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IN THE SUPREME COURT OF FLORIDA

CASE No.: SC2026-0440
L.T. Case No.: 2022-CA-1562

FLORIDA PACE FUNDING AGENCY, a public body corporate and politic,

Appellant

v.

STATE OF FLORIDA, and the taxpayers, property owners and citizens of the State of Florida, including non-residents owning property or subject to taxation therein, and others claiming any right, title or interest in property to be affected by the issuance of the Bonds herein described or to be affected in any way thereby,

Appellees

APPELLEE HILLSBOROUGH COUNTY TAX COLLECTOR'S ANSWER BRIEF

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INTRODUCTION

Appellee, Nancy C. Millan, Hillsborough County Tax Collector, is one of 42 individual tax collectors that are the appellees in this appeal from the circuit court's order discharging its order to show cause and denying Appellant FPFA's motion for contempt against the tax collectors.

References herein to specific pages of FPFA's Appendices to the Initial Brief will be designated as (FPFA A.1, ____) or (FPFA A.2, ____). References to FPFA's Initial Brief will be designated as (IB, ____).

STATEMENT OF THE CASE AND FACTS

The circuit court of the Second Judicial Circuit in and for Leon County entered a final judgment in Case No. 2022-CA-1562 (the "Bond Validation Case") on October 6, 2022 (the "Bond Validation Final Judgment")(FPFA A.1, 23-69). This was in a bond validation proceeding filed in Leon County pursuant to Chapter 75 and section 163.01(7)(d), Florida Statutes, seeking validation of FPFA revenue bonds in the total amount of $5,000,000,000 (FPFA A.2, 10, 97). The parties to the Bond Validation Case were FPFA as plaintiff, and the State of Florida, "the taxpayers, property owners and citizens of the State of Florida, including nonresidents owning property or subject to taxation therein, and others claiming any right, title, or interest in property to be affected by the issuance of the Bonds herein described or to be affected in any way thereby", as defendants (FPFA A.1, 23).

The Bond Validation Final Judgment approved FPFA's authority to finance improvements for property owners, declared the revenue bonds valid, and included general language that the bonds would be collected using the statutory uniform method of collection "once the local government elects to use the uniform method *and complies with the requirement of section 197.3632*, *Florida Statutes*"(emphasis added) (FPFA A.1, 23-69). The Bond Validation Final Judgment did not direct any of the tax collectors to take any action regarding the bonds.

The Bond Validation Final Judgment also did not address whether FPFA had complied with its statutory duties required to allow the tax collectors to use the uniform method of collection and include FPFA's non-ad valorem assessments on the tax bills sent to property owners. The Bond Validation Final Judgment did not contain any injunctive phrasing directed to any specific tax collectors nor to any other county officers, counties, or local governments, nor did it contain any mandamus language directing the tax collectors statewide to perform any specific alleged "ministerial duties". The Bond Validation Final Judgment *did* make numerous collateral findings that went well beyond the Chapter 75 statutory scope of bond validation proceedings, including without limitation that FPFA may operate independently of any local government regulation, cooperation or permission; and that FPFA has the authority to impose non-ad valorem assessments in any county or municipality in Florida, without the approval or cooperation of the local government and without the necessity of an interlocal agreement with the local government (see generally FPFA A.1, 23-69).

Pursuant to the statutory procedures in section 75.06(1), Florida Statutes, FPFA had served and published notice of the Bond Validation Case only in Leon County, Osceola County and Flagler County. The only responses filed in the Bond Validation Case were from the State Attorneys for the three circuits given notice: the Second Circuit (which includes Leon County), the Seventh Circuit (which includes Flagler County), and the Ninth Circuit (which includes Osceola County and the city of Kissimmee)(FPFA A.2, 10-11). FPFA did not publish notice of the Bond Validation Case in Hillsborough County, did not serve Hillsborough County (or the Hillsborough County Tax Collector) with a copy of the complaint, and did not otherwise notify Hillsborough County or the Hillsborough County Tax Collector of the pendency of the Bond Validation Case (FPFA A.2, 12). Neither Hillsborough County nor the Hillsborough County Tax Collector had any knowledge of the Bond Validation Case until FPFA informed

Hillsborough County and the Tax Collector of the Bond Validation Final Judgment, which was after the time to appeal the Bond Validation Final Judgment had already expired (FPFA A.2, 12). None of the other appellee tax collectors (nor their respective counties) were given notice of the Bond Validation Case until after the entry of the Bond Validation Final Judgment and the expiration of the time to appeal (FPFA A.2, 12).

Certain counties and tax collectors who were not parties to the Bond Validation Case, including the Hillsborough County Tax Collector, entered limited post-judgment appearances and jointly filed a Rule 1.540 Motion seeking to strike certain language from the Bond Validation Final Judgment as impermissibly collateral (FPFA A.1, 79). *See generally State Att'ys. for the Second, Seventh & Ninth Judicial Cirs. v. Fla. Pace Funding Ag.*, 424 So. 3d 478 (Fla. 2025). The Leon County circuit court denied the Rule 1.540 Motion (the "1.540 Order") (FPFA A.1, 71-93). Like the Bond Validation Final Judgment, the circuit court's Rule 1.540 Order did not identify or direct any of the tax collectors to take any specific action regarding the bonds, nor did it address whether FPFA had fully complied with its required statutory duties to allow the Tax Collectors to include FPFA's non-ad valorem assessments on the tax bills. The Rule 1.540 movants then appealed the Rule 1.540 Order directly to this Court (FPFA

A.1, 99-100). In its opinion, this Court held that a Rule 1.540 Motion could not be filed in a Chapter 75 bond validation proceeding, emphasizing the statutory conclusiveness language of section 75.09 with respect to bond validity. *See State Att'ys. for the Second, Seventh & Ninth Judicial Cirs. v. Fla. Pace Funding Ag.*, 424 So. 3d 478, 481 (Fla. 2025). This Court further held that because a Rule 1.540 Motion could not be filed in a bond validation proceeding, this Court would not address the other issues raised by the tax collectors in the appeal. Id. at 489 & n. 10. This Court's opinion also did not identify or direct *any* of the tax collectors to take *any* specific action regarding the bonds, nor did it address whether FPFA had complied with its statutory duties required to allow the tax collectors to use the uniform method of collection and include the FPFA non-ad valorem assessments in the annual tax bills.

After this Court's mandate was issued (FPFA A.1, 134-135), FPFA filed an Emergency Motion for Order to Show Cause (the "Contempt Motion") in the Leon County circuit court, seeking contempt sanctions against all 42 respondent tax collectors (FPFA A.1, 1-21). The circuit court entered its Order to Show Cause (FPFA A.1, 237-245), and the respondent tax collectors then entered limited appearances to contest personal jurisdiction and respond to the Contempt Motion. The respondent tax collectors' filings asserted, among other things, that the tax collectors were not ignoring any order by the circuit court, but instead that: (a) the tax collectors were not parties to the Bond Validation Case, and thus were not under the circuit court's jurisdiction, (b) neither the Bond Validation Final Judgment nor the 1.540 Order directed any tax collector to do anything, and did not include any order for any specific tax collector to take any specific action by any specific date, (c) FPFA has not complied with all of its statutory duties necessary to allow the placing of certain of its assessments on the tax rolls, of which FPFA has been advised multiple times, (d) the tax collectors had a constitutional duty to proceed only in a manner that was authorized by law, and (e) the tax collectors therefore should not be held in contempt. (See the responses to the Contempt Motion filed by the various tax collectors).

After reviewing the filings, including those filed by FPFA arguing that it was in compliance with its statutory duties, and after hearing the argument of counsel (FPFA A.1, 253-264), the Leon County circuit court interpreted its own prior orders, and held: "The Tax Collectors were never impleaded, served process or otherwise made parties to this proceeding and never subject to an order directed specifically to any of them. Consequently, the court is without authority to find any of the Tax

Collectors in contempt in this proceeding.” (FPFA A.1, 1229-1230) The circuit court further noted that its order was without prejudice to an action under Chapter 86 of the Florida Statutes or to an alternative writ or other proceeding”. (FPFA A.1, 1229-1230)

On February 16, 2026, FPFA filed with this Court its First Emergency Motion to Enforce Mandate or Alternatively, Petition to Invoke All Writs Jurisdiction. This Court summarily denied this motion on February 26, 2026. On March 11, 2026, FPFA then filed with this Court (not with the First District Court of Appeal) its notice of appeal of the circuit court’s order denying the contempt motion. On March 31, 2026, FPFA filed its Initial Brief.

SUMMARY OF ARGUMENT

The circuit court properly recognized that the Hillsborough County Tax Collector (as well as all other named tax collectors) was not a party to the underlying Bond Validation Case or the Bond Validation Final Judgment therein, and so could not be held in contempt for an alleged violation of that final judgment. The tax collectors did not fall within the statutory definition of defendants in a bond validation proceeding under Chapter 75, Florida Statutes.

The tax collectors did not waive their challenge to the circuit court’s jurisdiction over them by filing the Rule 1.540 Motion. Neither the circuit court nor this Court has specifically found that the Hillsborough County Tax Collector was a party to the Bond Validation Case or that the tax collectors were subject to the circuit court's jurisdiction. Service of process is a constitutional prerequisite to a court's exercise of personal jurisdiction, and there was no such service of process on the Hillsborough County Tax Collector.

This Court upheld the Bond Validation Final Judgment on the narrow procedural ruling that a Rule 1.540 motion cannot be brought against a bond validation judgment, and thus did not address the issue of the circuit court's lack of jurisdiction over the tax collectors, or any other collateral matters regarding the Bond Validation Final Judgment. This Court specifically stated that it was not reviewing or ruling on these issues.

FPFA's argument that the tax collectors were deemed to be parties via constructive notice by publication pursuant to section 75.06(1), Florida Statutes is incorrect, as a plain reading of this statute shows that it is directed to parties or entities located in, or with an interest in property in, those local governments comprising the special purpose local government entity, and Leon County, as the statutory venue county.

Florida law clearly holds that a party cannot be held in contempt for noncompliance with a provision in a final judgment or order that is not clear and definite. An implied or inherent provision in a final judgment cannot serve as a basis for an order of contempt. The provision must be sufficiently clear and explicit that it puts a party on notice of the precise conduct required to avoid contempt.

There is simply no order or judgment from either the circuit court or this Court that clearly and unequivocally directs the Hillsborough County Tax Collector (or any other tax collector) to do anything, so that there was no basis for a finding of contempt. There was no specific order in the Bond Validation Final Judgment or the Rule 1.540 Order that directed any of the tax collectors to place FPFA's contested assessments on their county tax rolls, and such a directive may not be implied from the Bond Validation Final Judgment.

Proceedings to validate bonds are purely statutory, and Chapter 75, Florida Statutes strictly controls the course of these proceedings and what is to be included in a Final Judgment. Nothing in this statute provides for a court in a bond validation proceeding to grant mandatory injunctive relief in the final judgment, especially as to non-parties to the proceeding.

FPFA argues that these collateral matters were in fact decided by the circuit court and by this Court's opinion upholding the Bond Validation Final

Judgment. However, nothing in this Court's opinion purports to overrule the Florida Supreme Court's prior case law regarding the fact that collateral matters are *not* properly considered by a trial court and are *not* properly included in a bond validation final judgment. This Court in its opinion upheld the Bond Validation Final Judgment on the specific narrow procedural ruling that a Rule 1.540 motion cannot be brought against a bond validation final judgment, and this Court further specifically stated that it was not reviewing or ruling on these collateral matter issues, leaving them open for other litigation.

As there was no clear and explicit order for any of the tax collectors to take any specific action within any specific time, there was simply no basis for a finding of contempt.

The proper remedy for litigating these collateral issues which were improperly included on the Bond Validation Final Judgment, and for determining whether the Bond Validation Final Judgment actually compelled any specific performance by any tax collector, would be a mandamus action filed against a specific tax collector in that tax collector's home county. FPFA did in fact file numerous mandamus actions against various tax collectors around the state, arguing that the Bond Validation Final Judgment mandated the tax collectors to place FPFA's assessment on their county tax rolls.

In every one of these circuit court mandamus actions that have proceeded to conclusion (including FPFA's mandamus action filed against the Hillsborough County Tax Collector), the trial court held in favor of the tax collector and denied FPFA's petition for writ of mandamus. The writs were uniformly denied based on the respective circuit courts' findings that the tax collectors were not parties to the Bond Validation Final Judgment, and there was nothing in the Bond Validation Final Judgment that specifically directed the tax collectors to take any specific action.

FPFA chose not to appeal most of these rulings, and in the two (2) instances that an appeal was taken, the trial court decisions were affirmed per curiam by the First and Fifth District Court of Appeals. FPFA may not avoid the proper appellate process (and the fact that it was unsuccessful in both the trial courts and appellate courts) by seeking an improper finding and order of contempt in this proceeding, to which FPFA is not entitled.

The Hillsborough County Tax Collector does not even have the legal authority to take the action which FPFA seeks by way of its Contempt Motion, that is, the placing of FPFA's contested assessments on the Hillsborough County Tax Roll. Section 163.08(4), Florida Statutes expressly conditions the collection of PACE assessments on compliance with *all* statutory requirements for the uniform method of collection. These requirements are mandatory and are conditions precedent to placing PACE assessments on the tax roll. FPFA has neither alleged nor established that it has complied with these statutory requirements, so that the Hillsborough County Tax Collector is legally without authority to place these assessments on the tax roll, and there is no basis for contempt.

The Hillsborough County Tax Collector is only one of the 42 appellee tax collectors in this proceeding, all of whom will be filing answer briefs in this appeal, whether individually or in groupings of individual tax collectors. The Hillsborough County Tax Collector hereby joins in and adopts all of the substantive legal arguments made by any and all of the other appellee tax collectors in their answer briefs in this appeal, and the Hillsborough County Tax Collector hereby incorporates these legal arguments included in any of the other tax collectors' answer briefs as if fully set forth herein.

STANDARD OF REVIEW

The applicable standard of review for the circuit court's order denying FPFA's motion for contempt is abuse of discretion; it is not a de novo review as urged by Appellant.

> A judgment of [civil] contempt comes to the appellate court clothed in a presumption of correctness and will not be overturned unless a clear showing is made that the trial court either abused its discretion 'or departed so substantially from

> the essential requirements of the law as to have committed fundamental error.'

Merrill Lynch Trading Co. v. Alzheimer's Lifeliners Ass'n., 832 So.2d 948, 953 (Fla. 2nd DCA 2012) (quoting *Northstar Invs. & Dev, Inc. v. Pobaco, Inc.*, 691 So. 2d 565, 566 (Fla. 5th DCA 1997). *See also Larkins v. Menendez*, 363 So. 3d 140, 146 n.6 (Fla. 3d DCA 2023) ("The contempt order is reviewed for an abuse of discretion.").

ARGUMENT

1. The circuit court properly recognized that the Hillsborough County Tax Collector is not a party to this proceeding and therefore cannot be held in contempt.

The circuit court's order found that the Tax Collectors were never "impleaded, served process or otherwise made parties to this proceeding…". Thus the circuit court recognized that it did not have the personal jurisdiction over the Hillsborough County Tax Collector (or the other tax collectors) required for a finding of contempt. The Hillsborough County Tax Collector was not and could not have been a party to the Bond Validation Case and Bond Validation Final Judgment.

Section 75.05, Florida Statutes defines the parties to such a proceeding, and states that the Bond Validation Final Judgment is "directed against the state and the several property owners, taxpayers, citizens and others having or claiming any right, title or interest in property to be affected by the issuance of the bonds…”. The Tax Collector does not fall within any of these categories. In her capacity as the Hillsborough County Tax Collector she is not the state, a property owner, taxpayer, citizen, or other individual claiming a right, title or interest in property affected by the subject bonds. In the 1.540 Motion in which the Tax Collector was a movant, along with numerous other tax collectors, counties and state’s attorneys, the Movants expressly noted in footnote 1 to the 1.540 Motion that:

> Neither the Counties nor the Tax Collectors are waiving any objection to personal jurisdiction of the Court in this matter by their limited appearance through this Motion. Indeed one of the grounds for the Motion is the Court’s lack of jurisdiction over the Counties and Tax Collectors. See *State v. City of Miami*, 103 So.2d 185,190 (Fla. 1958) (holding in bond validation proceeding that “the attempt to bring these various municipalities outside the City of Miami before the Court, as Dade County, was without authority and void. *No such power exists under the statute and none may be conferred by consent of the parties*.”)(emphasis added)…

This Court, in *Babcock v. Whatmore*, 707 So.2d 702, 704 (Fla. 1998) held that a motion for relief from judgment under Rule 1.540 is not a plea for affirmative relief and does not waive any challenge to personal jurisdiction. As a non-party to the Bond Validation Case and Bond Validation Final Judgment, the Tax Collector may not be held in indirect civil contempt. *Lindman v. Ellis*, 658 So.2d 632, 633 n.2 (Fla. 2d DCA 1995). *See also DeMello v. Buckman*, 914, So.2d 1090, 1094 (Fla. 4th DCA

2005) ("…It is well-settled that civil contempt cannot be applied against nonparties."), and *Gayety Theatres v. State*, 359 So.2d 915, 916 (Fla. 3d DCA 1978)(in which a civil contempt order was reversed as to certain defendants who were not made parties to the original injunction order).

Neither the circuit court nor this Court has found that the Hillsborough Tax Collector was a party to the Bond Validation Proceeding or was subject to the circuit court's personal jurisdiction. The circuit court's order denying the 1.540 motion avoids this question by finding that FPFA complied with the Chapter 75 notice requirements, while this Court noted the objection that the circuit court lacked personal jurisdiction over the tax collectors, but declined to consider or reach this issue based on this Court's conclusion that Rule 1.540 was not available in regard to a bond validation final judgment under Chapter 75, Florida Statutes.

For this reason, this Court also declined to address the arguments the various tax collectors and counties had also raised that were discussed in Justice Canady's dissent, often referred to as the "collateral matters" arguments. *See State Att'ys. For the Second, Seventh & Ninth Jud. Cirs., 424 So.3d 478, at 489 and n.10.* ("Because we determine that the trial court correctly decided this dispositive issue [that a Rule 1.540 motion could not be filed], we find it unnecessary to reach Appellants' remaining arguments [concerning the lack of personal jurisdiction and due process, the collateral matters, and FPFA's fraud on the court].") and *Id.*, at 489. ("We likewise need not reach the issue presented by Justice Canady's dissent [which focused on the collateral matters arguments]."). *Id.*, at 489 n.10.

The Hillsborough County Tax Collector was never named as a party to the Bond Validation Case and was never served with process. Service of process is a constitutional prerequisite to the exercise of personal jurisdiction. *Venetian Salami Co. v. Parthenais*, 544 So.2d 499, 502 (Fla. 1989); *Babcock v. Whatmore*, 707 So.2d 702, 704 (Fla. 1998). Absent a waiver, a court does not acquire jurisdiction over a defendant without service of process as prescribed by law. *Synchron, Inc. v. Kogan*, 757 So.2d 564 (Fla. 2nd DCA 2000). Actual notice, electronic serving of orders, constructive notice under Chapter 75, or the issuance of an order to show cause do not substitute for proper service of process or retroactively confer jurisdiction. Absent personal jurisdiction, the circuit court lacked authority to compel specific action by the Hillsborough County Tax Collector or to impose contempt. Kogan, 757 So.2d 564, 565-566 (a party charged with contempt for violating court order cannot be held in contempt for refusing to obey the order if it was entered without personal jurisdiction).

FPFA asserts that the 42 appellee tax collectors were parties to the

Bond Validation Case via constructive notice under section 75.06(1), Florida Statutes (IB, pp 29-30), quoting part of the statute as: "By this publication," all interest persons "are made parties defendant to the action and the court has jurisdiction of them to the same extent as if named defendants in the complaint and personally served with process." FPFA has omitted critical statutory language, however, as the relevant portion of section 75.06(1), Florida Statutes, actually reads:

> "…By this publication all property owners, taxpayers, citizens, and others having or claiming any *right, title, or interest in the county, municipality or district, or the taxable property therein*, are made parties defendant to the action and the court has jurisdiction of them to the same extent as if named as defendants in the complaint and personally served with process." (emphasis added).

As the statute makes clear, the citizens of, or those parties with an interest specifically in Flagler County, the City of Kissimmee (Osceola County), and Leon County, or anyone having an interest in taxable property in these three jurisdictions, were made parties to the Bond Validation Case and Bond Validation Final Judgment. This does not include the Hillsborough County Tax Collectors, the other 41 tax collectors/appellees, nor their respective counties. Chapter 75, Florida Statutes and section 163.01, Florida Statutes still contemplate that these other counties (and their respective tax collectors) would be brought under the operation of the

Bond Validation Final Judgment by way of a resolution or other authorization from each individual county, and an interlocal agreement between FPFA and that county. Absent this, the tax collectors/appellees were not parties to the Bond Validation Case or the Bond Validation Final Judgment.

As neither the Hillsborough County Tax Collector nor any of the other tax collectors were parties to the Bond Validation Case or to the Bond Validation Final Judgment, the circuit court could not hold them in contempt of that judgment.

2. The circuit court properly found that the Hillsborough County Tax Collector was not subject to any order specifically directed to her and therefore there was no basis for contempt.

It is well-settled under Florida law that "[a] party cannot be held in contempt for noncompliance with a provision of a final judgment that 'is not clear and definite so as to make the party aware of its command and direction.'" *Lynne v. Landsman*, 306 So.3d 390, 392 (Fla. 1st DCA 2020) (quoting *Keitel v. Keitel*, 716 So. 2d 842, 844 (Fla. 4th DCA 1998)). For this reason, " '[i]mplied or inherent provisions of a final judgment cannot serve as a basis for an order of contempt.'" *Lynne v. Landsman*, at 393 (quoting *DeMello v. Buckman*, 914 So. 2d 1090, 1094 (Fla. 4th DCA 2005)); *see also St. Onge v. Carriero*, 252 So. 3d 1280, 1281-82 (Fla. 1st DCA 2018) (implied provisions cannot form the basis of contempt); *Ogden v. Mindrebo*, 316 So.3d 379, 381 (Fla. 1st DCA 2021) (a provision "must be sufficiently clear so that it puts a party on notice as to the precise conduct required of the party to avoid a judgment of contempt" and "implied or inherent provisions of an injunction cannot serve as the basis for a contempt order.").

"[T]he law … imposes upon the court the requirements to be explicit and precise in its commands if strict compliance is to be exacted in the form of a contempt sanction," and the law thus affords a party "the right to read the order as expressly written." *St. Onge*, 252 So. 3d at 1282 (quoting *Cooley v. Moody*, 884 So. 2d 143, 145 (Fla. 2d DCA 2004)).

These standards regarding contempt were summarized by the Second District Court of Appeal as follows:

> "In order to be held in contempt of a court's order, the order must be 'clear and precise' and the person's conduct must be in clear violation of the order." [*Wolf v. Wolf*, 296 So. 3d 479, 485 (Fla. 2d DCA 2020)] (citing *Akre-Deschamps v. Smith*, 267 So. 3d 492, 494-95 (Fla. 2d DCA 2019)). "[A] judge cannot base contempt upon noncompliance with something an order does not say." *Kovic v Kovic*, 336 So. 3d 22, 26 (Fla. 4th DCA 2022) (alteration in original) (quoting *Oasis Builders, LLC v. McHugh*, 138 So. 3d 1218, 1220 (Fla. 4th DCA 2014)). "If an order is not clear and unambiguous regarding what a party may or may not do or what it must or must not do, then it cannot support the conclusion that the party willfully or deliberately violated that order." Id. (quoting *McHugh*, 138 So.3d at 1220); see also *Kane v. Sanders,* 232 So. 3d 1107, 1111 (Fla. 3d DCA 2017). "When

> the order that forms the basis for the contempt does not 'expressly' require the action by the party, the trial court fundamentally errs when finding that party in contempt for failure to do that action." *Kovic*, 336 So. 3d at 26. "Although a court's prior ruling 'may be taken to inherently mean that the court intended [for a certain action by the party], such 'implied or inherent provisions of [an order] cannot serve as a basis for an order of contempt.'" Id. (alterations in original) (quoting *McHugh*, 138 So. 3d at 1221).

T.W. v. T.H., 355 So. 3d 499, 503 (Fla. 2d DCA 2023).

There is no order or judgment from either the circuit court or this Court that clearly and unequivocally directs the Hillsborough County Tax Collector (nor any of the other tax collectors) to collect FPFA's contested non-ad valorem assessments. Civil contempt requires a willful refusal to comply with a clear and lawful court order. Neither the Bond Validation Final Judgment, the 1.540 Order, nor this Court's opinion *in State Atty's For The Second, Seventh & Ninth Judicial Circuit v. Fla. Pace Funding Agency*, 424 So.3d 478 (Fla. 1925) contain a clear, lawful directive applicable to any of the tax collectors.

Further, it is a basic, longstanding principle regarding a court's general contempt power under section 38.22, Florida Statutes, that one may not be held in contempt for violation of an order or provision of a judgment which is not clear and definite, so as to make a party aware of its command and direction. *Lawrence v. Lawrence*, 384 So. 2d 279 (Fla. 4th

DCA 1980); section 38.22, Florida Statutes; Fla. R. Civ. P. Rule 1.570. "It is well established that a party cannot be sanctioned for contempt for violating a court directive or order which is not clear and definite as to how a party is to comply with the court's command." *Menke v. Wendell*, 188 So 3d 869, 872 (Fla. 2d DCA 2015) (citing *Ross Dress for Less Va., Inc. v. Castro*, 134 So. 3d 511, 523 (Fla. 3d DCA 2014)).

FPFA relies on Fla. R. Civ. P. 1.570(c)(2) while ignoring subsection (c)(1), which requires a judgment order a specific act within a specified time in order to be sufficient for contempt. Fla. R. Civ. P. Rule 1.570(c)(2), in relevant part provides:

> (c) Performance of an Act. If judgment is for the performance of a specific act or contract:
>
> (1) *the judgment shall specify the time within which the act shall be performed*. If the act is not performed within the time specified, the party seeking enforcement of the judgment shall make an affidavit that the judgment has not been complied with *within the prescribed time* and the clerk shall issue a writ of attachment against the delinquent party. The delinquent party shall not be released from the writ of attachment until that party has complied with the judgment and paid all costs accruing because of the failure to perform the act. If the delinquent party cannot be found, the party seeking enforcement of the judgment shall file an affidavit to this effect and the court shall issue a writ of sequestration against the delinquent party's property. The writ of sequestration shall not be dissolved until the delinquent party complies with the judgment;
>
> (2) the court may hold the disobedient party in contempt, or…(emphasis added).

In the instant case, no such order or judgment exists and as such, Rule 1.570(c) is wholly inapplicable and cannot be used to supply deadlines or obligations not imposed by the court. Section 38.22, Florida Statutes, authorizes contempt only for refusal to obey a lawful court order. It does not create independent duties or permit contempt where an order is declaratory or silent as to performance. In fact, civil contempt requires violation of a clear, definite, and unequivocal command. *Bowen v. Bowen*, 471 So. 2d 1274, 1277 (Fla. 1985). Ambiguous or descriptive language cannot support contempt. *DeMello v. Buckman*, 914 So.2d 1090 (Fla. 4th DCA 2005). Imposing contempt sanctions on nonparty county constitutional officers without service of process, without personal jurisdiction, and without a time-certain directive violates fundamental due process principles.

There is simply nothing in the Bond Validation Final Judgment or the 1.540 Order that clearly and directly orders the Hillsborough County Tax Collector, or any of the 41 other tax collectors, to do anything. Even the paragraphs of the Bond Validation Final Judgment specifically referenced in FPFA's Initial Brief say nothing whatsoever regarding any specific obligation of the Hillsborough County Tax Collector (or any other tax collector) to collect any non-ad valorem assessments imposed by FPFA.

These specific paragraphs as set forth in the Initial Brief (IB, 9-10) are as follows:

The Twenty-Sixth, Twenty-Ninth and Thirty-Ninth paragraphs do not reference any tax collector at all, but describe generally FPFA's assessments and note that they must be collected via the statutory uniform method. The Thirty-Eighth, Fortieth and Forty-Second paragraphs also do not "clearly and precisely" direct any tax collector to take any action with respect to assessments imposed by FPFA, nor do they recite any action that FPFA has or has not taken, nor include any specific obligation that any tax collector specifically owes to FPFA, and they clearly do not require the collection of any specific assessments. The Seventy-First paragraph likewise sets forth that FPFA is entitled to use revenue from the collection of non-ad valorem assessments to repay the bonds, but again does not direct any specific action by any tax collector. Finally, the decretal (last) paragraph of the Bond Validation Final Judgment says nothing regarding tax collectors or any obligation that any tax collector may have to do anything; it merely validates FPFA's bonds and that FPFA has the authority to fund debt service through non-ad valorem assessments.

To summarize, nowhere does the Bond Validation Final Judgment or the Rule 1.540 Order contain any command that any tax collector take any action whatsoever with regard to any non-ad valorem assessments issued by FPFA. Since nothing in the Bond Validation Final Judgment or the Rule 1.540 Order contains any injunctive language directing the Hillsborough County Tax Collector to do anything, FPFA may not add such language and obtain such unpled relief post-judgment, under the guise of enforcing the Bond Validation Final Judgment. *Elbadramany v. Oceans Four Condo. Ass'n.*, 532 So. 2d 64, 65 (Fla. 5th DCA 1988) (reversing because the trial court lacked jurisdiction to enter an injunction to enforce judgment, where movant's right to an injunction was not decided in the underlying action, and "[t]he language contained in the Final Judgment was conditional or advisory only, and not determinative of [movant's] right to [injunctive] relief").

Under Chapter 75, Florida Statutes, "[p]roceedings to validate bonds are purely statutory. The power of the courts with reference thereto must be found within the statute itself." *State Attys. for Second, Seventh & Ninth Jud. Cirs v. Fla. PACE Funding Agency*, 424 So. 3d 478 (Fla. 2025); *State v. City of Miami*, 103 So.2d 185, 188 (Fla. 1958); *City of Oldsmar v. State*, 790 So. 2d 1092, 1047 (Fla. 2001). Nothing in the bond validation statute references injunctions, and the issuance of permanent mandatory injunctive equitable relief would be inconsistent with the purely statutory powers of the court to conduct a narrow bond validation proceeding. Nothing in Chapter 75, Florida Statutes contemplates or provides for a court in a bond validation proceeding to have the ability to grant mandatory injunctive relief, especially to non-parties to the bond validation proceeding. A bond validation judgment simply cannot under Chapter 75 contain a clear, direct and unambiguous command that would give rise to contempt.

Nothing in this Court's opinion confirming the Bond Validation Final Judgment purports to overrule this Court's prior holding in *Gainesville v. State,* 366 So. 2d 1164, 1166 (Fla. 1979) that Chapter 75 finality principles do not "appl[y] to 'put at rest' collateral questions that were somehow brought into the proceedings but need not and should not have been bought in." *See also Glatstein v. Miami*, 399 So. 2d 1005, 1009 (Fla. 3d DCA 1981) (collateral issues improperly raised in bond validation proceedings could be litigated in later suits, "appellants are not collaterally estopped from bringing an action on questions which were precluded from consideration in the bond validation proceeding"). This Court does not overrule itself *sub silentio*. *Miller v. State*, 265 So. 3d 457, 459 n.1 (Fla. 2018); *Roberts v. Brown*, 43 So. 3d 673, 683 (Fla. 2010); *Willis v. Gami Golden Glades, LLC,* 967 So. 2d 846, 875 (Fla. 2007).

In the order on appeal, the circuit court correctly held that nothing in the Bond Validation Final Judgment clearly and unequivocally directs the Hillsborough County Tax Collector (or any other tax collector) to do anything in regard to FPFA's assessments, so that civil contempt does not lie.

3. The only proper remedy to compel action by any of the tax collectors is a mandamus proceeding in each tax collector's home county.

The proper remedy to force tax collectors to take a specific official action is by way of a writ of mandamus, not by an injunction or motion for contempt. FPFA has in fact filed mandamus actions in various counties around the state against various individual tax collectors, including the Hillsborough County Tax Collector, seeking essentially the same relief that it subsequently improperly sought from the circuit court, and now this Court, by way of the Contempt Motion.

A petition for writ of mandamus against a particular tax collector must necessarily be filed in circuit court in that tax collector's county under the tax collector's home venue privilege. *Jacksonville Elec. Auth. v. Clay County Util. Auth.*, 802 So. 2d 1190, 1192 (Fla. 1st DCA 2002). Writs of mandamus are procedurally governed by Fla. R. Civ. P. 1.630 and go well beyond the limited scope of bond validation proceedings under Chapter 75. A mandamus proceeding involves the filing of a separate petition, actual notice by service of process on the tax collector to obtain personal jurisdiction, the issuance and service of a preliminary writ, the filing of a response by the tax collector, and notice and opportunity to be heard, none of which occurred or would occur in a limited Chapter 75 bond validation proceeding.

FPFA obviously is aware that mandamus is the appropriate remedy to compel a tax collector to take some action that FPFA believes is mandated by law, as demonstrated by the fact that FPFA has filed such actions against various tax collectors in their home counties, seeking the same relief that it improperly asked the circuit court to grant it as a contempt sanction. In a mandamus proceeding, the court actually conducts the fact-specific inquiries necessary to determine if FPFA is legally entitled to have its non-ad valorem assessments included on the tax rolls -i.e.- the specific inquiries that were not and could not be made in the Bond Validation Action to determine whether FPFA has complied with the actual governing law so as to be entitled to an order directing the tax collectors to include FPFA's assessments on the tax rolls.

The circuit courts in the mandamus proceeding filed by FPFA have uniformly held that FPFA is <u>not</u> entitled to a writ of mandamus directing the tax collectors to collect FPFA's assessments. For instance, in *Florida Pace*

Funding Agency v. Millan, Case No. 23-CA-13775 (Fla. 13th Cir. Ct. August 13, 2024) the trial court denied FPFA's petition for writ of mandamus and held that the Hillsborough County Tax Collector did not have a clear legal duty to place FPFA's contested PACE assessments on the Hillsborough County tax roll. FPFA had neither a resolution from Hillsborough County authorizing PACE nor an interlocal agreement with Hillsborough County, so that the Tax Collector was without legal authority to place these assessments on the tax roll. The Hillsborough circuit court carefully reviewed in detail the Bond Validation Final Judgment, holding that it did not impose any specific duty on the Tax Collector and did not give rise to a clear legal right by FPFA to have the assessments placed on the tax roll. FPFA chose not to appeal the Hillsborough circuit court's order denying mandamus.

Mandamus has also been denied in numerous other cases, most of which were not appealed. *See, e.g., Florida Pace Funding Agency v. Roberts*, Case No, 23-CA-032217CICI (Fla. 7th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Craft*, Case No. 23-CA-002265 (Fla. 19th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Johnson*, Case No. 63-2023-CA-000067 (Fla. 8th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Power*, Case No. 01-2023-CA-3844 (Fla. Cir. Ct.) (writ denied);

Florida Pace Funding Agency v. Kroll, Case No. 23-CA-003487 (Fla. 18th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Naker*, Case No. 23-CA-000094 (Fla. 14th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Phillips*, Case No. 04-2023-CA-0396 (Fla. 8th Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Adams*, Case No. 23-CA-000072 (Fla. 3d Cir. Ct.) (writ denied); *Florida Pace Funding Agency v. Jones*, Case No. 23-CA-000150 (Fla. 20th Cir. Ct.) (dismissed for lack of prosecution).

One such circuit court order denying mandamus that was appealed was the Second Circuit's Order in Gadsden County in *Florida Pace Funding Agency v. Summerford*, Case No 2023CA000675 (Fla. 2d Cir. Ct. Aug. 13, 2024). This decision was affirmed per curiam on January 27, 2026 by the First District Court of Appeal <u>after</u> this Court's opinion in *State Atty's. for Second, Seventh & Ninth Jud. Cirs. V. Fla. PACE Funding Agency*, 424 So. 3d 478 (Fla. 2025), and prior to FPFA's filing of the Contempt Motion. *Florida Pace Funding Agency v. Summerford* ___ So.3d ___, 2026 WL 203183 (Fla. 1st DCA January 27, 2026). The Fifth District Court of Appeal also affirmed per curiam the 7th circuit court's opinion denying mandamus in *Florida Pace Funding Agency v. Roberts*, 394 So.3d 788 (Fla. DCA 2024).

As the Hillsborough County circuit court, which does properly have jurisdiction over the Hillsborough County Tax Collector, has ruled that the Hillsborough County Tax Collector had and has no clear legal duty to place these specific contested PACE assessments on the Hillsborough County tax roll, the Leon County circuit court, which as stated previously did not have personal jurisdiction over the Hillsborough County Tax Collector, has no basis to make a finding of contempt against the Tax Collector when she is bound by and is following the unappealed final order of her own circuit court.

4. No legal authority exists for the Hillsborough County Tax Collector to collect FPFA's contested assessments.

Section 163.08(4), Florida Statutes, expressly conditions collection of PACE non-ad valorem assessments on compliance with the uniform method of collection set forth in section 197.3632, Florida Statutes. Section 197.3632(4) requires mailed notice to property owners, published notice, and a local public hearing prior to the adoption and certification of any non-ad valorem assessment roll. These notice and hearing requirements are mandatory and operate as statutory conditions precedent to collection via the uniform method. The Tax Collector's duty to place FPFA special assessments on the tax rolls requires FPFA's compliance with <u>all</u> applicable statutory and regulatory requirements. *Escambia County v. Bell*, 717 So. 2d 85, 88 (Fla. 1st DCA 1998). The Tax Collector is without authority to proceed in any manner not authorized by law. Id.

Section 163.08(4), Florida Statutes, permits waiver of these notice and hearing requirements *only* if the property appraiser, the tax collector, and the local government *all* agree, and the Hillsborough County Tax Collector did not agree to waive these statutory procedures. FPFA has neither alleged nor established that it has fully complied with section 197.3632(4), nor was there a lawful waiver under section 163.08(4). Absent satisfaction of these statutory conditions precedent, the Hillsborough County Tax Collector lacks the legal authority to place FPFA's assessments on the Hillsborough County tax roll. Accordingly no ministerial duty on the part of the Hillsborough County Tax Collector could arise, and contempt was thus unavailable as a matter of law.

CONCLUSION

The circuit court, after reviewing the Contempt Motion and extensive legal memoranda and written responses, and after having heard the argument of numerous counsel at the show cause hearing, correctly found that: "The Tax Collectors were never impleaded, served process or otherwise made parties to this proceeding and never subject to an order directed specifically to any of them. Consequently, the court is without authority to find any of the Tax Collectors in contempt in this proceeding."

Accordingly, there was no abuse of discretion by the circuit court in entering its Order Denying Motion for Contempt and Discharging Order to Show Cause. As there was no abuse of discretion, the circuit court's order should be affirmed.

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I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief was served via electronic mail on the following counsel of record listed on the Florida Courts E-Filing Portal, via said portal, on this 1st day of June, 2026.

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I certify that this Answer Brief complies with the Florida Rules of Appellate Procedure, Rules 9.045(b) and 9.210(a)(2)(B), as it is in Arial 14-point font and it complies with the word limitations contained therein.

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