



# VIRES LAW GROUP

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**Date:** September 2, 2024

**Delivered Via:** Electronic Mail

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Re: Republican Party of Florida Cease & Desist Demands to County Chapters of the Florida Republican Assembly

Dear Counsel,

I represent the Florida Republican Assembly (“FRA”), who has retained me to address your cease and desist demands made on April 19, 2024, on behalf of your client the Republican Party of Florida (“RPOF”). This letter is replicated by additional harassing cease and desist demands on over a dozen of my client’s local chapters, targeting its members across the state in Brevard, Duvall, Lake, Lee, Manatee, Orange, Osceola, Palm Beach, Sarasota, Sumter, and Volusia counties.

Your client’s claims, in short, lack merit, and its conduct is poorly disguised harassment, calumny, and infringement on my client’s and its member chapters’ intellectual property rights in the NFRA federally registered marks. Rather than persist in threats of legal action and local Republican Election Committee (“REC”) membership rescission of my client’s members, **your client must cease and desist all alleged “enforcement” actions of its Rule 1(A)(2), and reverse any actions taken to date in pursuit of this illicit purpose.**

In your letter, you demand that my client “cease and desist your usage of the name, abbreviation, and symbol of the Republican Party of Florida in association with your operation of the “Florida Republican Assembly,” to include email communications, use of the FRA website, and social media, specifically an FRA official Facebook page. You cite FS §§ 103.081 and 106.143(4) and your client’s internal RPOF Rules of Procedure 1(A)(2) as purported authority for your client’s discriminatory and unsubstantiated determination that FRA “does not meet any of these exceptions” to the statutory privilege given to political parties.



As an initial matter, you have not identified any specific emails, Facebook posts, or pages of the FRA website that you allege use the “name, abbreviation, and symbol” of the RPOF. You further do not identify which “symbol” is allegedly being used by FRA. A search of the USPTO registration yields zero results for a general search of “Republican Party of Florida,” and no results searching for ownership by the RPOF or Florida Republican Executive Committee. There are 19 live registrations for marks owned by the Republican National Committee, in contrast, and none of these have been identified by you.

You note “The term ‘Republican’ and the Republican elephant logo have been on file since at least 2015 with the Florida Department of State as official property of the Republican Party of Florida.” However, a search of Florida registered trade/servicemarks yields no “REPUBLICAN” mark, and indeed, this is no surprise, since even the US Patent and Trademark Office would require the term “Republican” to be disclaimed on any mark registration application containing the term. A search of any easily identifiable “elephant logo” similarly suffers from a failure of results returned for state registered trade/servicemark registrations. The abbreviations and logo (resembling live registered marks of the RNC Nos. 74456174, 74426459) identified at the Elections Commission in 2015 are not registered marks of the RPOF nor are the FEC-identified titles and abbreviations the intellectual property of RPOF even at common law, but rather are RPOF affiliated or associated names, abbreviations, and logos with the limited protections of FS §103.081, which excludes FRA. Should your client seek to clarify its intellectual property rights on marks that are eligible for registration (“REPUBLICAN” not being so eligible), it may do so, but apparently has not.

**Therefore, as a purely pragmatic matter, my client cannot comply with your demand because you have failed to identify the conduct your client is seeking to enjoin.**

However, your demand has further fatal legal errors and identifies no authority to require compliance by FRA.

- i) Even if your client had authority to interpret and enforce FS §§ 103.081 and 106.143(4), the statutory exemptions *do apply* to FRA, and it is entitled to injunctive relief and other damages for any actions your client has taken against FRA and its members purportedly under the statutory provision. Moreover, your argument regarding § 106.143 is unclear and appears to make vast presumptions related to your unsubstantiated allegations that FRA is unlawfully using the term “Republican.”
- ii) FRA state leadership and county chapters are granted an express usage license from the National Federation of Republican Assemblies (“NFRA”) in its federally registered trade/servicemarks, and indeed, as a subordinate Assembly, the FRA is instructed to use these marks in its operations for the promotion of NFRA’s brand. Your client’s conduct tortuously interferes with my client’s business relations and licensing rights.

**A. The FRA has been in operation in Florida since around 1998 and is not subject to the restrictions of FS § 103.081.**

RPOF Rule of Procedure 1(A)(2) cannot be lawfully enforced against FRA. The Rule, as amended May 4, 2024, grants sole statutory interpretive authority to the RPOF Chairman regarding whether



a member of the political structures of the RPOF throughout the state may be involved in any other organization connected with partisan operations in Florida. This is not proper authority for the Chairman, but for the courts of the state of Florida. Indeed, Florida code provides a remedy by civil action in the judiciary for individuals who are part of the RPOF state structure and were removed improperly by the RPOF, and statutory authority governs the enforceability RPOF Rules of Procedure.

Moreover, FS §103.081(2) provides: “No person or group of persons shall use the name, abbreviation, or symbol of any political party, the name, abbreviation, or symbol of which is filed with the Department of State, in connection with any club, group, association, or organization of any kind unless approval and permission have been given in writing by the state executive committee of such party. This subsection shall not apply to county executive committees of such parties and organizations which are chartered by the national executive committee of the party the name, abbreviation, or symbol of which is to be used, or to organizations using the name of any political party which organizations have been in existence and organized on a statewide basis for a period of 10 years.”

As an initial matter, all associated portions of the official RPOF name are not inherently protected by this statutory provision, an issue definitively adjudicated twenty-five years ago, contrary to your client’s current position. See *Republican Party of Duval County, Florida, et al. v. Kinard, et al.*, No. 99-02195 CA (Fl. Cir. Ct, 4<sup>th</sup> Jud. Cir., April 13, 1999) (Order Denying Petition for Emergency Temporary Injunction sought by plaintiffs including RPOF local Duval county chapter on the basis that defendants were not proven to be “acting by or on behalf of The Republican Party of Duval County, Florida” or the RPOF while using the term “Republican;” and that the **“identification of individuals as ‘Republican’ does not infringe on the Party name.”**) (emphasis added). The least exclusive or protected portion of your client’s official name is “republican,” as it is a commonly used term, denoting a form or type of governance and socio-political philosophy and structure, which precedes the existence (by millennia) of even the national Republican Party, established in the mid-nineteenth century.

Specific to the FRA as an organization, and by extension, its county chapters, the exemption in the FS § 103.081(2) applies to FRA. The initial founding of the Florida Republican Assembly was in the 1990s, with the organization officially registering in the state of Florida as of November 20, 1998, as a state chapter of the National Federation of Republican Assemblies, which was established prior to the FRA. The FRA is an independent, partisan not-for-profit corporation, claiming federal exemption under 26 U.S.C. §527, and has been in continuous operations since 1998, and that fact is evidenced by filings with the Florida Department of State, Division of Corporations. In the early 2000’s the FRA operated out of the NFRA headquarters, located in Niceville, Florida. Some local chapters of the FRA retained their separate filings with the state DOS Division of Corporations, and when the national headquarters moved from Florida, the organization reregistered with the state. This double-registration is now resolved with amended filings.

There is no legal requirement under federal tax code that a partisan non-profit entity must register as an official operating structure, such as a corporation, nor is there a Florida state statutory requirement that independent political entities must be chartered under any political party, like the



RPOF. For the RPOF to suggest or even demand this obsequious affiliation from the FRA and its local chapters is to borrow the tactics of organized criminal syndicates, demanding alliance in exchange for “protection” for independent shopkeepers, when the only real threat to the shop’s ongoing operations is the syndicate’s own destructive conduct.

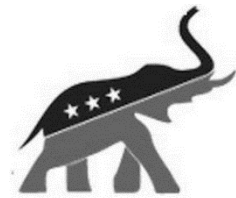
**B. The FRA has usage rights of and an obligation to promote the brand of the National Federation of Republican Assemblies, using the organization’s federally registered marks.**

The NFRA owns several federally registered marks: i) standard character mark THE REPUBLICAN WING OF THE REPUBLICAN PARTY, Serial Number 87616685;

ii) logo mark of the right-facing elephant with a raised trunk, Serial Number 87616703;

iii) standard character mark REPUBLICAN ASSEMBLY, Serial Number 87616717; and

iv) standard character mark NATIONAL FEDERATION OF REPUBLICAN ASSEMBLIES, Serial Number 87615844. The word



“Republican” in these marks is disclaimed, as required by the USPTO, and the NFRA has exclusive right to their use in the market. To that end, the NFRA has granted licensing to its chapters, to promote the principles of the NFRA among Republican voters, and to pursue the mission of the partisan, non-profit organization. The Bylaws of the NFRA (as amended, October 15, 2023) are explicit regarding the right and obligation of subordinate chapters to promote the brand of the NFRA, using these marks.

**ARTICLE V. STATE REPUBLICAN ASSEMBLIES**

**Section 5.10 NFRA Logo.** Each State Republican Assembly shall include on their letterhead, website, regular newsletters, and membership recruitment material, either the NFRA Logo or a logo approved by the NFRA Board of Directors and the words “chartered affiliate of the NFRA” (which may be abbreviated or spelled out), and, in all electronic communications, a link to the NFRA website. Use of the NFRA logo is encouraged to protect and further the brand of the NFRA. (emphasis added)

At such time as the NFRA determines that a State Republican Assembly faces discipline or dissolution, the bylaws specify “that the NFRA has full authority to discipline any State Republican Assembly for violation of these Bylaws, including the power to deactivate or revoke the State Republican Assembly charter and *to recover and control the use of the name and style ‘Republican Assembly,’ ‘Republican Wing of the Republican Party,’ the NFRA logo and any other good will of the NFRA.*” (Section 5.08) (emphasis added)

The exclusive rights granted to NFRA in its registered marks may not be infringed by any other party, including the RPOF; and by extension, the RPOF violates the rights of the FRA by prohibiting its lawful, licensed use of the NFRA’s registered marks, which it has expressly commanded its chapters to use in conjunction with their operations. See generally 15 U.S.C. § 1111, *et seq.* Similarly, the FRA has the authority, granted by the NFRA, to establish Local Republican Assemblies (Section 5.17 of NFRA Bylaws), in accordance with FRA’s Bylaws, which



must conform with and be approved by the NFRA. Local Assemblies are granted the rights of use, and the directive to use the NFRA's registered marks in operations in promotion of the brand. (Section 5.19, directing Local Assembly bylaws to conform to the NFRA Bylaws).

No state statutory provision may alter or otherwise require an alteration in the display of any of NFRA's registered marks, and no court may so order. 15 U.S.C. § 1121(b). If the Florida legislature and all state and federal courts may not so abridge NFRA's intellectual property rights, there is no authority for your client RPOF to do so, nor will any court enforce such an alteration in FRA's display of NFRA's registered marks licensed to the FRA and its subchapters. Indeed, your client's persistence in its course of conduct threatening both FRA and its subchapters subjects it to civil liability for interfering with my client's business relations with the NFRA and with its subchapters and in its business operations.

To date, your client and its officers have taken in unauthorized enforcement of Rule of Procedure 1(A)(2) the following unlawful actions against FRA members:

1. Complaint to the Florida Elections Commission against FRA President Peter Kouracos, also Volusia county REC member;
2. RPOF Grievance against Duval County REC member Robin Lumb, unlawfully considered pursuant to Grievance Committee Rule of Procedure B(6);
3. RPOF Grievance against Precinct Committeewoman (Sarasota County, pct 545) Conni Brunni, unlawfully considered pursuant to Grievance Committee Rule of Procedure B(6);
4. Cease & Desist letter sent to Birthplace of Speed Republican Assembly;
5. Cease & Desist letter sent to Brevard County Republican Assembly;
6. Cease & Desist letter sent to Duvall County Republican Assembly, resulting in the resignation of the State Committeewoman candidate Maleana Gay from the Assembly in order to pursue her campaign in the primary race;
7. Cease & Desist letter sent to Lake County Republican Assembly;
8. Cease & Desist letter sent to Lee County Republican Assembly;
9. Cease & Desist letter sent to Manatee County Republican Assembly, in conjunction with Chair of the county REC taking REC members who are members of the MCRA off the rolls of the REC, removing their names for REC meetings, locking REC members out of the offices during pivotal primary elections, and resulting in Mike Keegan resigning from the Assembly in order to pursue his campaign in the primary race;
10. Cease & Desist letter sent to Orange County Republican Assembly;
11. Cease & Desist letter sent to Osceola County Republican Assembly;
12. Cease & Desist letter sent to Palm Beach County Republican Assembly, resulting in the resignation of Jodi Schwartz from the Assembly;
13. Cease & Desist letter sent to Republican Conservatives of Ormond Beach Assembly, resulting in the resignation of Volusia county State Committeewoman candidate Melissa Thorne from the Assembly;
14. Cease & Desist letter sent to Sarasota County Republican Assembly, resulting in the resignation of Allison Sneed from the Assembly;
15. Cease & Desist letter sent to Sumter County Republican Assembly, resulting in the resignations of Carl Kruger, Dianne Olsen, and Bob Greene from the Assembly;
16. Cease & Desist letter attempted delivery to W Volusia County Republican Assembly; and



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17. Cease & Desist letter sent to SW Volusia County Republican Assembly, resulting in the resignation of Laura London from the Assembly.

As noted above, the RPOF owns no federally registered marks, and its current image used on its letterhead with a stylized “O” including an elephant with a raised trunk, facing to the right, is so similar in appearance to NFRA’s registered mark No. 87616703, that your client is potentially subject to liability and statutory damages for infringement. The FRA is in discussion with the NFRA regarding possible legal action with regard to this infringement of the mark.

**For the foregoing reasons, as a legal matter, my client will not comply with your unauthorized demand. Your client RPOF must also cease and desist from enforcement of any kind of Rule of Procedure 1(A)(2) against FRA current and future members, including but not limited to cease and desist demands sent by your firm or RPOF or any of its other agents, officers and representatives; “notifying your website domain provider and Facebook” of any alleged violations of state law; grievance filings against FRA members; removal of FRA members from county Republican Executive Committees and/or scheduled REC meetings; filings against FRA members before the Florida Elections Commission; and any and all publication of statements alleging that the FRA and its members are in violation of state law.**

Should your client refuse to modify its conduct against FRA, my client is prepared to pursue legal action.

Sincerely,

Rachel L.T. Rodriguez, Esq.