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Environment Advocates Seek to Enter Appeal of Case With Major First Amendment Implications

With the right of citizens to speak up on public issues at stake, affected environmental advocates today went to court asking permission to be heard in the appeal of a shocking jury award against former Martin County Commissioner Maggy Hurchalla. In separate motions, renowned environmental expert Nat Reed and the Guardians of Martin County organization asked permission to file friend-of-the-court (amicus) briefs in support of Hurchalla's appeal.

The case, which has generated statewide and national media attention as a threat to basic First Amendment rights, is under review by the Fourth District Court of Appeal. A lower court refused to recognize Hurchalla's fundamental rights to engage in free speech and to urge the government to reject bad policy, leading to a \$4.3 million judgment against the long-time environmental advocate.

In his motion, Reed – a highly respected expert who served two U.S. Presidents as Assistant Secretary of the Interior, was a special advisor on the environment for a Florida governor, and served on the governing board of the South Florida Water Management District – says he is uniquely vested in the case because he was “directly and intentionally targeted for harassment, intimidation and punishment” by a developer and its lawyers.

The case involves the Lake Point project, which Hurchalla questioned in email communications with Martin County Commissioners. Hurchalla expressed her belief that the rock mining operation might not be beneficial to the environment and might, in fact, cause environmental harm. Even though her speech fell squarely within her First Amendment rights as a citizen, a jury imposed the outrageous judgment against her personally.

Hurchalla is appealing that verdict, and the motions filed today request the appellate court's permission to address a number of issues, including Lake Point's litigation tactics; increasing government efforts to shield activities from public view; and First Amendment issues of free speech and freedom to interact with public officials and governmental employees. In addition, they seek to raise arguments about the sale of public water held in trust for the citizens of Florida.

“The governmental denial of any project always causes economic loss to the applicant. But the idea that an individual citizen or citizen’s group who participates in this Government vetting of a project can be financially bankrupted in a Florida Trial Court simply can’t be supported,” the Guardians’ motion says.

Reed was singled out by Lake Point’s attorneys in legal motions attacking the credibility of certain deposition statements he made. Those motions contained misrepresentations and mischaracterizations of what he said, and Reed’s motion today cites the targeting as a foundation for his request to file an amicus brief.

“He is a victim of the witness harassment, intimidation and punishment used by Lake Point and its Lawyer,” Reed’s motion says.

Both Reed and Hurchalla serve as honorary advisors to the Guardians of Martin County and are listed on the organization’s letterhead. The organization’s motion is based in part on Lake Point’s attempts to discredit these highly respected environmental advocates who have long been associated with the Guardians of Martin County..

Reed’s motion was filed by attorney Gregory Barnhart of the law firm Searcy Denney Scarola Barnhart & Shipley in West Palm Beach. The motion for Guardians of Martin County was filed by attorney Jack Schramm Cox of Hobe Sound.

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