



BENJAMIN J. GIBSON
TALLAHASSEE OFFICE MANAGING PARTNER
Shutts & Bowen LLP
215 South Monroe Street
Suite 804
Tallahassee, FL 32301
DIRECT (850) 241-1723
EMAIL BGibson@shutts.com

October 13, 2026

SENT VIA EMAIL

Heather Lomagistro
President & CEO
Florida Association of Broadcasters
201 S. Monroe Street, #201
Tallahassee, FL 32301
hsmith@fab.org

**Re: Political Advertisements Based on the Expunged Leon County Grand Jury
Presentment—FOR DISTRIBUTION**

Dear Ms. Lomagistro:

We write this letter on behalf of our client, the Republican Party of Florida (“RPOF”). We do so to inform Florida broadcast licensees of RPOF’s position concerning *In re Leon County Grand Jury Presentment, Fall of 2025*, No. 1D2026-2435 (Fla. 1st DCA Oct. 7, 2026), and the airing of political advertisements that rely on the contents of the now-expunged and illegally leaked grand jury presentment (“Presentment”) that was the subject of the First District’s decision.

Our concern here is threefold.

First, such advertisements rely on a confidential Presentment that the First District has expunged, and whose disclosure and broadcast Florida law criminalizes. Broadcasters may face significant criminal liability if they publish or broadcast advertisements relaying any content from the now-expunged Presentment the First District determined was factually and legally erroneous—a holding with statewide effect. *Second*, the accusations contained within the Presentment are demonstrably false: a Florida appellate court has now held that the money at issue was never State money and that no statute was violated—so a licensee that airs claims based on the now-expunged Presentment does so with knowledge of their falsity or, at a minimum, with reckless disregard for the truth. *Third*, 47 U.S.C. § 315 affords no shelter to licensees for third-party advertisements and, even for candidate-sponsored spots, it doesn’t protect the broadcast of confidential and since expunged grand jury material.

We therefore ask FAB to circulate this letter, and the enclosed First District Court of Appeal opinion, to every member licensee. Our purpose is not to accuse any station of wrongdoing. It’s to

ensure that every licensee has the facts and the law before it makes a clearance decision. Our concerns are more fully detailed below.

Background

By way of background, here are the facts drawn entirely from the opinion of the First District Court of Appeal in *In re Leon County Grand Jury Presentment, Fall of 2025*, No. 1D2026-2435 (Fla. 1st DCA Oct. 7, 2026), a copy of which is enclosed.

In September 2024, state officials resolved—before any lawsuit was filed—allegations that Centene had overcharged Florida Medicaid. Of the \$67,048,611 settlement, the State received \$57,048,611. A separate \$10 million was paid by Centene directly to the Hope Florida Foundation as a third-party donation.

Beginning in August 2025, a Leon County grand jury investigated the matter. It returned no indictment. On January 28, 2026, it nonetheless issued a 116-page “Presentment” concluding that the \$10 million had been “misappropriated as part of a sophisticated scheme to fund political activities,” while conceding that there was insufficient evidence to charge anyone criminally.

On January 28 and 29, 2026, the State Attorney distributed the confidential Presentment by mass email to at least forty-nine recipients, including people not entitled to receive it. The circuit court repressed roughly 112 of the 116 pages and ordered that the document remain confidential pending appeal. On August 25, 2026, the First District issued a writ enjoining disclosure. On August 26, 2026, however, a Miami-based news organization published an unredacted copy.

On October 7, 2026, the First District reversed and remanded the appeal from the circuit court’s order with directions to expunge the Presentment in its entirety, on two independent grounds: the Presentment exceeded the grand jury’s lawful authority, and its disclosure violated section 905.28, Florida Statutes.

First DCA’s Decision

Notably, the First District Court of Appeal addressed the “misappropriated” conclusion directly and held that it is a legal conclusion that fails for two independent reasons: it is unsupported by the Presentment’s own facts, and it declares a violation that the grand jury didn’t charge.

On the statutes the grand jury invoked, the court held that sections 45.062 and 216.216 of the Florida Statutes only reach court actions and court settlements and money received or expended by the State. *In re Leon Cnty. Grand Jury Presentment*, 2026 WL 3014957, *4. Neither statute was triggered. That’s because the matter was settled before any civil action was filed, and the \$10 million passed from Centene directly to the Hope Florida Foundation; it was never received or expended by the State. In footnote 6, the court plainly stated that the \$10 million “was never public money.” *Id.* at *5 n.6. This sum neither reimbursed the State nor became State property, and the Legislature hasn’t made such

third-party settlement payments illegal. Indeed, as the court noted, Florida attorneys general executed 107 such settlements between 1996 and 2020. *Id.*

The First District further observed that the grand jury relied on the “spirit” of the statutes and urged the Florida Legislature to enact new legislation—an implicit admission that existing law didn’t forbid the conduct. *Id.* at *4. The court went on to describe the Presentment as “careless in its grammar, mistaken in its law, and unfaithful to its own record,” and noted that Finding 14 is internally contradictory: it claimed the State “only recovered \$56,248,611” and that \$800,000 was not recovered, when in fact the State recovered \$800,000 more than that figure. The court also held that pronouncing a lawful exercise of executive discretion a “misappropriation” in a “sophisticated scheme” violated the Florida Constitution’s separation-of-powers principles. *Id.* at *1 n.1, 8.

The harm that follows from an accusation of this kind, published without any charge to answer, is precisely what Florida law guards against. As one of the cases the First District relied on said: such a presentment “accuses, but furnishes no forum for denial,” and so “[t]he damage is done” with the “injury it may unjustly inflict” “never” “healed.” *State ex rel. Brautigam v. Interim Report of Grand Jury*, 93 So. 2d 99, 102 (Fla. 1957); *see also Miami Herald Publ’g Co. v. Marko*, 352 So. 2d 518, 520–21 (Fla. 1977) (explaining that section 905.28 protects those whose character is impugned in a report unaccompanied by an indictment).

Finally, two important footnotes. In footnote 7, the First District found that the State Attorney’s clumsy “[d]isclosures to persons the Presentment does not impugn . . . constitute[d] the violation of section 905.28.” *In re Leon Cnty. Grand Jury Presentment*, 2026 WL 3014957, *7 n.7. And in footnote 8, the First District observed that the media’s “disclosure of the confidential Presentment may itself have violated section 905.27(1) and (2).” Because the parties hadn’t formally challenged “the lawfulness of [the Presentment’s] publication by the press,” the First District declined to formally express its view on that question. *Id.* at n.8.

Ban on Using Confidential Presentment

To be sure, however, “grand jury proceedings are secret.” § 905.24, Fla. Stat. And section 905.28(1) provides that a presentment relating to an individual that is not accompanied by an indictment “is confidential” and “shall not be made public or be published” until the individual has received a copy and has had fifteen days to move to repress or expunge it.

Section 905.27(2) is broader still. It provides that “[i]t is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof, except when such testimony is or has been disclosed in [a court proceeding].”

A violation of these grand jury statutes is a first-degree misdemeanor and can be treated as criminal contempt. § 905.27(4), Fla. Stat.

Three points are most relevant for our purposes. The Presentment at issue summarizes confidential witness testimony and evidence. The grand-jury statute expressly reaches anyone who knowingly “broadcast[s]” that content—that clearly includes broadcast stations. And the document at issue has now been ordered expunged in its entirety.

RPOF’s legal position is thus straightforward: knowingly broadcasting advertisements built on the contents of the confidential Presentment is criminal conduct in Florida. Violators can and should be prosecuted. While RPOF hasn’t to date asked for those who leaked and published the now-expunged Presentment to be prosecuted, it reserves the right to do so. The Association’s member licensees are entitled to know RPOF’s position before they expose themselves and their stations to potential criminal liability under Florida law.

False Accusations and Actual Malice

Separate and apart from the grand jury statutes, there are possible defamation claims that RPOF could bring on behalf of its candidates for advertisements based on the now-expunged Presentment. These candidates are public figures. A public figure may recover for defamation on proof that the statement was published with knowledge of its falsity or with reckless disregard of whether it was false. *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964). Reckless disregard is shown where the publisher in fact entertained serious doubts as to the truth of the publication. *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). Purposeful avoidance of the truth will likewise support a finding of actual malice. *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 692 (1989).

Knowing or reckless falsehoods enjoy no constitutional protection, *Garrison v. Louisiana*, 379 U.S. 64, 75 (1964), because “there is no constitutional value in false statements of fact,” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 340 (1974). Florida law is to the same effect. See *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1106 (Fla. 2008) (setting out the elements of defamation, including actual malice where the plaintiff is a public figure); *Campbell v. Jacksonville Kennel Club*, 66 So. 2d 495, 497 (Fla. 1953) (statements imputing the commission of a crime are defamatory per se).

Any advertisement stating that a candidate “misappropriated state funds” is not opinion. It’s a verifiable factual assertion of criminal-type wrongdoing, and it imputes a crime. A Florida appellate court has now held that the money was never state funds, that no statute was violated, and that the grand-jury process (together with the Presentment itself) were legally improper. Any assertions to the contrary are false.

RPOF contends that airing such advertisements would be knowing or, at a minimum, reckless. Nor does repetition insulate a station: one who republishes defamatory material may be held liable in the same manner as the original publisher.

One point deserves further emphasis. Because the Presentment has been ordered expunged in its entirety, an advertisement telling viewers that a grand jury “found” or “concluded” anything, presents to the public, as authoritative, a finding that is expunged and legally void. That characterization is false on its own terms, independent of the merits of the underlying accusation.

Section 315 Doesn’t Protect Advertisements at Issue

We note that 47 U.S.C. § 315(a) offers no blanket protection here. This is for three reasons.

First, section 315(a)’s no-censorship rule, and the libel immunity recognized in *Farmers Educational & Cooperative Union of America v. WDAY, Inc.*, 360 U.S. 525 (1959), apply only to a “use” by a legally qualified candidate or the candidate’s authorized committee—that is, to advertisements in which the candidate personally appears. They afford no protection for advertisements paid for by third-party political committees, electioneering communication organizations, PACs, 501(c)(4) entities, or other third parties. For those advertisements, broadcasters retain full discretion to refuse carriage, *see CBS, Inc. v. Democratic National Committee*, 412 U.S. 94 (1973), and bear full responsibility for their content. In our experience, the advertisements of greatest concern here are precisely of that kind.

Second, even for candidate advertisements, *WDAY* construed section 315 as shielding licensees from state defamation and libel liability because they are forbidden to censor candidate speech. *WDAY* addressed libel. It didn’t hold that section 315 authorizes a licensee to violate a state criminal statute protecting grand jury secrecy. It is RPOF’s position that section 315 is a licensee’s shield against defamation liability, *not* a license to broadcast confidential grand jury material that Florida law independently prohibits from being broadcast and that an appellate court has specifically expunged.

Third, section 315 imposes no duty to carry a candidate’s advertisement by itself. The statute specifically says that “[n]o obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate.” 47 U.S.C. § 315(a). The clearance decision remains the licensee’s own. So does the potential liability for airing material that’s meant to be secret, whose reliability has been undercut by the First District, and that has been expunged.

RPOF’s Request

RPOF therefore asks FAB’s member licensees to:

1. Decline to accept or air—and pull from the schedule any already-booked—advertisements accusing RPOF’s candidates of any activity alleged in the now-expunged Presentment, or where the “gist” of the advertisement rests on that of the unlawfully leaked and now-expunged Presentment;

2. Review incoming advertisements, including third-party advertisements, against the First District's decision of October 7, 2026, a copy of which is enclosed;

3. Contact the undersigned with any questions, including about any spot a station is asked to clear relating to the above. We will respond promptly.

* * *

RPOF acknowledges that the Florida Association of Broadcasters ("FAB") is forwarding this letter to licensees solely as a courtesy at RPOF's request, and that neither FAB's receipt nor its forwarding of this letter constitutes notice of any kind to any licensee. Thank you for your attention to this matter.

Sincerely,



Benjamin J. Gibson
Counsel for Republican Party of Florida

Enclosure: Opinion, *In re Leon County Grand Jury Presentment, Fall of 2025*, No. 1D2026-2435 (Fla. 1st DCA Oct. 7, 2026)
CC: Evan Power, Chairman, Republican Party of Florida

2026 WL 3014957

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION IN THE PERMANENT LAW REPORTS. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

District Court of Appeal of Florida, First District.

IN RE: LEON COUNTY GRAND JURY
PRESENTMENT, FALL OF 2025.

No. 1D2026-2435

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October 7, 2026

On appeal from the Circuit Court for Leon County. [James Lee Marsh](#), Judge.

Attorneys and Law Firms

[Jesse Panuccio](#) and [David Costello](#) of Boies Schiller Flexner LLP, Fort Lauderdale, for Katie Strickland.

Alan Lawson of Lawson Huck Gonzalez, PLLC, Tallahassee, for Mark Wilson, Frank Walker, and Secure Florida's Future.

[Joseph W. Jacquot](#) of Gunster, Yoakley & Stewart, P.A., Jacksonville, for Andrew Sheeran.

[Christopher Kise](#) of Continental PLLC, Tallahassee, for James Uthmeier.

[Thomas E. Bishop](#) of Bishop & Page PLLC, Jacksonville, for Jason Weida.

[John M. Guard](#), pro se.

[Bradford L. Thomas](#), Acting Attorney General; Jeffrey P. DeSousa and Jason J. Muehlhoff, Chief Deputy Solicitors General, Tallahassee, for the State of Florida.

Opinion

[Neff, J.](#)

*1 This case concerns the limits of a grand jury's power. A grand jury may investigate and report, but it may not declare conduct unlawful and then decline to charge it, and it may not condemn people by name without indicting them. Nor may the State release a confidential presentment

before those it impugns have had the opportunity Florida law guarantees to seek its repression or expungement. Here, a Leon County grand jury investigating a \$10 million payment arising from a pre-suit Medicaid settlement declared the payment “misappropriated” as part of a “sophisticated scheme” and named those it held responsible, yet returned no indictment, conceding it lacked sufficient evidence to charge anyone. The State then distributed the confidential Presentment beyond those entitled to receive it. Exercising jurisdiction under [section 905.28\(2\), Florida Statutes](#), we reverse the circuit court's July 29, 2026, Order on Motions Regarding Publication of Presentment to the extent it denied full expungement, remand with directions to expunge the Presentment in full, and reverse the Notification Orders.

I. Background

In September 2024, state officials resolved allegations that Centene Corporation had overcharged Florida's Medicaid program. Of Centene's \$67,048,611 settlement, the State received \$57,048,611, and a separate \$10 million was paid as a third-party donation from Centene to the Hope Florida Foundation, a direct-support organization. The settlement was reached before any civil action was filed in any court. Hope Florida then approved separate \$5 million grants to Secure Florida's Future and Save Our Society From Drugs, both section 501(c)(4) organizations, which in turn donated to Keep Florida Clean, a political committee opposing a proposed recreational-marijuana amendment.

In August 2025, a Leon County grand jury began investigating the disbursement of the settlement. It returned no indictment. Instead, on January 28, 2026, it issued a 116-page document—a nineteen-page body followed by ninety-seven pages of exhibits—later called a “Presentment,” summarizing confidential witness testimony and evidence. The Presentment concluded that the \$10 million was “misappropriated as part of a sophisticated scheme to fund political activities,” relying on [sections 45.062 and 216.216, Florida Statutes](#), yet conceded that there was insufficient evidence to charge anyone criminally and recommended that the Legislature enact a law to prevent the situation from recurring. Its sixteen numbered Findings named several individuals and, on their own terms, were internally inconsistent.¹

*2 On January 28 and 29, 2026, the State Attorney distributed the Presentment by two mass emails to at

least forty-nine recipients. In February 2026, the named movants moved to repress and expunge under [section 905.28](#). Meanwhile, the circuit court permitted a news organization and its director to intervene for a limited purpose and, by orders entered March 25, July 8, and August 6, 2026, directed the State Attorney to notify the intervenors of any appeal.

On July 29, 2026, after a hearing, the circuit court repressed and expunged “The Witnesses” section, the witnesses’ names and titles, all ninety-seven pages of attachments, and several findings—roughly 112 of the 116 pages—but denied repression and expungement in full. It held that the redactions did not change the Presentment’s tenor and that the Presentment did not allege that any named individual committed a crime. The court did not address the movants’ argument that the misappropriation conclusion was itself legally erroneous. The court ordered the parties to maintain the confidentiality of the Presentment pending appeal, and this appeal followed.²

On August 12, 2026, the movants petitioned this court for emergency relief from the notification orders. The next day, this court stayed those orders, and on August 25, 2026, it granted the petition and issued a writ. *In re Leon Cnty. Grand Jury Presentment, Fall of 2025*, No. 1D2026-2369. The State Attorney was personally served with the writ enjoining him from disclosing the grand jury matters to the putative intervenors or any other person pending further order of this court. The following day, August 26, 2026, a Miami-based news organization published an unredacted copy of the Presentment.³

II. Standard of Review

Under [section 905.28\(1\)](#), a grand jury report or presentment unaccompanied by an indictment is confidential, and an individual may move to repress or expunge any portion that is “improper and unlawful.” Whether a statement is improper and unlawful is a question of law subject to plenary review, and on that question our review is confined to the four corners of the presentment,⁴ with no deference to the circuit court’s ruling. *In re Grand Jury Investigation of Fla. Dep’t of Health & Rehab. Servs.*, 659 So. 2d 347, 349–50 (Fla. 1st DCA 1995) (citing *Moore v. 1986 Grand Jury Rep. on Pub. Hous.*, 532 So. 2d 1103, 1105 (Fla. 3d DCA 1988)); *State v. Womack*, 127 So. 3d 839, 841 (Fla. 2d DCA 2013). The separate question of whether the Presentment was published

in violation of the statute’s notice protections, addressed in Part IV.D, does not turn on the four corners of the document. It necessarily rests on record facts about the Presentment’s distribution. Our supreme court has construed the statutory terms: “unlawful” means a report “outside the lawful ambit of grand jury authority,” and “improper” connotes a report of matters which lack a factual foundation in the record. *Miami Herald Publ’g Co. v. Marko*, 352 So. 2d 518, 520–21 (Fla. 1977). See also *Appeal of Untreiner*, 391 So. 2d 272, 274 (Fla. 1st DCA 1980).

III. The Grand Jury’s Authority and Its Limits

***3** Florida grand juries are not confined to the indictment function. A grand jury holds broad inquisitorial power as “the guardian of all that is comprehended in the police power of the State,” and may investigate whether a public office “is being conducted according to law and good morals.” *In re Rep. of Grand Jury*, 11 So. 2d 316, 318 (Fla. 1943). It may report official incompetence or laxity even where no crime is charged, for public officials are “trustees of the people” who “may be called on at any time to render an account.” *Owens v. State*, 59 So. 2d 254, 256 (Fla. 1952). A fair report that incidentally reflects negatively on a responsible official is within the authorized power of a grand jury. *Ryon v. Shaw*, 77 So. 2d 455, 457 (Fla. 1955).

That power, however, has always carried limits so that a grand jury does not become an arbitrary power. *In re Rep. of Grand Jury*, 11 So. 2d at 318. A grand jury “will not be permitted to single out persons in civil or official position to impugn their motives, or by word, imputation, or innuendo hold them to scorn or criticism.” *Id.* When it finds the law violated, its duty is to indict, and when charges are unfounded, its duty is to exonerate. *Id.* A grand jury is not an autonomous agency with unlimited power and is “subject to reasonable corrective measures when it transcends bounds of law and reason.” *State v. Clemmons*, 150 So. 2d 231, 234 (Fla. 1963). A grand jury report may not “be so salacious or scurrilous or defamatory or so lacking in truth as to indicate a malicious exploitation of authority.” *Id.* Section 905.28 is the enforcement mechanism for such an abuse of authority. The statute serves as a brake on wild charges against persons which are either outside the scope of the grand jury’s lawful authority or entirely unsupported by any facts. *In re Grand Jury (Freeport Sch. Project) Winter Term 1988*, 544 So. 2d 1104, 1107 (Fla. 1st DCA 1989).

IV. Analysis of the Presentment

A. Misappropriation

The misappropriation conclusion is subject to a settled framework of review. A grand jury's findings of fact are not subject to reversal, and a reviewing court does not examine the evidence behind them. *Fla. Dep't of Health & Rehab. Servs.*, 659 So. 2d at 349. However, a factual finding must have a foundation in the presentment itself. *Moore*, 532 So. 2d at 1105. A legal conclusion, by contrast, is reviewed as a question of law. *Fla. Dep't of Health & Rehab. Servs.*, 659 So. 2d at 349–50. Two limits follow. First, a legal conclusion unsupported by a presentment's own recited facts “lack[s] a factual foundation in the record” and is on that account “improper” under section 905.28(1). *Marko*, 352 So. 2d at 520–21; *Freeport*, 544 So. 2d at 1106–07. Second, when a grand jury finds the law violated, its duty is to indict. A grand jury that declares the law broken yet returns no indictment acts outside “the lawful ambit of grand jury authority” and is on that account “unlawful.” *State ex rel. Brautigam v. Interim Rep. of Grand Jury*, 93 So. 2d 99, 101–03 (Fla. 1957); *Marko*, 352 So. 2d at 520.

The Presentment's central determination, that the \$10 million was “misappropriated” in violation of sections 45.062 and 216.216, is a legal conclusion, and it fails both tests. It is a legal characterization the Presentment's own facts do not support, and it declares a violation the grand jury did not charge. The Presentment framed the question in criminal terms from the outset, asking whether the spending constituted “criminal or irregular conduct” and “illegal conversion of monies,” and it recited the definitions of theft, stealing, and larceny before concluding that the funds were “misappropriated.” Having cast its accusation in the vocabulary of crime, the grand jury was bound by the rule that governs every grand jury: indict or exonerate. *In re Rep. of Grand Jury*, 11 So. 2d at 318; *Brautigam*, 93 So. 2d at 103.

*4 Section 45.062(1) and section 216.216 reach only court actions and court settlements. Section 45.062(1) bars, absent certain prerequisites, an agency settlement that requires expending state funds or forgoing state revenue above specified thresholds. Section 216.216 bars the expenditure of negotiated court-settlement funds absent a legislative appropriation and directs those settlement moneys the State receives to be placed in the General Revenue Fund or an appropriate trust fund. However, this matter settled before

any civil action was filed. Because no “civil action” had been commenced in court, *see, e.g., Fla. R. Civ. P. 1.050*, no “court settlement” had been reached. Section 45.062(5) also governs receipts and is not limited to court actions, but it reaches only moneys paid to the State. The \$10 million was paid to Hope Florida, not the State.

Each statutory provision fails on a common ground: the money was never expended or received by the State. It passed from Centene directly to Hope Florida. The grand jury conceded as much, resting on the statutes’ “purpose” and “spirit”⁵ and urging new legislation—an implicit admission that existing law did not forbid the conduct. A conclusion that misapplies the very statutes it invokes has no factual foundation in the report and lies outside the grand jury's authority. *See Freeport*, 544 So. 2d at 1107.

B. Castigation of Unindicted Persons

The Presentment's naming and condemnation of individuals independently exceeded the grand jury's authority. A report that claims criminal conduct “without at the same time filing indictments,” “goes far beyond any authority which, by judicial decision, has been conferred upon grand juries in this state.” *Brautigam*, 93 So. 2d at 101. The rule is binary in relation to assertions of criminal-like conduct: if the investigation showed willful, corrupt conduct, “it was its duty to return an indictment”; if “no such criminal conduct was disclosed, it had no further jurisdiction in the matter.” *Id.* at 103. It is “improper for a grand jury to present with words of censure and reprobation a public official or other person by name without presenting him for indictment,” and the person condemned may apply to have the matter expunged. *Id.* at 102.

The Presentment is such a report. It brands the named participants as members of a “sophisticated scheme” to misappropriate taxpayer funds, finds officials not credible or derelict in conducting due diligence, and identifies individuals as illicitly directing the funds, all while conceding the grand jury lacked evidence to criminally charge anyone. Having declined to indict, the grand jury retained no jurisdiction to publish individualized findings of criminal-like culpability. *Brautigam*, 93 So. 2d at 102. That the Presentment stops short of charging anyone criminally does not save it. Our supreme court in *Brautigam* rejected the same argument—that a report which does not charge a crime is beyond correction—and expunged the report. There, the

report effectively convicted the accused “of wrongdoing little short of a crime, inevitably blackening their reputations,” and did so “without indictment, without published evidence, without trial, and without due process of law.” *Id.* The same aberrant condemnation occurred here. The circuit court’s contrary rationale in denying relief—that no individual was alleged to have committed a crime—cannot be reconciled with the principle found in *Brautigam*.

*5 The concern with a grand jury engaging in such an action is structural. Because a presentment “emerges from a grand jury process which has operated in secrecy,” with no right to challenge witnesses or the way the evidence is presented, “no comparable means of vindication exists for one whose character is impugned in a report unaccompanied by indictment.” *Marko*, 352 So. 2d at 520. The subsequent disclosure and publication of the unredacted Presentment realized precisely that harm: public discussion of the matter founded on some of the Presentment’s baseless factual assertions, one-sided presentation of evidence, and faulty legal analysis.

Our supreme court long ago described the danger in terms that could have been written for this case. A presentment of this kind “wins the importance of a judicial document; yet it lacks its principal attributes—the right to answer and to appeal. It accuses, but furnishes no forum for denial.” *Brautigam*, 93 So. 2d at 102 (quoting *People v. McCabe*, 148 Misc. 330, 333, 266 N.Y.S. 363, 367 (Sup. Ct. 1933)). “An indictment may be challenged—even defeated. The presentment is immune.” *Id.* And the harm cannot be undone: “Before application can be made to suppress it, it is the subject of public gossip. The damage is done. The injury it may unjustly inflict may never be healed.” *Id.*; see also *In re Brevard Cnty. Grand Jury Interim Rep., Fall Term 1970*, 249 So. 2d 709, 711 (Fla. 4th DCA 1971) (applying *Brautigam* and ordering expungement of a report criticizing an unindicted official).

C. The Findings Against Private Persons

The limitation on a grand jury’s power to censure protects persons and conduct outside the sphere of criminal activity and public office. A grand jury “has no legitimate or proper function to go beyond investigation of criminal activity or matters involving public officials and public monies and make any report that names, embarrasses, ridicules, criticizes, censures or defames any person,” where such statements “are unrelated to criminal activities or matters involving public

officials and public monies.” *Kelly v. Sturgis*, 453 So. 2d 1179, 1182 (Fla. 5th DCA 1984). See also *Freeport*, 544 So. 2d at 1106 (citing *Kelly*, 453 So. 2d at 1182). Where a person is not indictable and the comments relate neither to conduct as a public official nor to the use or misuse of public funds, the comments lie outside the lawful ambit of grand jury authority and must be repressed. *Kelly*, 453 So. 2d at 1182.

The findings against the private grant recipients run afoul of that limit. Finding 1 condemns Mark Wilson and Secure Florida’s Future, who are among the appellants. Finding 2 condemns Amy Ronshausen and Save Our Society From Drugs, who moved to repress below but did not appeal. The full expungement we direct reaches those findings as well. Wilson and Ronshausen are private persons, and their organizations are private section 501(c)(4) entities. None held public office in the transaction, and the Presentment recites that the grant monies passed to those entities from Hope Florida—not from the State.⁶ How a private section 501(c)(4) organization uses funds it has received is not, without more, a matter “involving public officials and public monies,” and such an organization may lawfully engage in political advocacy. The grand jury was free to report the movement of the funds insofar as it bore on the conduct of public officials and on Hope Florida, the direct-support organization that awarded the grants. It was not free to brand private recipients as participants in a “sophisticated scheme” to “misappropriate” funds—an accusation of quasi-criminal wrongdoing against unindicted private citizens that lies outside the lawful ambit of grand jury authority. *Brautigam*, 93 So. 2d at 102; *Kelly*, 453 So. 2d at 1182; *Freeport*, 544 So. 2d at 1106. Frank Walker, who is named in the Presentment, is impugned by association. The grand jury made no finding and returned no indictment against him, and as to him the limit on a grand jury’s power applies with even greater force.

D. Statutory Pre-Publication Protections

*6 A second, independent reason supports the expungement of the entire Presentment. Section 905.28(1), Fla. Stat., states,

A report or presentment of the grand jury relating to an individual which is not accompanied by a true bill or indictment is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution

and shall not be made public or be published until the individual concerned has been furnished a copy thereof and given 15 days to file with the circuit court a motion to repress or expunge the report or that portion which is improper and unlawful.

Our supreme court has explained that [section 905.28\(1\)](#) was enacted to protect those “whose character is impugned in a [grand jury] report unaccompanied by indictment.” *Marko*, 352 So. 2d at 520. The reason for this statutory safeguard has been made clear:

These matters emerge from a grand jury process which has operated in secrecy, under the guidance of a prosecutor and the supervision of a judge to be sure, but where there has been no right to challenge witnesses or to be represented by counsel. It is possible, then, that the testimony and information presented to a grand jury, on which they must rely and report, is potentially one-sided and inaccurate. Thus, while one charged with the commission of a crime as a result of this process has a full opportunity for public clarification of misleading data and personal vindication through a public trial, no comparable means of vindication exists for one whose character is impugned in a report unaccompanied by indictment. It is undoubtedly for this reason that the legislature has now afforded an opportunity to prevent the publication of unfavorable material through the repression of matter that is “improper and unlawful”.

Id. at 520–21.

[Section 905.28\(1\)](#) thus protects a specific class of persons: those about whom a presentment makes derogatory comment. That class is not limited to a presentment's principal subjects.

A single derogatory reference suffices. See *Republic Props. Corp. v. Grand Jury Presentment on City of W. Palm Beach, Part A, Fall Term 2006*, 971 So. 2d 289, 292–93 (Fla. 4th DCA 2008) (holding that a report “relat[ed] to” a developer that the report linked to “irregular and illegal practices” in one sentence of its introduction and a footnote). But the class does not extend to persons the presentment does not impugn, and the disclosures at issue here went to recipients who fall outside it.

When a presentment is released in violation of [section 905.28](#), the remedy is expungement of the portions disparaging to the individual it impugns. *Philpitt v. Weintraub*, 377 So. 2d 247, 249 (Fla. 3d DCA 1979). That consequence does not follow from every premature disclosure, however. In *Freeport*, this court declined to order full expungement on a publication theory because, although the presentment had been divulged in violation of [section 905.28](#), “the state denied any wrongdoing” and “there was no showing that the state caused the premature publication.” 544 So. 2d at 1106. Responsibility for the disclosure is what separates the two cases.

*7 This case is comparable to *Philpitt*, not *Freeport*. As was the case in *Philpitt*, the premature disclosure here is directly attributable to the State. On January 28 and 29, 2026—while the matter remained confidential and before any individual concerned had been given the opportunity the statute guarantees—the State Attorney sent the Presentment by two mass emails to at least forty-nine recipients. The first went to persons he believed were entitled to a copy under [section 905.28\(1\)](#), including Representative Alex Andrade, the complaining witness. The second, though sent with the circuit court's permission, included two generic intake email addresses and a recipient mistakenly included who had nothing to do with the proceeding. None of those recipients—Representative Andrade, the generic addresses, or the misdirected recipient—was an individual concerned.⁷ Transmitting a sealed presentment to such non-concerned recipients was not statutory compliance. It was a disclosure of confidential material beyond what the statute authorizes—and, unlike the unattributed release in *Freeport*, it was the State's own doing.

That Representative Andrade received a copy illustrates the point: the Presentment does not impugn him, so he had no statutory interest to protect, and his inclusion did nothing to satisfy the duty the State Attorney owed the persons the Presentment did impugn. The State Attorney's error was

not a failure to notify those individuals. It was an overbroad handling of a confidential document that breached the statute's confidentiality requirement before the impugned individuals could be heard. The violation lies in the disclosure itself. *Philpitt* and *Republic Properties Corp.* each involved a failure to give the impugned person notice, but the protection they enforced is the one breached here: until the individuals concerned have received their copies and their fifteen days, a presentment is confidential and shall not “be made public,” § 905.28(1), Fla. Stat., and the statute authorizes its disclosure to no one else. That recipients of an unauthorized disclosure may themselves be bound not to disclose it further does not cure the breach. The statute protects those a presentment impugns by limiting who receives the document at all, not by trusting those who should never have received it to keep it secret. If the remedy for a breach depended on proof of later harm, or on a later showing that the material was improper or unlawful, that protection would become, as *Philpitt* warned, “meaningless.” 377 So. 2d at 249. Because the premature disclosure is attributable to the State, *Philpitt* applies and expungement is required. *Id.*; see also *Republic Props. Corp.*, 971 So. 2d at 293. How the unredacted copy reached the press is therefore immaterial to our conclusion.⁸ Its later publication only confirmed the harm.

The portions of the Presentment disparaging the movants are not discrete. They are the misappropriation finding and the other findings that flow from it. Expunging them leaves a report of a wholly different tenor, which requires expungement of the complete document. See *infra*, Part IV.F. And independent of section 905.28, this court retains the “inherent power to preserve the integrity of its records or to correct the action of one of its appendages.” *Brautigam*, 93 So. 2d at 103.

E. Separation of Powers

*8 The Presentment's defects carry a structural dimension as well. A grand jury is an arm of the courts. *State v. Digman*, 294 So. 2d 325, 326 (Fla. 1974). The Florida Constitution commits the executive power to the executive branch, art. IV, §§ 1(a), 4(b), Fla. Const., and imposes a strict separation of powers that binds the judicial branch no less than the others, art. II, § 3, Fla. Const. The decision how to resolve the State's potential claims against Centene—including whether to accept a settlement that directed a third-party donation to Hope Florida—was a discretionary act of the executive

branch, whether attributed to the Agency for Health Care Administration or to the Attorney General.

To be sure, a grand jury may investigate executive offices and report what it finds, even where the report reflects adversely on an official. See *Ryon*, 77 So. 2d at 457; *Owens*, 59 So. 2d at 256; *Marko*, 352 So. 2d at 522. That reporting function is not what occurred here. The grand jury did not merely describe how the settlement was handled. It pronounced a lawful exercise of executive discretion, see *supra*, Part IV.A, to be a “misappropriation” undertaken as part of a “sophisticated scheme”—an authoritative judgment of wrongdoing and improper motive, rendered by an arm of the judiciary, as to conduct no statute forbids and that produced no indictment. A court may not pass judgment on the wisdom or motives of a lawful discretionary executive choice in that manner, and neither may its grand jury. See *In re Rep. of Grand Jury*, 11 So. 2d at 318 (grand jury may not “single out persons in civil or official position to impugn their motives”); *State v. Gleason*, 12 Fla. 190, 226 (1868); cf. *State v. Bloom*, 497 So. 2d 2, 3 (Fla. 1986) (the judiciary has no authority to interfere with the executive's discretion). The distinction is between reporting on an executive office, which the grand jury may do, and adjudicating the propriety of a valid discretionary executive act and branding it unlawful, which it may not.

This principle does not decide the appeal on its own, but it reinforces the conclusion that section 905.28(1) and *Brautigam* independently compel: a presentment that condemns a lawful exercise of executive discretion as a criminal act, without any law transgressed and without an indictment, lies outside the “lawful ambit of grand jury authority” and must be expunged. *Marko*, 352 So. 2d at 520.

F. Remedy

The remedy for an improper and unlawful presentment is expungement, under both the statute and the court's “inherent power to preserve the integrity of its records or to correct the action of one of its appendages.” *Brautigam*, 93 So. 2d at 103. Expungement may be partial where the offending matter can be excised cleanly. But where excising the offending portions “would result ... in a report that has a totally different tenor than the original report,” the entire report must be repressed. *Green v. Investigation of Liberty Cnty. Sch. Sys.—Rep. of Grand Jury*, 370 So. 2d 63, 64 (Fla. 1st DCA 1979).

This record calls for full expungement. The circuit court has already repressed and expunged roughly 112 of the 116 pages of the Presentment. Once the misappropriation conclusion and the individualized condemnations are also removed, little coherent substance remains, and what is left is a report of a wholly different tenor. Under *Green*, that requires removing the Presentment in full. *Id.* [Section 905.28\(1\)](#) affords two remedies—repression and expungement—but repression protects an individual by preventing publication, and here the Presentment has already been publicly disclosed. That unlawful disclosure has caused irreparable harm. Repression can no longer safeguard anyone whose character it impugns. Only expungement from the court's records remains a meaningful remedy. *See Brautigam*, 93 So. 2d at 103.

*9 The grand jury's institutional voice could have been heard had it properly reported on whether public offices were “conducted according to law and good morals,” *In re Rep. of Grand Jury*, 11 So. 2d at 318, reported findings of negligence or nonperformance, *Fla. Dep't of Health & Rehab. Servs.*, 659 So. 2d at 350, or merely recommended that the Legislature address the statutory gap it identified. *See Marko*, 352 So. 2d at 522–23 (noting that grand juries have the authority to make recommendations). The grand jury took none of those proper paths. Instead, it exceeded its authority by accusing people of criminal conduct without indicting them. Although the State's premature disclosure independently requires expungement, we do not rest on that ground alone. A decision resting solely on the disclosure would leave unaddressed the error-ridden Presentment's central wrong: its condemnation, without indictment, of people the grand jury chose not to charge.

V. The Notification Orders

Grand jury proceedings are secret under section 905.24, and that secrecy extends to matters ancillary to the grand jury session, including a motion to expunge a presentment. *Palm Beach Newspapers, Inc. v. Doe*, 460 So. 2d 406, 409 (Fla. 4th DCA 1984) (holding “that a hearing ancillary or related to a grand jury session constitutes a proceeding which comes within the protection of Section 905.24”). The March 25, July 8, and August 6, 2026 orders directing the State Attorney to notify outside intervenors of any appeal would disclose the very confidential proceeding Chapter 905 protects. This court has already enjoined those orders in Case No. 1D2026-2369. With the State agreeing and the point unopposed, the Notification Orders are reversed.

VI. Conclusion

Because the Presentment exceeded the grand jury's authority, and because its disclosure violated section 905.28—each an independent ground for full expungement—we reverse the order's denial of full relief and remand with directions to expunge the Presentment in its entirety. We also reverse the Notification Orders.

REVERSED and REMANDED with directions.

M.K. Thomas, J., concurs; Bilbrey, J., concurs in part and in result with opinion.

Bilbrey, J., concurring in part and in result.

I agree that we are correct to order expungement of the Presentment but would do so just because the Presentment was improperly disclosed in violation of [section 905.28\(1\)](#), *Florida Statutes*, without reaching the substance of the Presentment.¹ Judge Neff discusses the violation of [section 905.28\(1\)](#) in part IV.D. of the majority opinion and correctly concludes that expungement is required. *See Philpitt v. Weintraub*, 377 So. 2d 247, 249 (Fla. 3d DCA 1979); *see also Republic Props. Corp. v. Grand Jury Presentment on City of W. Palm Beach, Part A, Fall Term 2006*, 971 So. 2d 289, 292–93 (Fla. 4th DCA 2008) (holding that when a presentment relates to an individual, the individual is entitled to due process before publication to protect the individual's reputation).

Not every person who is interested in the outcome of a grand jury investigation or who testifies before a grand jury is “the individual concerned” under [section 905.28\(1\)](#) and thereby entitled to prepublication notice and an opportunity to attempt “to repress or expunge the report or that portion which is improper and unlawful.” The report or presentment must be one “relating to an individual.” *Id.*; *Republic Props. Corp.*, 971 So. 2d at 291–92. [Section 905.28\(1\)](#) “provides individuals who ‘may be exposed to criticism, scorn, or recommendations unfavorable to their reputation’ a means to prevent publication of a presentment.” *State v. Womack*, 127 So. 3d 839, 842 (Fla. 2d DCA 2013) (quoting *Miami Herald Publ'g Co. v. Marko*, 352 So. 2d 518, 520 (Fla. 1977)).

*10 Here, various people, companies, and organizations who were not “the individual concerned” were given the

Presentment that was not related to them before actual related and concerned individuals had a chance to challenge the Presentment.² This violation of [section 905.28\(1\)](#) therefore requires expungement of the Presentment. *Republic Props. Corp.*, 971 So. 2d at 293; *Philpitt*, 377 So. 2d at 249.

All Citations

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Footnotes

- 1 The Presentment's defects are not confined to its internally inconsistent findings. It is careless in its grammar, mistaken in its law, and unfaithful to its own record. We address its legal errors in Part IV, *infra*. The drafting lapses include misspelling a witness's name, misnaming the law firm Liston & Deas as "Liston and Dees," and, in Finding 4, misattributing Chief Deputy Attorney General John Guard's review to "the State Attorney's Office" when he acted on behalf of the Attorney General's Office. The inattention to detail is best illustrated by Finding 14, which is internally contradictory. The Presentment's own "What Happened?" section describes a \$67,048,611 settlement paid in two parts, \$57,048,611 to the State and \$10,000,000 to Hope Florida, with nothing left uncollected. Finding 14 nonetheless asserts that the State "only recovered \$56,248,611" and that "\$800,000 of Medicaid reimbursement and taxpayer money was not recovered from Centene." Centene's offer of settlement letter, a publicly available record the State Attorney possessed and a part of the record on appeal, shows how the figure was built: \$19,465,790.40 (7,209,552 Florida pharmacy scripts for 2017–2018, at \$2.70 each, as reimbursement of alleged dispensing fees and discounts); \$36,782,821.24 (5.5% of \$668,778,568 in Florida pharmacy spend, as a proxy for return of margin); and \$10,800,000 for "any other potentially alleged damages ... and to otherwise incent" settlement. The first two components total \$56,248,611.64, and adding the \$10,800,000 yields \$67,048,611.64. The State received \$57,048,611.64 of that sum, and \$10,000,000 went to Hope Florida, so the State recovered \$800,000 more than the \$56,248,611.64 that Finding 14 treats as the full recovery, not \$800,000 less. The \$10,000,000 that reached Hope Florida was not a component of any identified Medicaid overcharge. It derived from the settlement's incentive and other-damages component. We note the discrepancy not to make factual findings of our own, which we do not, but because it illustrates one of several conclusions in the Presentment that cannot be reconciled with its own recitals.
- 2 The State Attorney appealed the expungement of portions of the Presentment but later, after the Presentment was published, voluntarily dismissed his appeal. The appeal that remains is the timely challenge the movants brought to the order's denial of full expungement. On appeal, the State is represented by specially appointed counsel performing the duties of the Acting Attorney General.
- 3 This court did not receive the record on appeal, which contains the unredacted Presentment, until September 9, 2026.
- 4 The four corners include any exhibits attached to the presentment.
- 5 Whatever "spirit" a statute has resides in the body of its text. Courts give statutory language the meaning that "a reasonable reader, fully competent in the language, would have understood the text [to have] at the time it was issued." *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 947 (Fla. 2020). A spirit summoned apart from that body is not statutory interpretation; it is hermeneutical necromancy. The point carries particular force where, as here, the accusation is of wrongdoing "little short of a crime," *Brautigam*, 93 So. 2d at 102, because penal provisions "shall be strictly construed" and, when "susceptible of differing constructions," must be "construed most favorably to the accused." § 775.021(1), Fla. Stat. Cf. *Hudson v. Marin*, 259 So. 3d 148,

160 (Fla. 3d DCA 2018) (“A finding of contempt requires ‘the violation of the letter of an order – not its spirit.’”) (quoting *Reder v. Miller*, 102 So. 3d 742, 744 (Fla. 2d DCA 2012)).

- 6 The \$10 million provided to Hope Florida in the Centene settlement was never public money. The money neither reimbursed the State for losses from Centene's overcharges nor ever became the property of the State of Florida, as the transfer of the funds was directly from Centene to Hope Florida. While some may question the propriety of settlements with payments to third parties, the Florida Legislature has not made such action illegal, as the grand jury's recommendations implicitly acknowledge. Indeed, Florida's attorneys general from 1996 to 2020 executed 107 settlements in which third-party payments were directed to entities other than the State. The federal government has also engaged in this practice. The practice was halted in June 2017 by the United States Attorney General. Memorandum from Jefferson B. Sessions III, Att'y Gen., to All Component Heads & U.S. Att'ys, *Prohibition on Settlement Payments to Third Parties* (June 5, 2017). However, Attorney General Merrick Garland, in May 2022, rescinded the 2017 prohibition. Memorandum from Merrick B. Garland, Att'y Gen., to Heads of Department Components & U.S. Att'ys, *Guidelines and Limitations for Settlement Agreements Involving Payments to Non-Governmental Third Parties* (May 5, 2022). Attorney General Pamela Bondi reinstated the prohibition in February 2025. Memorandum from Pamela Bondi, Att'y Gen., to All Department Employees, *Reinstating the Prohibition on Improper Third-Party Settlements* (Feb. 5, 2025).
- 7 The State Attorney had the authority, under the circuit court's order, to provide Senator Ashley Moody and the Florida Freedom Fund a copy of the Presentment. That authority, however, extended only to Senator Moody herself, an authorized representative of the Florida Freedom Fund, or their designated counsel—not to unknown recipients at generic intake email addresses. The disclosures that exceeded what [section 905.28\(1\)](#) permitted included the emails to the two generic intake addresses, the email to the recipient with no involvement in the proceeding, and the email to Representative Andrade, who was not an individual concerned. Disclosures to persons the Presentment does not impugn, not the furnishing of copies to the individuals concerned, constitute the violation of [section 905.28](#).
- 8 The disclosure of the confidential Presentment may itself have violated [section 905.27\(1\)](#) and [\(2\)](#), Fla. Stat. We express no view on the lawfulness of its publication by the press.
- 1 I also agree that we are correct to reverse the notification orders as discussed in section V. of the majority opinion.
- 2 For instance, a forensic accountant who assisted the grand jury in sorting through bank records was provided with a prepublication copy of the Presentment. There are no allegations anywhere in the Presentment concerning wrongdoing by the accountant. The Presentment described his testimony as “thorough, credible, and detail oriented.” Bank of America was also provided with a prepublication copy of the Presentment. It was not alleged to have been involved in anything improper other than being tardy in responding to subpoenas for bank records.