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4
RESOLUTION NO. 2019-121

5 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
6 OF ALACHUA COUNTY, FLORIDA DIRECTING AND
7 AUTHORIZING THE COUNTY ATTORNEY TO JOIN A BRIEF OF
8 AMICI CURAE IN SUPPORT OF THE PLAINTIFFS AND ORANGE
9 COUNTY IN ANY APPEAL OF A TRIAL COURT ORDER IN YANES
10 V. O C FOOD & BEVERAGE, LLC (CASE NO. 18-CA-003554-0),
11 WHICH FOUND THAT THE ORANGE COUNTY HUMAN RIGHTS
12 ORDINANCE WAS PREEMPTED BY THE FLORIDA CIVIL RIGHTS
13 ACT; FINDING THAT SUPPORT OF THE BRIEF IS IN THE BEST
14 INTERESSET OF ALACHUA COUNTY AND ITS HUMAN RIGHTS
15 ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.
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18 **WHEREAS**, on April 6, 2018, Plaintiffs, Anita Yanes and Brittney Smith (“Plaintiffs”)
19 filed a complaint in Orange County Circuit Court against O C Food & Beverage, LLC., d/b/a
20 Rachel’s and West Palm Beach Food and Beverage, LLC, d/b/a Rachel’s Adult Entertainment and
21 Steakhouse (collectively, the “Defendant”), alleging unlawful discrimination on the basis of sex
22 pursuant to Orange County’s Human Rights Ordinance and seeking injunctive relief and
23 compensatory damages; and

24 **WHEREAS**, the lawsuit was initiated after the Plaintiffs were denied entry to the
25 Defendant’s adult establishment unless they were accompanied by a male companion; and

26 **WHEREAS**, in their complaint, Plaintiffs argued that the Defendant’s policy was in
27 violation of the Orange County’s Human Rights Ordinance, which prohibits discrimination in a
28 place of public accommodation on the basis of sex; and

29 **WHEREAS**, the Defendant filed a motion to dismiss, arguing that the complaint should be
30 dismissed for failure to state a cause of action because the lawsuit should have been filed under
31 the Florida Civil Rights Act (“FCRA”) rather than the Orange County Human Rights Ordinance,

1 which, Defendant alleged, is preempted by the FCRA; and

2 **WHEREAS**, on May 20, 2019, the Circuit Court entered an order granting the dismissal
3 of the Plaintiffs’ complaint finding the FCRA preempted Orange County’s Human Rights
4 Ordinance, and that the FCRA provides a complete structure for litigating discrimination cases;
5 and

6 **WHEREAS**, the City of Miami Beach sought leave of court to appear as amicus curiae
7 (“friend of the court”) and is scheduled to file a brief in support of the Plaintiffs on or before
8 December 16, 2019; and

9 **WHEREAS**, the City of Miami Beach has requested counties and cities in Florida with
10 similar Human Rights ordinances to join the City of Miami Beach in support of their brief; and

11 **WHEREAS**, the Alachua County Board of County Commissioners find that the Circuit
12 Court’s order of dismissal, while not binding on this Board, could jeopardize the validity of the
13 County’s Human Rights Ordinance; and

14 **WHEREAS**, the Board desires to support the City of Miami Beach’s brief and conclusion
15 that counties should be participating parties to litigation that challenge the validity of county
16 ordinances, and that local human rights ordinances are not preempted by FCRA; and

17 **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY**
18 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

- 19 **1.** The Board finds it is in the best interest of the County and the County’s Human Rights
20 Ordinance to join in the City of Miami Beach’s brief.
- 21 **2.** The Board finds that the County has a strong, continued interest in fighting
22 discrimination through its Human Rights Ordinance and that such Ordinance is not
23 preempted by the FCRA.

