

IN THE
Third District Court of Appeal
State of Florida
Case No.: 3D2026-1363
L.T. Case No.: 25-15452-CA-01

TECNOTROPOLIS, LLC, ET AL.,
Appellants,

v.

MIAMI-DADE SHERIFF'S OFFICE,
Appellee.

**AMICI CURIAE BRIEF OF THE CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA AND
THE FLORIDA JUSTICE REFORM INSTITUTE
IN SUPPORT OF NEITHER APPELLANTS NOR APPELLEE**

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STATEMENT OF IDENTITY AND INTEREST OF *AMICI CURIAE*

The Chamber of Commerce of the United States of America (“the Chamber”) is the world’s largest business organization. As the nation’s leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation’s business community.

The Florida Justice Reform Institute (“the Institute”) is Florida’s leading organization of concerned citizens, business owners and leaders, doctors, and lawyers who seek the adoption of fair legal practices to promote predictability and personal responsibility in the civil justice system. The Institute has advocated practices that build faith in Florida’s court system and judiciary. It represents a broad range of participants in the business community who share a substantial interest in a litigation environment that treats plaintiffs and defendants evenhandedly.

SUMMARY OF ARGUMENT¹

“Florida has long recognized that forfeiture actions are harsh actions not favored in either law or equity.” *Chuck v. City of Homestead Police Dep’t*, 888 So. 2d 736, 744 (Fla. 3d DCA 2004). This Court repeatedly has determined that forfeiture actions are quasi-criminal in nature. *See Wynn v. City of Opa-Locka*, 426 So. 2d 1170, 1171 (Fla. 3d DCA 1983); *In re 1972 Porsche 2 Dr.*, 307 So. 2d 451 (Fla. 3d DCA 1975).

In this case, the Miami-Dade Sheriff’s Office (“MDSO”) has outsourced the prosecution of quasi-criminal forfeiture actions to private contingency-fee counsel. That contingency-fee agreement allows private counsel to retain 20% to 35% of forfeited property, with another 5% allowed for defending an appeal, and incentivizes private contingency-fee counsel to inappropriately favor a profit motive when standing in to do the government’s work. This arrangement should be categorically barred under both federal and state law.

¹ *Amici* file this brief in support of neither Appellants nor Appellee. Specifically, *amici* limit their argument to the impropriety of the Miami-Dade Sheriff’s Office’s use of private contingency-fee counsel in quasi-criminal forfeiture actions. *Amici* do not weigh in on the underlying forfeiture actions.

The Supreme Court of the United States has characterized the bar against arrangements that could compromise a judge or prosecutor's impartiality in a case as "categorical," *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 814 (1987), and a "per se rule," *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57, 62 (1972) (White, J., dissenting) (describing majority's rule). A categorical approach is required because no "procedural safeguard" can remedy the fundamental structural conflict that exists when a judge or prosecutor has a personal financial interest in a case. *Ward*, 409 U.S. at 61. And even if the judge or prosecutor did not in fact act out of self-interest, no safeguard can eliminate the "appearance of impropriety." *Young*, 481 U.S. at 811.

In turn, the Florida Supreme Court has held that similar arrangements violate the due process protections of article I, section 9, of the Florida Constitution. *State v. Glosson*, 462 So. 2d 1082, 1085 (Fla. 1985). Indeed, the Florida Supreme Court directly addressed the issue of compensation based on a percentage of civil forfeitures. Specifically, in *Glosson*, a sheriff compensated an informant "ten percent of all civil forfeitures arising out of successful criminal investigations." *Id.* at 1083. Given that "enormous financial

incentive,” the Florida Supreme Court explained, “[w]e can imagine few situations with more potential for abuse of a defendant’s due process right.” *Id.* at 1085. The Florida Supreme Court’s holding was also categorical, even though “the state attorney’s office knew about [the informant’s] contingent fee agreement and supervised his criminal investigations.” *Id.*

At bottom, in quasi-criminal forfeiture actions, fundamental principles of due process demand a categorical rule. MDSO’s arrangement with private contingency-fee counsel appears infected by personal interest, thus undermining the established requirement that “justice must satisfy the appearance of justice.” *Offutt v. United States*, 348 U.S. 11, 14 (1954). No amount of purported control or supervision can provide “the appearance and reality of fairness” that is otherwise lacking. *See Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

This Court should reverse the trial court’s order with directions to disqualify private contingency-fee counsel.

ARGUMENT

I. The use of private contingency-fee counsel in prosecuting quasi-criminal forfeiture actions should be categorically barred.

It is axiomatic that the government may not deprive citizens of life, liberty, or property without due process of law. Amends. V, cl. 4, XIV, § 1, U.S. Const., Art. I, § 9, Fla. Const. Inherent in those constitutional guarantees is the promise that the government must act fairly and rationally to advance the public interest. Due process principles are threatened when arrangements with private contingency-fee counsel incentivize private attorneys to exercise the power of the government to serve their own interests for private gain, rather than to advance the public interest. Because MDSO's private contingency-fee counsel gets paid (handsomely) only if successful, this case presents a compelling basis for a categorical bar.

To be sure, attorneys acting on behalf of the government cannot be expected to demonstrate the total neutrality demanded of judges. Notwithstanding, it is essential that attorneys acting on behalf of the government maintain their obligations as servants of the people. They must not be distracted by (or appear to be distracted by) the pursuit of direct and extraordinary personal gain. As the Supreme Court of

the United States has stated, an attorney who exercises governmental power “is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.” *Berger v. United States*, 295 U.S. 78, 88 (1935).

Although *Berger* concerned government attorneys involved in a criminal prosecution, the same constitutional principles apply to attorneys prosecuting quasi-criminal forfeiture actions for the government. Indeed, the D.C. Circuit Court of Appeals has written that, although the *Berger* Court was speaking of criminal prosecutors for the government, “no one, to our knowledge . . ., has suggested that the principle does not apply with equal force to the government’s civil lawyers.” *Freeport-McMoRan Oil & Gas Co. v. FERC*, 962 F.2d 45, 47 (D.C. Cir. 1992); see Bruce A. Green, *Must Government Lawyers “Seek Justice” in Civil Litigation?*, 9 Widener J. Pub. L. 235, 256 (2000) (“Judicial decisions and other professional writings take the view that, even outside the context of criminal prosecutions,

government litigators have a different role and different ethical responsibilities from lawyers representing private litigants.”).

The Supreme Court of the United States consistently has condemned any financial or other arrangement that might distort a criminal or civil prosecutor’s duty to pursue justice rather than personal interests or that could undermine a judge’s impartiality. See *Young*, 481 U.S. at 791–92 (holding that private attorneys retained as special prosecutors must be “as disinterested as a public prosecutor who undertake[s] a prosecution” and not influenced by private interest);² *Marshall*, 446 U.S. at 249–50 (recognizing that arrangements that inject a personal interest in enforcement decisions by prosecutors raise “serious constitutional questions”); *Tumey v.*

² This Court’s decision in *Van Lent v. Everglades Found., Inc.*, 400 So. 3d 64 (Fla. 3d DCA 2024), does not question the categorical bar in *Young*. Although this Court decided that *Young* was based on the supervisory powers of the Supreme Court of the United States rather than a constitutional dictate, this Court did not confront the categorical bar on private attorneys acting for the government when they have a private financial interest. See 400 So. 3d at 74 n.9 (“Here, although Van Lent and his attorneys postulate on appeal that opposing counsel had a ‘financial interest’ in the outcome of the contempt proceedings, they never specifically raised the issue of attorney’s fees in their briefs. We do not give advisory opinions, or address purely academic questions, so as not to vitiate due process of future litigants who wish to properly raise these arguments.”).

Ohio, 273 U.S. 510 (1972) (finding that compensation of a judge based on fines derived through convictions deprived a criminal defendant of due process).

Specifically, the *Young* Court “establish[ed] a categorical rule against the appointment of an interested prosecutor” to pursue a criminal contempt action on behalf of the government. 481 U.S. at 814. There, the defendant in a civil case was charged with criminal contempt, and the judge appointed the plaintiff’s private lawyer as a special prosecutor to pursue the charge. *Id.* at 790–92. Finding the appointment improper, the *Young* Court stated that “[p]rivate attorneys appointed to prosecute a criminal contempt action represent the United States” and are “appointed solely to pursue the public interest in vindication of the court’s authority.” *Id.* at 804. Thus, they “should be as disinterested as a public prosecutor who undertakes such a prosecution.” *Id.* Because the plaintiff’s lawyer “may be tempted to bring a tenuously supported prosecution if such a course promises financial or legal rewards for the private client,” the arrangement was improper. *Id.* at 805.

And the *Marshall* Court explained that “[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal in

both civil and criminal cases.” 446 U.S. at 242. There, the Court held that “[a] scheme injecting a personal interest, financial or otherwise, into the [civil] enforcement process may bring irrelevant or impermissible factors into the prosecutorial decision and in some contexts raise serious constitutional questions.” *Id.* at 249–50. The *Marshall* Court, however, found no such constitutional concerns had arisen, because “[n]o government official stands to profit economically from vigorous enforcement” of the statute at issue. *Id.* at 250.

Although the *Marshall* Court recognized that “the standards of neutrality for prosecutors are not necessarily as stringent as those applicable to judicial or quasi-judicial officers,” the Court later clarified that this “difference in treatment is relevant to *whether* a conflict is found, however, not to its gravity once identified.” *Young*, 481 U.S. at 810–11. In other words, once a structural conflict is established, the standards are the same and a categorical bar is warranted.

In sum, by condemning arrangements that might distort a criminal or civil prosecutor’s duty to pursue justice rather than personal interests, the Supreme Court has held that the bar on such

arrangements is “categorical,” *Young*, 481 U.S. at 814, and imposes a “per se rule,” *Ward*, 409 U.S. at 62 (1972) (White, J., dissenting) (characterizing the majority’s categorical approach). Accordingly, this Court should rule that the only practical, fair, and effective option is to hold that prosecution of forfeiture actions by private contingency-fee counsel who are to receive a share of successful forfeitures is categorically impermissible. It blinks reality to assume that an attorney whose entire compensation turns exclusively on the outcome of litigation will be able to exhibit the disinterested decision making required of attorneys acting for the government.

The same is true under Florida law. The Florida Supreme Court has applied the due process protections found in the Florida Constitution to enforce a categorical rule where compensation turns on litigation success. In particular, the Florida Supreme Court confronted an analogous situation in *Glosson*. There, the local sheriff agreed to pay an informant “ten percent of all civil forfeitures arising out of successful criminal investigations he completed in Levy County.” 462 So. 2d at 1083. The Florida Supreme Court held that the arrangement violated due process under article I, section

9, of the Florida Constitution. *Id.* at 1085. The *Glosson* Court reasoned as follows:

We can imagine few situations with more potential for abuse of a defendant's due process right. The informant here had an enormous financial incentive not only to make criminal cases, but also to color his testimony or even commit perjury in pursuit of the contingent fee. The due process rights of all citizens require us to forbid criminal prosecutions based upon the testimony of vital state witnesses who have what amounts to a financial stake in criminal convictions.

Id. at 1085.

The Florida Supreme Court did not endeavor to create any exception based upon supervision or control of the informant. Rather, its rule was categorical, even though “the state attorney's office knew about [the informant's] contingent fee agreement and supervised his criminal investigations.” *Id.*

After *Glosson*, the Florida Supreme Court reaffirmed those same basic principles in *State v. Hunter*, 586 So. 2d 319 (Fla. 1991), and *Taylor v. State*, 634 So. 2d 1075 (Fla. 1994). Though the outcomes in those cases differed from the outcome in *Glosson*, it is critical to note that in neither *Hunter* nor *Taylor* did the compensation at issue depend upon success of the prosecution. In fact, the Florida Supreme

Court's analysis in *Taylor* underscores why *Glosson* is most pertinent here.

The present case falls outside the *Glosson* rubric for several reasons. First, the police operation in *Glosson* was a reverse-sting, wherein the informant functioned as the seller. This gave him wide discretion in selecting targets, thereby increasing the risk that suspects would be chosen based on subjective criteria such as personal wealth. The present operation, on the other hand, was a straightforward sting, wherein the informant functioned as the buyer—thereby severely limiting his discretion in choosing stings. Second, the informant's fee in *Glosson* was contingent on the extent of the defendant's assets subject to forfeiture. The greater the worth of the assets, the greater the informant's incentive to make cases and color testimony. Here, in contrast, the informant was paid a settled fee for each buy, deposition, and court appearance. To the extent his fee was variable, it was dependent on the amount of work he was willing to put into a case, not the wealth of the defendant. And third, the fee in *Glosson* was extravagant. The informant stood to gain a ten percent interest in several vehicles and \$80,000 in cash. Here, the informant was paid twenty dollars per buy and a modest sum for depositions and court appearances.

Taylor, 634 So. 2d at 1076–77.

In this case, the nature of MDSO's arrangement with private contingency-fee counsel much more resembles the arrangement with the informant in *Glosson* than the arrangements at issue in *Hunter* and *Taylor* because private contingency-fee counsel's compensation

is directly related to litigation success in prosecuting quasi-criminal forfeiture actions.

Indeed, *Glosson*'s reasoning would apply more, not less, to a private contingency-fee lawyer prosecuting quasi-criminal forfeiture actions for the government. The profit motive and "incentive to make cases" here far exceeds that possessed by the *Glosson* informant.

II. The trial court's reliance upon purported supervision and control by the Miami-Dade Sheriff's Office does not cure the structural problem inherent in using private contingency-fee counsel to prosecute quasi-criminal forfeiture actions.

The trial court's order acknowledges most of the foregoing fundamental principles, expressly noting "the apparent concerns expressed by the United States Supreme Court in *Marshall* and *Young* about prosecutors having a personal or financial interest in a case." Amended Order at 15. But the order stops short of enforcing the categorical rule. Rather, the trial court concluded that the fundamental problems identified above might be avoided by the MDSO's purported control or supervision of the private contingency-fee counsel. The trial court erred in so concluding. An exception to the categorical rule based upon purported control or supervision has never been recognized by the Supreme Court of the United States,

and the exception's lineage, such as it may be, lacks any deep roots or persuasive analysis in the law.

The premise of such an exception falls under its own weight.

One law professor explained the problem:

Presumably, the contingent fee lawyers are hired for the very reason that they will employ their expertise in shaping and conducting litigation. The greater the control the state is forced to exercise over the private attorneys, the less effective the strategy of using them becomes. Yet the less the state controls the day-to-day operation of the private attorneys, the greater the threat to constitutional values and dictates. Thus, it is far too facile to simply assume . . . that the state's exercise of such control is both possible as a theoretical matter and likely as a practical matter.

Martin H. Redish, *Private Contingent Fee Lawyers and Public Power: Constitutional and Political Implications*, 18 Sup. Ct. Econ. Rev. 77, 106 (2010). In fact, "as a practical matter, it is impossible to see how a reviewing court could assure itself, in the individual case, that such control is in fact being exercised." *Id.*

To the extent the government would purport to exercise any supervision or control, it is also entirely predictable that it would be significantly influenced by private contingency-fee counsel's self-interested recommendations. That is, it is all but inevitable that even a government that purported to reserve the ultimate exercise of

decision-making power to itself would find that power tempered with substantial deference to the recommendations of private contingency-fee counsel.

Even accepting that the premise would support an exception in some circumstances, the trial court here erred in relying upon *County of Santa Clara v. Superior Court*, 50 Cal. 4th 35, 235 P.3d 21 (2010), while largely glossing over the more apt decision in *People ex rel. Clancy v. Superior Court*, 39 Cal. 3d 740, 705 P.2d 347 (1985). The facts and holding of *Clancy* are more relevant to the quasi-criminal prosecution of a forfeiture action by contingency-fee counsel. There, the government retained private counsel to prosecute a public-nuisance action. 39 Cal. 3d at 743–44. If the private attorney was successful in the public-nuisance action and recovered fees for the government, the private attorney’s compensation would be doubled (by doubling the attorney’s hourly rate).

The Supreme Court of California rejected that compensation arrangement. It explained, “[A]s with an eminent domain action, the abatement of a public nuisance involves a delicate weighing of values. Any financial arrangement that would tempt the government attorney to tip the scale cannot be tolerated.” *Id.* at 749. “Public nuisance

abatement actions share the public interest aspect of eminent domain and criminal cases, and often coincide with criminal prosecutions.” *Id.* The *Clancy* Court commented,

[c]ertainly there are cases in which a government may hire an attorney on a contingent fee to try a civil case[,] [b]ut just as certainly there is a class of civil actions that demands the representative of the government to be absolutely neutral. This requirement precludes the use in such cases of a contingent fee arrangement.

Id. at 748 (internal citations omitted). As an example of such a permissible instance of contingency-fee representation, the *Clancy* Court cited earlier precedent where it had approved a contingency-fee arrangement between the City of Huntington Beach and a law firm hired to represent it in matters relating to protection of the city’s oil rights. *Id.* Thus, contingency-fee arrangements in ordinary civil cases are not universally disapproved.

But the *Clancy* Court emphasized there exists “a class of civil actions” that demands absolute neutrality by the government. Because “the contingent fee arrangement between the City and *Clancy* [wa]s antithetical to the standard of neutrality that an attorney representing the government must meet when prosecuting

a public nuisance abatement action,” the Court disqualified the attorney. 39 Cal. 3d at 750.

Santa Clara involved much different stakes. While the case involved an “action against numerous businesses that manufactured lead paint,” the case was limited to a “public-nuisance action as the sole claim, and abatement as the sole remedy.” 50 Cal. 4th at 43. “[B]ecause the challenged conduct ha[d] long since ceased, the statute of limitations on any criminal prosecution ha[d] run and there [wa]s neither a threat nor a possibility of criminal liability being imposed upon defendants.” *Id.* at 55. Thus, the *Santa Clara* Court thought “[t]he role played . . . both by the government attorneys and by the private attorneys differ[ed] significantly from that played by the private attorney in *Clancy*.” *Id.* at 56. Nonetheless, the *Santa Clara* Court required the government to maintain a high degree of ongoing involvement in the litigation. Specifically, it required “all critical discretionary decisions” to “be made by the public entities’ government attorneys rather than by private counsel.” *Id.* at 61–62 (emphasis added). That is what the court meant in holding that “neutral government attorneys must retain and exercise the requisite

control and supervision over both the conduct of private attorneys and the overall prosecution of the case.” *Id.*

Here, the trial court did not hold the MDSO to even this standard, which itself is a departure from the categorical rule and is not binding on this Court. The trial court focused only on whether the MDSO retained control over the initiation and settlement of these forfeiture actions. It did not address whether MDSO could or would exercise supervision or control over *any* critical decisions between those points, let alone *all* of them. Indeed, the trial court recognized that the MDSO’s agreement with private contingency-fee counsel “does not explicitly set forth all the restrictions suggested by *Santa Clara* and *Lead Industries Ass’n*.” Amended Order at 16; see *Cnty. of Santa Clara v. Superior Court*, 50 Cal. 4th 35, 235 P.3d 21 (2010); *State v. Lead Indus. Ass’n, Inc.*, 951 A.2d 428 (R.I. 2008).

Notwithstanding that error, it bears reiteration that the Supreme Court of the United States has never recognized a supervision or control exception, and indeed has repeatedly rejected arguments that other procedural safeguards might minimize the risk that a judge or prosecutor’s personal interest in a case will improperly influence proceedings. The bar is categorical, the Supreme Court has

reasoned, because no safeguard can eliminate either the risk of improper influence or the appearance of impropriety. So too has the Florida Supreme Court treated the bar as categorical. *See Glosson*, 462 So. 2d at 1085. This Court should so apply it.

III. The use of private contingency-fee counsel to prosecute quasi-criminal forfeiture actions is contrary to the “appearance and reality of fairness.”

The categorical approach protects both the rights of defendants and the justice system as a whole. Most importantly, it helps ensure that no inappropriate private financial interest infects these quasi-criminal forfeiture matters. But even if supervision or control by the government could neutralize the private contingency-fee counsel’s structural conflict of interest, the “appointment of an interested prosecutor creates an appearance of impropriety that diminishes faith in the fairness of the criminal justice system.” *Young*, 481 U.S. at 811. The categorical approach addresses that concern.

The use of private contingency-fee counsel creates the appearance of giving private lawyers an undue windfall at taxpayers’ expense and diminishes the public’s faith in the fairness of litigation initiated by the government. As Chief Judge William H. Pryor, Jr. of the Eleventh Circuit, then the Alabama attorney general, explained:

The use of contingent-fee contracts allows government lawyers to avoid the appropriation process; it creates the illusion that the lawsuits are being pursued at no cost to the taxpayers. These contracts also create the potential for outrageous windfalls or even outright corruption for political supporters of the officials who negotiated the contracts.

William H. Pryor, Jr., *Government “Regulation by Litigation” Must Be Terminated*, Legal Backgrounder, May 18, 2001, at 4; see also William H. Pryor, Jr., Comment, *Symposium: Tort Liability, The Structural Constitution, and The States; Panel One: State Attorney General Litigation: Regulation Through Litigation and the Separation of Powers*, 31 Seton Hall L. Rev. 604, 609 (2001) (“[T]he proponents of these novel government lawsuits have created what one of those trial lawyers affectionately calls a ‘fourth branch of government.’ . . . The hiring of contingency fee lawyers by state governments is similar to what former United States Attorney General Edwin Meese said about the Independent Counsel law: ‘[it is] an effort to rule outside the normal framework of our constitutional system beyond the limits of accountability.’” (footnotes omitted)).

Based on these concerns, contingency-fee arrangements like the one here have been widely condemned as antithetical to fundamental fairness in judicial proceedings. In fact, the executive

branch in 2007 banned the federal government from paying lawyers a contingency fee in most circumstances. See *Protecting American Taxpayers from Payment of Contingency Fees*, Exec. Order No. 13,433, 72 Fed. Reg. 28441 (May 16, 2007). This prohibition reflects the “policy of the United States” that the fees of lawyers representing the government should never be “contingent upon the outcome of litigation.” *Id.* Hiring attorneys on an hourly or fixed fee basis, and not on a contingency-fee basis, “help[s] ensure the integrity and effective supervision of the legal and expert witness services provided to or on behalf of the United States.” *Id.*

The Georgia Court of Appeals has reasoned similarly. In a “civil *in rem* forfeiture action arising out of allegations of illegal commercial gambling at a convenience store,” “the [special assistant district attorneys] who prosecuted [the] case entered into a contingency fee arrangement with the State to prosecute and recover a percentage of any forfeited proceeds.” See *Amusement Sales, Inc. v. State*, 730 S.E. 2d 430, 432, 438 (Ga. App. 2012). The Georgia Court of Appeals ordered the disqualification of private contingency-fee counsel:

“A conflict of interest ... has been held to arise where the prosecutor has acquired a personal interest or stake in the defendant's conviction.” If the assigned prosecutor has

acquired a personal interest or stake in the conviction, the trial court abuses its discretion in denying a motion to disqualify him, and the defendant is entitled to a new trial, even without a showing of prejudice.

It is true that the present case involves forfeiture of property rather than a criminal prosecution. Nonetheless, “[f]orfeiture is a quasi-criminal proceeding that permanently extinguishes a property owner’s rights to certain property,” and “forfeiture of property is disfavored.” Hence, we conclude that, as in a criminal prosecution, no showing of prejudice should be required if the prosecutor assigned to a forfeiture proceeding has acquired a personal interest or stake in the outcome, and the trial court erroneously denies a motion for disqualification.

Id. at 438 (internal citations omitted).

The Georgia Court of Appeals found the earlier decision in *Greater Georgia Amusements, LLC v. State*, 728 S.E. 2d 744 (Ga. App. 2012), to be persuasive and concluded that “contingency fee arrangements for SADAs appointed to represent the State in civil forfeiture actions violate Georgia public policy, given that those types of arrangements cause the SADAs to have a personal financial stake in the outcome of the proceedings.” 730 S.E. 2d at 433.

This Court should follow that lead. Allowing the government to pay private lawyers to prosecute quasi-criminal cases on a contingency-fee basis erodes public trust in the prosecutorial function and undermines both the “appearance and reality of

fairness” in violation of due process principles. The illusion of supervision or control cannot cure these ills.

CONCLUSION

The trial court’s order should be reversed with directions to disqualify private contingency-fee counsel in this case.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *amici curiae* brief was filed with the Clerk of Court and served via Florida Courts ePortal email on the following this 21st day of October, 2026.

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CERTIFICATE OF COMPLIANCE

Pursuant to Florida Rules of Appellate Procedure 9.045 and 9.370, counsel for *amici curiae* hereby certifies hereby certifies that the foregoing *amici curiae* brief complies with the applicable font requirements because it is written in 14-point Bookman Old Style and contains **4,506** words, excluding those parts exempted by Rule 9.045(e).

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