

IN THE CIRCUIT COURT, NINTH
JUDICIAL CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA

CITIZENS FOR A GREATER ORANGE
COUNTY, a Florida political committee,

CASE NOS: 2012-WR-77-O
2012-CA-15141-O
PANEL "F"

Petitioner,

v.

ORANGE COUNTY,

Respondent.

**ORDER DENYING PETITIONER'S AMENDED EMERGENCY
MOTION FOR TEMPORARY INJUNCTION AND DECLARATORY RELIEF**

THIS MATTER is before the Court upon Petitioner, Citizens for a Greater Orange County's, Amended Emergency Motion for Temporary Injunction and Declaratory Relief filed, pursuant to Rule 1.610, Florida Rules of Civil Procedure on September 18, 2012, at 12:24 p.m. Petitioner requested an emergency hearing which was held today at 5:00 p.m. Petitioner filed its notice of said hearing with the Clerk of Court at 3:40 p.m. Respondent indicated it received notice of the hearing at 3:23 p.m. on this date.

Florida law requires that a party seeking a temporary injunction provide notice of hearing to an adverse party in a timely manner so that party can adequately prepare for the hearing including calling witnesses or otherwise presenting evidence. The notice in this case did not provide a reasonable period of time to permit Respondent to prepare for the hearing, call witnesses or introduce evidence.

Florida law also requires that the proponent of a motion for temporary injunction prove the following four elements by record evidence: 1) the likelihood of irreparable harm; 2) the

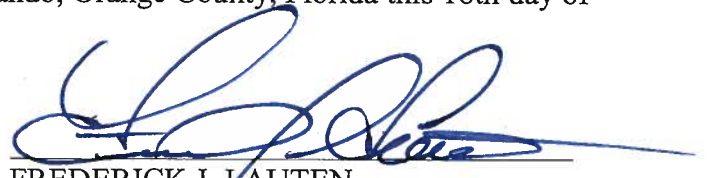
unavailability of an adequate remedy at law; 3) a substantial likelihood of success on the merits and 4) consideration of the public interest.

Petitioner is unable to establish elements 1 and 2. While Petitioner fervently believes it was entitled on September 11, 2012 to have the Board of County Commissioners adopt a resolution calling for a referendum on its proposal on the next election forty-five days after the adoption of that resolution, that issue is scheduled to be decided in its mandamus action. Even if Petitioner prevails on its mandamus claim, and even if this Court concludes that the Board failed to abide by its own charter, an adequate remedy at law exists because the Court is able to mandate that the matter be placed on the next special, general or primary election ballot. Clearly, Petitioner prefers its initiative be placed on the upcoming ballot and strongly believes that it has done everything required by Orange County's charter to be on that ballot, but that does not mean it is without an adequate remedy at law. It may not be the remedy Petitioner prefers, but that does not mean it is an inadequate legal remedy.

Finally, Petitioner seeks not a prohibitory injunction that forbids a party from committing an act, rather Petitioner seeks a mandatory injunction commanding the Board of County Commissioners to act in a certain way. Mandatory injunctions are disfavored under the law and are to be granted sparingly and cautiously. *Dudley v. Orange Co.*, 137 So. 2d 859 (Fla. 2d DCA 1962); *Eastern Federal Corp. V. State Office Supply Co., Inc.*, 646 So. 2d 737 (Fla. 1st DCA 1994).

THEREFORE, for the reasons set forth above, the motion is denied.

DONE AND ORDERED in Chambers, Orlando, Orange County, Florida this 18th day of September, 2012.



FREDERICK J. LAUTEN
Presiding Judge – Panel “F”

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via email to Ross Stafford Burnaman, Esq., rossburnaman@earthlink.net, 1018 Holland Drive, Tallahassee, Florida 32301; Scott A. Randolph, Esq., randolphscott007@gmail.com, P.O. Box 533905, Orlando, Florida 32385-3905; Jeffrey J. Newton, Esq., Jeffrey.Newton@ocfl.net, William Turner, william.turner@ocfl.net, Orlando County Attorney, 201 South Rosalind Avenue, 3rd Floor, Orlando, Florida 32802; Nicholas A. Shannin, Esq., nshannin@floridalawonline.com, Page, Eichenblatt, Bernbaum & Bennett, P.A., 214 East Lucerne Circle, Orlando, Florida 32801; Charles T. Wells, Esq., charles.wells@gray-robinson.com, melanie.mccallum@gray-robinson.com, Richard E. Mitchell, Esq., rick.mitchell@gray-robinson.com, jacque.denton@gray-robinson.com, Thomas J. Wilkes, Esq., tom.wilkes@gray-robinson.com, and suzanne.hedgecock@gray-robinson.com, P.O. Box 3068, Orlando, Florida 32801, this 18th day of September, 2012.


General Counsel