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MEDIA CONTACT:
Rita Miller 239-533-2766
Community Relations Manager
RMiller@LeeClerk.org

COURT CLERKS CHALLENGE CONSTITUTIONALITY OF FUNDING SCHEME

FORT MYERS, FL., Oct. 22, 2018 – The Lee County Clerk Linda Doggett joins the Hillsborough and Santa Rosa County Clerks in a lawsuit challenging the constitutionality of certain Florida Statutes that divert millions of dollars from the State’s clerks of court.

The lawsuit, filed in Leon County Circuit Court against the Florida Department of Revenue (DOR), asserts that the Florida Legislature placed an unconstitutional cap on the fees that clerks of court collect from their local constituents, who are not receiving the level of services required under the state Constitution.

The unconstitutional practice advanced by the Florida Legislature has taken a heavy toll on clerks’ services. Tens of millions of dollars were diverted from the state’s 67 court clerks to pay for unrelated state spending. The Lee County Clerk’s budget alone has been cut by \$1.2 million resulting in a reduction in personnel and hour-long waits in our lobby and for phone calls as well as a reduction of hours for the Cape Coral office. As a result, the citizens are not receiving the services that they have paid for. These budget cuts continued for nearly a decade even while the Florida Courts and Legislature required increased transparency, reporting, data services and additional public safety related duties; without any additional funding.

Correcting these statutes to comply with the Florida Constitution will allow for stable and adequate funding for Florida’s Clerks, and adequate access to justice for our citizens.

There are two main corrections that must be made. First, there are 19 different fees which underwent a revenue distribution change in 2008 to divert those fees from the Clerks to DOR. That distribution change expired in 2009. Despite this, the Department of Revenue continues to follow the expired law.

In addition, the Legislature placed an unconstitutional revenue cap on all Clerks through the state Revenue Estimating Conference. Further, when Clerk revenues exceed the estimated cap, the excess is sent to the State rather than the Clerks, adding an opportunity for a conflict of interest issue to this process. “The cap establishes an artificial, arbitrary and unconstitutional funding level that bears no relationship to Clerks’ actual costs or the ‘adequate and appropriate’ level of funding mandated by the Florida Constitution,” the lawsuit states.

The Legislature created the Florida Court Clerks Operations Corporation to determine clerk funding based on actual costs. But regardless of how much money the clerks collect each year or what their needs are as determined by the corporation, the clerks’ spending cannot exceed the revenue cap.

“Despite years of asking the legislature to correct the funding flaws, no progress has been made,” said Clerk Linda Doggett. “But the Legislature has a duty to following the Constitution just as we do. Every Floridian should be very concerned about not getting proper access to justice. We are hoping this lawsuit returns much-needed funds to the Clerks of Court and stabilizes our long term funding, for the benefit of our citizens. Our citizens deserve better. Our citizens have already paid for and deserve a properly funded Clerk’s office.”

The lawsuit was filed by Florida constitutional law expert Jon Mills, a former Florida speaker of the House who co-authored the 1998 Constitutional amendment regarding Clerk funding.

A copy of the lawsuit is available on request to RMiller@LeeClerk.org or on the [Leon County Clerk of Court website](#).