unavailable; (3) there is a substantial likelihood of success on the merits; and (4) entry of the temporary injunction will serve the public interest.” *Citizens for Sunshine, Inc. v. Sch. Bd. of Martin Cnty.*, 125 So. 3d 184, 187 (Fla. 4th DCA 2013) (quoting *Burtoff v. Tauber*, 85 So. 3d 1182, 1183 (Fla. 4th DCA 2012)).

In this case, a review of the record clearly shows that, as a matter of the application of the law on temporary injunctions to the facts presented by Wilson, the trial court erred in granting the Temporary Injunction.

**i. Wilson has other available adequate remedies at law**

Wilson was not entitled to equitable injunctive relief as other adequate remedies at law are clearly available and more appropriate. First, FLA. STAT. § 114.01 provides a framework for determining when a public office is deemed vacant under certain circumstances. Under § 114.01(1)(h), “[a] vacancy in office shall occur . . . [u]pon the failure of a person elected or appointed to office to qualify for office within 30 days from the commencement of the term of office.” Under § 114.01(2), “the Governor shall file an executive order with the Secretary of State setting forth the facts which give rise to the vacancy, and he or she shall include in such order the title of the office, the name of the incumbent officer or person who held the office, and the date on which the vacancy in office occurred.”

Applying this provision to the facts alleged in Wilson’s Complaint and his Amended Complaint, Rosario allegedly took office in November of 2016. *See* Rosario App. B at 9, E at 29. As of January 24, 2017, more than 30 days had passed since the commencement of Rosario’s term of office. Accordingly, to the extent Wilson alleges Rosario has failed to qualify for office due to his alleged felony conviction, Wilson may seek redress through a petition to the Governor under § 114.01.

Furthermore, where a plaintiff may seek relief through a writ of mandamus or quo warranto, as Plaintiff does here, equitable injunctive relief is improper. *See City*

*of W. Palm Beach v. Zellar*, 107 So. 146 (Fla. 1926) (mandamus); *Winter v. Mack*, 194 So. 225, 227–28 (Fla. 1940) (mandamus and equitable relief not appropriate where quo warranto relief is available); *State ex rel. Booth v. Byington*, 168 So. 2d 164, 175 (Fla. 1st DCA 1964) (“Quo warranto is an appropriate and adequate remedy to determine the right of an individual to hold a public office. . . . Where quo warranto is an adequate remedy, it is the *only* proper remedy and will preclude issuance of a writ of prohibition as a substitute.”) (emphasis added); *see also* FLA. STAT. §§ 80.01–80.04 (explaining quo warranto procedures).

In fact, where, as here, a petitioner seeks to determine a person’s right to hold and exercise public office, in the absence of statute to the contrary, a petition for writ of quo warranto is the *exclusive* method for making such a determination. *See, e.g., McSween v. State Live Stock Sanitary Bd. of Fla.*, 122 So. 239, 244 (Fla. 1929) (“The generally accepted and recognized rule is that, in the absence of statutory provision to the contrary, quo warranto proceedings are held to be the only proper remedy in cases in which they are available. Thus they are held to be the exclusive method of determining the right to hold and exercise a public office, . . . and when the remedy by quo warranto is available, it is held that there is *no concurrent remedy in equity*, unless by virtue of statutory provision.”) (collecting cases); *State ex rel. Booth v. Byington*, 168 So. 2d 164, 175 (Fla. 1st DCA 1964) (“Quo warranto is an appropriate and adequate remedy to determine the right of an individual to hold a public office.

. . . Where quo warranto is an adequate remedy, it is the only proper remedy and will preclude issuance of a writ of prohibition as a substitute.”); *see also* FLA. STAT. §§ 80.01–80.04 (explaining quo warranto procedures).

For example, in *City of Sunrise v. Town of Davie*, 402 So. 2d 1354, 1355 (Fla. 4th DCA 1981), the Town of Davie sought “to permanently enjoin the City of Sunrise from enacting an ordinance to annex certain property.” The trial court granted a temporary injunction. *Id.* On appeal, the Court considered whether the trial court abused its discretion. The Court found “Davie failed to establish the unavailability of an adequate remedy at law.” *Id.* Specifically, the Court concluded “[s]ince Davie failed to plead and prove that *quo warranto* is unavailable, it did not meet an essential requirement for injunctive relief,” and, therefore, the trial court abused its discretion. *Id.*

Wilson seemingly acknowledges this issue as, in his Amended Complaint, he seeks a writ of quo warranto against Rosario. *See* Rosario App. E at 31. Regardless, since Wilson failed at the trial level to plead and prove that quo warranto relief was unavailable, he did not meet an essential requirement for injunctive relief. Accordingly, at a minimum, the trial court abused its discretion in issuing the Temporary Injunction.

**ii. Wilson failed to show a substantial likelihood of success on the merits**

Wilson was also unable to satisfy the third element necessary to warrant a temporary injunction, as he does not have a substantial likelihood of success on the merits. As explained above, Wilson has other adequate remedies at law to address Rosario's alleged lack of qualifications to hold public office, including, in particular, a petition to the Governor, or a petition for writ of quo warranto directed specifically at Rosario. Since the basis for Wilson's requested injunction is Rosario's alleged lack of qualification to hold office, the requested relief in Count II, and the effect of the Court's Temporary Injunction, amounts to an effort to determine Rosario's right to hold and exercise the office of Mayor/Councilmember. Accordingly, Wilson's exclusive remedy for such a determination is by way of writ of quo warranto. *See McSween v. State Live Stock Sanitary Bd. of Fla.*, 122 So. 239, 244 (Fla. 1929). Since Wilson has an adequate remedy at law via a petition for writ of quo warranto, injunctive relief, which is an equitable remedy, is improper.

**iii. Wilson improperly seeks to have the trial court involve itself in political matters**

Finally, in issuing the Temporary Injunction and thereby indirectly determining Rosario's right to hold and exercise the office of Mayor/Councilmember, the trial court improperly used its equitable powers to

determine questions that are purely political. The Temporary Injunction should, therefore, be reversed and dissolved.

“The rule is well-settled that equity will neither determine questions involving rights that are purely political nor will it undertake the protections of such rights by the writ of injunction.” *Wexler v. Lepore*, 878 So. 2d 1276, 1282 (Fla. 4th DCA 2004); *see also Stoner v. S. Peninsula Zoning Comm’n*, 75 So. 2d 831, 832 (Fla. 1954) (noting that a court of equity should not entertain the injunctive process for the purpose of thwarting a political right); *Joughin v. Parks*, 147 So. 273, 273 (Fla. 1933) (“A political right has reference to those rights exercised by the citizen in the formation, administration, or conduct of the government. . . . The right to . . . be a candidate for and hold office . . . are among some of the most common political rights. . . . In jurisdictions recognizing district courts of law and equity like Florida, the rule is well settled that equity is without authority to determine questions involving rights that are purely political, nor will they undertake the protections of such rights by the writ of injunction.”).

Since Wilson, via the requested injunction, seeks to attack Rosario’s title to hold public office, and since such matter involves the determination of a right that is purely political, injunctive relief is wholly inappropriate and was unavailable to Wilson. For the trial court to assume jurisdiction and enforce an injunction attacking Rosario’s authority would be tantamount to judicial control over the exercise of

political powers, which amounts to an improper “invasion of the function of . . . the domain of the other departments of government.” *Joughin*, 147 So. at 274. Since the trial court did, in fact, assume said jurisdiction by issuance of the Temporary Injunction, it improperly invaded the function of the domain of other government, particularly the domain of the City’s government. Accordingly, the trial court clearly erred in exercising its equitable jurisdiction over this purely political right and, for this reason, the Temporary Injunction must be reversed and dissolved.

## 6. CONCLUSION

For the reasons discussed, this Court should reverse and dissolve the lower court's Temporary Injunction.

Respectfully submitted this 2nd day of February, 2017.

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## 7. CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been e-filed via eDCA and furnished via e-mail, pursuant to Fla. R. Jud. Admin. Rule 2.516(b)(1), this 2nd day of March, 2017, to:

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## 8. CERTIFICATE OF COMPLIANCE

I certify that this initial brief complies with the font requirements of Fla. R. App. P. 9.210(a)(2), and is submitted in Times New Roman, 14-point font.

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