No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME I

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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A

CLOSED,APPEAL,LEAD_CASE

U.S. District Court
Northern District of Florida (Tallahassee)
CIVIL DOCKET FOR CASE #: 4:19−cv−00300−RH−MJF

JONES et al v. DESANTIS et al
Assigned to: JUDGE ROBERT L HINKLE
Referred to: MAGISTRATE JUDGE MICHAEL J FRANK
Cause: 28:1651 Petition for Writ of Mandamus

Date Filed: 06/28/2019
Date Terminated: 05/26/2020
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

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Plaintiff

CURTIS D BRAYNT represented by **ELIZA SWEREN−BECKER**
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DANIEL BOAZ TILLEY
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LEAH CAMILLE ADEN
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Plaintiff

represented by

JESSE D HAMILTON
TERMINATED: 04/09/2020

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Plaintiff

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V.

Defendant

RON DESANTIS represented by **COLLEEN M ERNST**
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Defendant

CRAIG LATIMER
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AN INDISPENSIBLE PARTY

represented by

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Defendant

LAUREL M LEE
IN HER OFFICIAL CAPACITY AS SECRETARY OF STATE OF THE STATE OF FLORIDA

represented by

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Defendant

KIM A BARTON
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Defendant

PETER ANTONACCI
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TERMINATED: 08/21/2019

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Defendant

MIKE HOGAN
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Defendant

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Defendant

MARK EARLEY
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Defendant

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Defendant

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Defendant

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Defendant

RON TURNER
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Amicus

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Date Filed	#	Docket Text
06/28/2019	1	COMPLAINT *against Ron Desantis, Laurel Lee, and Craig Latimer* filed by Kelvin Leon Jones. (Attachments: # 1 Civil Cover Sheet) (STEINBERG, MICHAEL) Modified docket text on 7/1/2019 (toy). (Entered: 06/28/2019)
06/28/2019	2	First MOTION for Leave to Proceed in forma pauperis by Kelvin Leon Jones. (STEINBERG, MICHAEL) (Entered: 06/28/2019)
06/30/2019	3	ORDER OF TRANSFER AND CONSOLIDATION WITH PRIOR−FILED CASE. The Clerk is directed to take all necessary steps to consolidate Case Nos. 4:19cv300,

		1:19cv121, and 4:19cv301 for the purposes of case management. They will be maintained on a common docket under Consolidated Case No. 4:19cv300. The Clerk is directed to connect all lawyers from the consolidated cases to Case No. 4:19cv300. A paper that is applicable to any of the consolidated case must be filed in the common docket and must not be filed separately in any other case. Signed by CHIEF JUDGE MARK E WALKER on 6/30/2019. (kjw) (Entered: 06/30/2019)
07/01/2019	4	DOCKET ANNOTATION BY COURT: Attorney MICHAEL A STEINBERG Re 1 Complaint − Counsel is advised by this entry, that a Civil Cover Sheet should be filed as a separate entry using the event selection "Civil Cover Sheet" which is found under "Other Filings" under "Other Documents". PLEASE RE−FILE THE CIVIL COVER SHEET. (toy) (Entered: 07/01/2019)
07/01/2019	5	CIVIL COVER SHEET. (STEINBERG, MICHAEL) (Entered: 07/01/2019)
07/01/2019	6	NOTICE of Appearance by NICHOLAS ALLEN PRIMROSE on behalf of RON DESANTIS (PRIMROSE, NICHOLAS) (Entered: 07/01/2019)
07/02/2019	7	ORDER GRANTING 2 MOTION TO PROCEED FORMA PAUPERIS. *Fee status updated to in forma pauperis*. Signed by CHIEF JUDGE MARK E WALKER on 07/02/2019. (toy) (Entered: 07/02/2019)
07/02/2019	8	ORDER SETTING TELEPHONIC STATUS HEARING. This Court must hold a hearing on an expedited basis. Accordingly, the Clerk is directed to set a telephonic status hearing on Friday, July 5, 2019. (Telephonic Hearing Deadline − by **7/5/2019**.) Signed by CHIEF JUDGE MARK E WALKER on 07/02/2019. (toy) (Entered: 07/02/2019)
07/02/2019	9	NOTICE of Appearance by DANIEL BOAZ TILLEY on behalf of FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (TILLEY, DANIEL) (Entered: 07/02/2019)
07/02/2019	10	NOTICE of Appearance by MOHAMMAD OMAR JAZIL on behalf of LAUREL M LEE (JAZIL, MOHAMMAD) (Entered: 07/02/2019)
07/02/2019	11	NOTICE *of Related Cases* by LAUREL M LEE (JAZIL, MOHAMMAD) (Entered: 07/02/2019)
07/02/2019	12	NOTICE OF TELEPHONIC HEARING: Telephonic Status Conference set for **7/5/2019 11:00 AM** before CHIEF JUDGE MARK E WALKER. ALL PARTIES are directed to call the AT&T Conference Line (see below) Conference Call Information You may dial into the conference call up to five minutes before start time. Call in number: **888−684−8852** When prompted for an access code, enter: **3853136#** If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: **4565#** Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. Please also mute your phone if you join the line and a hearing is already in progress. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices. s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 07/02/2019)
07/02/2019	13	MOTION to Appear Pro Hac Vice by Molly Danahy.(Filing fee $ 201 receipt number AFLNDC−4540304.) by BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit (Certificate of Good Standing)) (DANAHY, MOLLY) (Entered: 07/02/2019)
07/02/2019	14	MOTION to Appear Pro Hac Vice by Mark P. Gaber.(Filing fee $ 201 receipt number AFLNDC−4540341.) by BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit (Certificate of Good Standing)) (GABER, MARK) (Entered: 07/02/2019)

07/02/2019	15	MOTION to Appear Pro Hac Vice by Danielle M. Lang.(Filing fee $ 201 receipt number AFLNDC−4540345.) by BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit (Certificate of Good Standing)) (LANG, DANIELLE) (Entered: 07/02/2019)
07/02/2019	16	AFFIDAVIT of Service for Complaint served on Colleen O'Brien on 07/01/2019, filed by BONNIE RAYSOR, DIANE SHERRILL. (DUNN, CHAD) (Entered: 07/02/2019)
07/02/2019	17	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 13 . Attorney MOLLY ELIZABETH DANAHY for BONNIE RAYSOR and DIANE SHERRILL added. Signed by CHIEF JUDGE MARK E WALKER on 07/02/2019. (toy) (Entered: 07/03/2019)
07/02/2019	18	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 14 . Attorney MARK P GABER for BONNIE RAYSOR and DIANE SHERRILL added. Signed by CHIEF JUDGE MARK E WALKER on 07/02/2019. (toy) (Entered: 07/03/2019)
07/03/2019	19	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 15 . Attorney DANIELLE MARIE LANG for BONNIE RAYSOR and DIANE SHERRILL added. Signed by CHIEF JUDGE MARK E WALKER on 07/03/2019. (toy) (Entered: 07/03/2019)
07/03/2019	20	NOTICE of Appearance by ROBERT CHARLES SWAIN on behalf of KIM A BARTON (SWAIN, ROBERT) (Entered: 07/03/2019)
07/03/2019	21	NOTICE of Appearance by OREN ROSENTHAL on behalf of CHRISTINA WHITE (ROSENTHAL, OREN) (Entered: 07/03/2019)
07/03/2019	22	NOTICE of Appearance by JIMMY MIDYETTE, JR on behalf of JEFF GRUVER (MIDYETTE, JIMMY) (Entered: 07/03/2019)
07/03/2019	23	NOTICE of Appearance by BRADLEY ROBERT MCVAY on behalf of LAUREL M LEE (MCVAY, BRADLEY) (Entered: 07/03/2019)
07/03/2019	24	NOTICE *Of Unavailability* by KIM A BARTON (SWAIN, ROBERT) (Entered: 07/03/2019)
07/03/2019	25	MOTION to Appear Pro Hac Vice by Eliza Sweren−Becker.(Filing fee $ 201 receipt number AFLNDC−4540690.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, RAQUEL WRIGHT. (SWEREN−BECKER, ELIZA) (Entered: 07/03/2019)
07/03/2019	26	MOTION to Appear Pro Hac Vice by John S. Cusick.(Filing fee $ 201 receipt number AFLNDC−4541161.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing) (CUSICK, JOHN) (Entered: 07/03/2019)
07/03/2019	27	MOTION to Appear Pro Hac Vice by Jonathan Diaz.(Filing fee $ 201 receipt number AFLNDC−4541201.) by BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit (Certificate of Good Standing)) (DIAZ, JONATHAN) (Entered: 07/03/2019)
07/03/2019	28	MOTION to Appear Pro Hac Vice by Caren E. Short.(Filing fee $ 201 receipt number AFLNDC−4541477.) by ROSEMARY MCCOY, SHEILA SINGLETON. (Attachments: # 1 Exhibit Certificate of Good Standing) (SHORT, CAREN) (Entered: 07/03/2019)
07/03/2019	29	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 26 . Attorney JOHN SPENCER CUSICK for FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY,LEAGUE OF WOMEN VOTERS OF FLORIDA,KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL,ORANGE COUNTY BRANCH OF THE NAACP,STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON,KRISTOPHER WRENCH, and RAQUEL WRIGHT added. Signed by CHIEF JUDGE MARK E WALKER on 07/03/2019. (toy)

		(Entered: 07/03/2019)
07/03/2019	30	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 27 . Attorney JONATHAN MICHAEL DIAZ for BONNIE RAYSOR and DIANE SHERRILL added. Signed by CHIEF JUDGE MARK E WALKER on 07/03/2019. (toy) (Entered: 07/03/2019)
07/03/2019	31	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 25 . Attorney ELIZA SWEREN−BECKER for FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, and RAQUEL WRIGHT added. Signed by CHIEF JUDGE MARK E WALKER on 07/03/2019. (toy) (Entered: 07/03/2019)
07/03/2019	32	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 28 . Attorney CAREN E SHORT for ROSEMARY MCCOY and SHEILA SINGLETON added. Signed by CHIEF JUDGE MARK E WALKER on 07/03/2019. (toy) (Entered: 07/03/2019)
07/03/2019	33	NOTICE of Appearance by NICHOLAS ARI SHANNIN on behalf of BILL COWLES (SHANNIN, NICHOLAS) (Entered: 07/03/2019)
07/03/2019	34	NOTICE of Appearance by WENDY ROBIN WEISER on behalf of FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (WEISER, WENDY) (Entered: 07/03/2019)
07/03/2019	35	NOTICE of Appearance by MYRNA PEREZ on behalf of FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (PEREZ, MYRNA) (Entered: 07/03/2019)
07/03/2019	36	MOTION to Expedite *Discovery* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/03/2019)
07/05/2019	37	*VACATED PER ECF# 107 * INITIAL SCHEDULING ORDER : Fed.R.Civ.P. 7.1 Corporate Disclosure Statement Deadline set for **7/19/2019**. Rule 26 Meeting Report due by **8/19/2019**. Discovery due by **11/4/2019**. Status Report due by **8/5/2019**. Signed by CHIEF JUDGE MARK E WALKER on 07/05/2019. (toy) Modified docket text on 8/16/2019 (toy). (Entered: 07/05/2019)
07/05/2019	38	MOTION to Appear Pro Hac Vice by Leah C. Aden.(Filing fee $ 201 receipt number AFLNDC−4542301.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing − NY) (ADEN, LEAH) (Entered: 07/05/2019)
07/05/2019	39	Minute Entry for proceedings held before CHIEF JUDGE MARK E WALKER: Status Conference held on 7/5/2019. Parties discuss case status. Ruling by Court: Parties to confer no later than 7/12/19 re: 36 Motion to Expedite Discoveryif no agreement can be reached, responses to the motion are due by **7/15/2019**, replies by **7/16/2019**. Defendant Lee's ore tenus motion for defendants to file one responsive pleading is granted, and parties should also confer and discuss by 7/12/19. Clerk to set a telephonic scheduling conference for 7/19/19 at noon (Court Reporter Megan Hague). (vkm) (Entered: 07/05/2019)

07/05/2019	40	NOTICE OF TELEPHONIC HEARING: Telephonic Scheduling Conference set for **7/19/2019 12:00 PM** before CHIEF JUDGE MARK E WALKER. ALL PARTIES are directed to call the AT&T Conference Line (see below) Conference Call Information You may dial into the conference call up to five minutes before start time. Call in number: **888−684−8852** When prompted for an access code, enter: **3853136#** If you are asked to join as the host, just ignore and wait until you are asked for a security code. When asked for a security code, enter: **4565#** Say your name, when prompted. You are now in the conference call. Remember to mute your phone when you are not speaking. The Court also asks that counsel NOT use cell phones or speaker phones during the call as the quality of the audio connection is comprised by these devices. s/ Victoria Milton McGee Courtroom Deputy Clerk (vkm) (Entered: 07/05/2019)
07/05/2019	41	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE re 38 . Attorney LEAH CAMILLE ADEN for FLORIDA STATE CONFERENCE OF THE NAACP,JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, and RAQUEL WRIGHT added. Signed by CHIEF JUDGE MARK E WALKER on 07/05/2019. (toy) (Entered: 07/05/2019)
07/05/2019	45	Motion to be Granted Amicus Curiae Status filed by John B. Thompson. (rcb) (Entered: 07/08/2019)
07/08/2019	42	CIVIL COVER SHEET. (SHORT, CAREN) (Entered: 07/08/2019)
07/08/2019	43	NOTICE *of summonses to be issued by the Clerk* by ROSEMARY MCCOY, SHEILA SINGLETON (Attachments: # 1 Lee Summons, # 2 Hogan Summons) (SHORT, CAREN) (Entered: 07/08/2019)
07/08/2019	44	Summons Issued as to RON DESANTIS, MIKE HOGAN, LAUREL M LEE. (toy) (Entered: 07/08/2019)
07/08/2019	46	NOTICE of Appearance by CRAIG DENNIS FEISER on behalf of MIKE HOGAN (FEISER, CRAIG) (Entered: 07/08/2019)
07/08/2019	47	NOTICE of Appearance by DYLAN T REINGOLD on behalf of LESLIE ROSSWAY SWAN (REINGOLD, DYLAN) (Entered: 07/08/2019)
07/08/2019	48	ORDER DENYING 45 MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF. Signed by CHIEF JUDGE MARK E WALKER on 07/08/2019. (toy) (Entered: 07/08/2019)
07/08/2019	49	MOTION to Appoint Process Server by KELVIN LEON JONES. (Attachments: # 1 US Marshal for Ron Desantis, # 2 Summon for Ron Desantis, # 3 US Marshal for Laurel Lee, # 4 Summon for Laurel Lee, # 5 US Marshal for Craig Latimer, # 6 Summon for Craig Latimer) (STEINBERG, MICHAEL) (Entered: 07/08/2019)
07/08/2019		Set Response to Motion Deadlines as to 49 MOTION to Appoint Process Server . (Internal deadline for referral to judge if response not filed earlier: **7/22/2019)**. (toy) (Entered: 07/09/2019)
07/09/2019	50	ORDER GRANTING 49 MOTION FOR SERVICE BY UNITED STATES MARSHAL. Counsel for Petitioner/Plaintiff is directed to provide to the Clerk of the Court service copies of the Complaint, prepared Summons, and prepared USM 285 forms necessary for service by the United States Marshal. The Clerk shall forward four certified copies of this order, along with the Summons, service copies of the Complaint, and USM 285 forms, previously prepared by counsel for Petitioner/Plaintiff, to the United States Marshal. Upon receipt of these documents, the United States Marshal shall personally serve a copy of the Complaint and Summons on the above −named Respondents/Defendants and subsequently file its returns of service with the Clerk. Signed by CHIEF JUDGE MARK E WALKER on 07/09/2019. (toy)

		Copies distributed as directed (Entered: 07/09/2019)
07/09/2019	51	Summons Issued as to RON DESANTIS, CRAIG LATIMER, LAUREL M LEE. (Hard copies of summons and USM 285 Forms received by mail) (toy) (Entered: 07/09/2019)
07/09/2019	52	MOTION to Appear Pro Hac Vice by Jonathan S. Topaz.(Filing fee $ 201 receipt number AFLNDC−4545806.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Topaz Certificate of Good Standing) (TOPAZ, JONATHAN) (Entered: 07/09/2019)
07/09/2019	53	NOTICE of Appearance by ADAM M KATZMAN on behalf of PETER ANTONACCI (KATZMAN, ADAM) (Entered: 07/09/2019)
07/09/2019	54	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE This Court has considered, without hearing, Plaintiffs' Motion to Appear Pro Hac Vice for Jonathan S. Topaz. ECF No. 52 . The motion is GRANTED. Mr. Topaz has fulfilled the requirements of the Local Rules for admission and is admitted pro hac vice as counsel for Plaintiffs. Signed by CHIEF JUDGE MARK E WALKER on 7/9/19. (blb) (Entered: 07/09/2019)
07/10/2019	55	NOTICE of Appearance by MARK HERRON on behalf of MARK EARLEY (HERRON, MARK) (Entered: 07/10/2019)
07/10/2019	56	AFFIDAVIT of Service for Complaint served on RON DESANTIS (on behalf of Nick Primrose) on July 9, 2019, filed by ROSEMARY MCCOY, SHEILA SINGLETON. (SHORT, CAREN) Modified on 7/11/2019 to identify party served (toy). (Entered: 07/10/2019)
07/10/2019	57	NOTICE of Appearance by NATHANIEL ADAM KLITSBERG on behalf of PETER ANTONACCI (KLITSBERG, NATHANIEL) (Entered: 07/10/2019)
07/10/2019	58	AFFIDAVIT of Service for Complaint served on LAUREL M LEE (on behalf of Ashley Davis) on July 9, 2019, filed by ROSEMARY MCCOY, SHEILA SINGLETON. (SHORT, CAREN) Modified on 7/11/2019 to identify party served (toy). (Entered: 07/10/2019)
07/10/2019	59	NOTICE of Appearance by RENE DEVLIN HARROD on behalf of PETER ANTONACCI (HARROD, RENE) (Entered: 07/10/2019)
07/10/2019	60	MOTION to Appear Pro Hac Vice by Sean Morales−Doyle.(Filing fee $ 201 receipt number AFLNDC−4547537.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit A) (MORALES−DOYLE, SEAN) (Entered: 07/10/2019)
07/11/2019		Set Deadlines/Hearings RON DESANTIS answer due 7/30/2019; LAUREL M LEE answer due 7/30/2019. (toy) (Entered: 07/11/2019)
07/11/2019	61	ORDER GRANTING 60 ADMISSION TO APPEAR PRO HAC VICE. Mr. Morales−Doyle has fulfilled the requirements of the Local Rules for admission and is admitted pro hac vice as counsel for Plaintiffs. Signed by CHIEF JUDGE MARK E WALKER on 07/11/2019. (toy) (Entered: 07/11/2019)
07/12/2019	62	MOTION to Appear Pro Hac Vice by R. Orion Danjuma.(Filing fee $ 201 receipt number AFLNDC−4549981.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Danjuma Certificate of Good Standing) (DANJUMA,

		RODKANGYIL) (Entered: 07/12/2019)
07/12/2019	63	NOTICE *of Compliance with Court's Direction* by LAUREL M LEE re 39 Status Conference,,, Set Deadlines/Hearings,, (JAZIL, MOHAMMAD) (Entered: 07/12/2019)
07/12/2019	65	ORDER GRANTING ADMISSION TO APPEAR PRO HAC VICE. RE ECF NO. 62 . (Appointed RODKANGYIL ORION DANJUMA for FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER,KEITH IVEY,LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL,ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN,BETTY RIDDLE,CLIFFORD TYSON,KRISTOPHER WRENCH, and RAQUEL WRIGHT. Signed by CHIEF JUDGE MARK E WALKER on 07/12/2019. (toy) (Entered: 07/15/2019)
07/15/2019	64	ORDER DENYING 36 MOTION FOR EXPEDITED DISCOVERY AS MOOT. In light of the Secretary's Notice of Compliance, ECF No. 63 , indicating that the Gruver Plaintiffs "have agreed to withdraw their Motion for Expedited Discovery... and intend to abide by this Court's Initial Scheduling Order," Plaintiffs' motion, ECF No. 36 , is DENIED as moot. Signed by CHIEF JUDGE MARK E WALKER on 07/15/2019. (toy) (Entered: 07/15/2019)
07/15/2019	66	NOTICE *[Supplemental] of Compliance with Court's Direction* by LAUREL M LEE re 63 Notice (Other) (JAZIL, MOHAMMAD) (Entered: 07/15/2019)
07/15/2019	67	NOTICE of Appearance by MORGAN RAY BENTLEY on behalf of MICHAEL BENNETT (BENTLEY, MORGAN) (Entered: 07/15/2019)
07/15/2019	68	NOTICE of Appearance by MORGAN RAY BENTLEY on behalf of RON TURNER (BENTLEY, MORGAN) (Entered: 07/15/2019)
07/15/2019	69	AFFIDAVIT *of Service on Kim A. Barton* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	70	AFFIDAVIT *of Service on Michael Bennett* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	71	AFFIDAVIT *of Service on Broward County Supervisor of Elections − PETER ANTONACCI* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) Modified on 7/16/2019 to identify defendant served (toy). (Entered: 07/15/2019)
07/15/2019	72	AFFIDAVIT *of Service on Bill Cowles* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	73	AFFIDAVIT *of Service on Mark Earley* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)

07/15/2019	74	AFFIDAVIT *of Service on Mike Hogan* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	75	AFFIDAVIT *of Service on Craig Latimer* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	76	AFFIDAVIT *of Service on Laurel M. Lee* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	77	AFFIDAVIT *of Service on Leslie Rossway Swan* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	78	AFFIDAVIT *of Service on Ron Turner* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019	79	AFFIDAVIT *of Service on Christina White* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 07/15/2019)
07/15/2019		Set Deadlines/Hearings: PETER ANTONACCI answer due 7/22/2019; KIM A BARTON answer due 7/23/2019; MICHAEL BENNETT answer due 7/22/2019; BILL COWLES answer due 7/22/2019; MARK EARLEY answer due 7/22/2019; MIKE HOGAN answer due 7/23/2019; CRAIG LATIMER answer due 7/22/2019; LESLIE ROSSWAY SWAN answer due 7/22/2019; RON TURNER answer due 7/22/2019; CHRISTINA WHITE answer due 7/22/2019. (toy) (Entered: 07/16/2019)
07/16/2019	80	MOTION to Appear Pro Hac Vice by Blair Bowie.(Filing fee $ 201 receipt number AFLNDC−4552740.) by BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit (Certificate of Good Standing)) (BOWIE, BLAIR) (Entered: 07/16/2019)
07/16/2019	81	ORDER GRANTING 80 ADMISSION TO APPEAR PRO HAC VICE. Ms. Bowie has fulfilled the requirements of the Local Rules for admission and is admitted pro hac vice as counsel for Plaintiffs Bonnie Raysor and Diane Sherrill. Signed by CHIEF JUDGE MARK E WALKER on 07/16/2019. (toy) (Entered: 07/16/2019)
07/16/2019	82	AFFIDAVIT of Service for Complaint served on Mike Hogan on July 11, 2019, filed by ROSEMARY MCCOY, SHEILA SINGLETON. (SHORT, CAREN) (Entered: 07/16/2019)
07/16/2019	83	NOTICE of Appearance by GEORGE N MEROS, JR on behalf of PETER ANTONACCI, LAUREL M LEE (MEROS, GEORGE) (Entered: 07/16/2019)
07/16/2019	84	FIRST AMENDED COMPLAINT against LAUREL M LEE, filed by BONNIE RAYSOR, DIANE SHERRILL, LEE HOFFMAN. (DUNN, CHAD) (Entered: 07/16/2019)

07/17/2019	85	NOTICE OF CANCELLED HEARING: Telephonic Scheduling Conference set for **7/19/2019 12:00 PM** before CHIEF JUDGE MARK E WALKER is **CANCELLED** . (vkm) (Entered: 07/17/2019)
07/17/2019	86	ORDER OF DISQUALIFICATION. Case reassigned to JUDGE ROBERT L HINKLE for all further proceedings. CHIEF JUDGE MARK E WALKER no longer assigned to case. Signed by CHIEF JUDGE MARK E WALKER on 07/17/2019. *For future filings please use the new judge's initials 4−19−cv−300−RH−MJF* (toy) (Entered: 07/17/2019)
07/17/2019		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE ROBERT L HINKLE notified that action is needed Re: 86 Order of Disqualification. (toy) (Entered: 07/17/2019)
07/17/2019	87	NOTICE of Appearance by TARA R PRICE on behalf of PETER ANTONACCI, LAUREL M LEE (PRICE, TARA) (Entered: 07/17/2019)
07/18/2019	88	NOTICE of Appearance by CORBIN FREDERICK HANSON on behalf of KIM A BARTON (HANSON, CORBIN) (Entered: 07/18/2019)
07/19/2019	89	MOTION for Extension of Time to File Response/Reply as to 84 Amended Complaint, 1 Complaint by PETER ANTONACCI. (Attachments: # 1 Text of Proposed Order) (KATZMAN, ADAM) (Entered: 07/19/2019)
07/19/2019	90	Corporate Disclosure Statement/Certificate of Interested Persons by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (ADEN, LEAH) (Entered: 07/19/2019)
07/22/2019	92	ORDER EXTENDING THE DEADLINE TO RESPOND TO THE COMPLAINTS. The defendants' unopposed motion, ECF No. 89 , to extend the deadline to respond to the amended complaint in No. 4:19cv300 is granted. The deadline for these defendants to respond to the pending complaint in any of the consolidated cases is the later of August 2, 2019 or the deadline that would have applied in the absence of this order. ((Internal deadline for referral to judge if response not filed earlier: **8/2/2019)**.) Signed by JUDGE ROBERT L HINKLE on 07/22/2019. (toy) (Entered: 07/23/2019)
07/23/2019	91	ORDER SETTING TERMS OF CONSOLIDATION, RULE 26(f) DEADLINES, AND A SCHEDULING CONFERENCE. These cases are consolidated for case−management purposes only and will be maintained on a common docket under Consolidated Case No. 4:19cv300. The deadline for a Rule 26(f) conference among attorneys for all parties in any of these cases is August 5, 2019. The deadline to file the 26(f) report is August 12, 2019. By a separate notice, the clerk must set a scheduling conference by telephone for August 15, 2019 at 11:00 a.m. Rule 26 Meeting Report due by **8/12/2019**. Scheduling Conference set for **8/15/2019 11:00 AM** before JUDGE ROBERT L HINKLE. Signed by JUDGE ROBERT L HINKLE on 07/23/2019. (toy) (Entered: 07/23/2019)
07/25/2019	93	NOTICE OF TELEPHONIC HEARING: Telephonic Scheduling Conference set for **8/15/2019 11:00 AM** before JUDGE ROBERT L HINKLE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **0815#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 07/25/2019)
07/26/2019	94	MOTION for a Scheduling and Briefing Order by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Text of Proposed Order) (EBENSTEIN, JULIE) (Entered: 07/26/2019)

07/26/2019		Set Response to Motion Deadline as to 94 MOTION for a Scheduling and Briefing Order . (Internal deadline for referral to judge if response not filed earlier: **8/9/2019)**. (toy) (Entered: 07/29/2019)
08/02/2019	95	Emergency MOTION for Leave to File Excess Pages *re: Plaintiffs' Motion for Preliminary Injunction* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Text of Proposed Order) (EBENSTEIN, JULIE) (Entered: 08/02/2019)
08/02/2019	96	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Supervisors of Elections' Consolidated Motion to Dismiss Plaintiff's Complaint* by PETER ANTONACCI, KIM A BARTON, MICHAEL BENNETT, BILL COWLES, MARK EARLEY, MIKE HOGAN, CRAIG LATIMER, LESLIE ROSSWAY SWAN, RON TURNER. (KATZMAN, ADAM) (Entered: 08/02/2019)
08/02/2019	97	Joint MOTION to Dismiss *(Florida Governor & Florida Secretary of State)* by LAUREL M LEE. (Internal deadline for referral to judge if response not filed earlier: **8/16/2019)**. (Attachments: # 1 Exhibit 1) (JAZIL, MOHAMMAD) (Entered: 08/02/2019)
08/02/2019	98	Corrected and Unopposed MOTION for Leave to File a Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction in Excess of the Word Limit by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Prop. Mem. in Supp. of Mot. for Prelim. Inj., # 2 Carpenter Decl., # 3 Ex. A Smith Rep., # 4 Ex. B Gruver Decl., # 5 Ex. C Mitchell Decl., # 6 Ex. D Riddle Decl., # 7 Ex. E Leicht Decl., # 8 Ex. F Ivey Decl., # 9 Ex. G Wrench Decl., # 10 Ex. H Wright Decl., # 11 Ex. I Phalen Decl., # 12 Ex. J Miller Decl., # 13 Ex. K Tyson Decl., # 14 Ex. L McCoy Decl., # 15 Ex. M Singleton Decl., # 16 Ex. N Raysor Decl., # 17 Ex. O Sherrill Decl., # 18 Ex. P Hoffman Decl., # 19 Ex. Q Neal Decl., # 20 Ex. R Nweze Decl., # 21 Ex. S Brigham, # 22 Ex. T Feb. 11 Email, # 23 Ex. U June 7 Email, # 24 Ex. V Arrington Dep. Excerpts, # 25 Ex. W Haughwout Decl., # 26 Ex. X Bowie Decl., # 27 Ex. Y July 2 Email) (EBENSTEIN, JULIE) Modified on 8/5/2019 to match the PDF title (toy). (Entered: 08/02/2019)
08/02/2019		Set Response to Motion Deadline as to 96 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Supervisors of Elections' Consolidated Motion to Dismiss Plaintiff's Complaint*. (Internal deadline for referral to judge if response not filed earlier: **8/16/2019)**. (toy) (Entered: 08/05/2019)
08/06/2019	99	STATUS REPORT *(Joint Discovery Report for all Parties)* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (MORALES−DOYLE, SEAN) (Entered: 08/06/2019)
08/07/2019		Set Deadlines/Hearings Status Report due by **9/7/2019**. (toy) (Entered: 08/07/2019)
08/07/2019	100	ORDER DENYING THE 94 MOTION FOR A SCHEDULING AND BRIEFING ORDER. Signed by JUDGE ROBERT L HINKLE on 08/07/2019. (toy) (Entered: 08/07/2019)
08/07/2019	101	ORDER ENDING REQUIREMENTS TO FILE DISCOVERY STATUS REPORTS. The initial scheduling order, ECF No. 37 , is amended to delete the requirement to file monthly reports on the status of discovery. Signed by JUDGE ROBERT L HINKLE on 08/07/2019. (toy) (Entered: 08/07/2019)

08/07/2019	102	Joint MOTION to Stay *Discovery as it Relates to Supervisors of Elections*, MOTION for Protective Order by CHRISTINA WHITE. (ROSENTHAL, OREN) (Entered: 08/07/2019)
08/07/2019	103	ORDER ALLOWING MEMORANDA OF EXCESSIVE LENGTH − Plaintiffs' unopposed motion, ECF No. 98 , for leave to file a preliminary−injunction memorandum that exceeds the word limit is granted. The memorandum, ECF No. 98 −1, is deemed properly filed as of August 2, 2019. Signed by JUDGE ROBERT L HINKLE on 8/7/2019. (cle) (Entered: 08/08/2019)
08/07/2019		Set Response to Motion Deadline as to 102 Joint MOTION to Stay *Discovery as it Relates to Supervisors of Elections* MOTION for Protective Order . (Internal deadline for referral to judge if response not filed earlier: **8/21/2019)**. (toy) (Entered: 08/08/2019)
08/08/2019	104	ACKNOWLEDGMENT OF SERVICE on BRAD MCVAY, on behalf of LAUREL M LEE on August 6, 2019. (toy) (Entered: 08/08/2019)
08/12/2019	105	REPORT of Rule 26(f) Planning Meeting. (SWEREN−BECKER, ELIZA) (Entered: 08/12/2019)
08/15/2019	106	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Telephonic Scheduling Conference held on 8/15/2019. An Order is forthcoming. (Court Reporter Judy Gagnon.) (kjw) (Entered: 08/15/2019)
08/15/2019	107	SCHEDULING ORDER and ORDER denying 96 Motion to Dismiss for Failure to State a Claim; denying 102 Motion to Stay; denying 102 Motion for Protective Order. The Initial Scheduling Order is VACATED. Signed by JUDGE ROBERT L HINKLE on 8/15/19. (sms) (Entered: 08/15/2019)
08/15/2019	108	MOTION for Preliminary Injunction by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (EBENSTEIN, JULIE) (Entered: 08/15/2019)
08/16/2019		Set Deadlines as to 97 Joint MOTION to Dismiss *(Florida Governor & Florida Secretary of State)*. (Internal deadline for referral to judge if response not filed earlier: **8/29/2019)**. Reply, if any due by **9/23/2019**. (Set per ECF# 107) (toy) (Entered: 08/16/2019)
08/16/2019		Set Deadlines as to 108 MOTION for Preliminary Injunction . (Internal deadline for referral to judge if response not filed earlier: **9/6/2019)**. Reply, if any due by **9/23/2019**. (Set by ECF# 107) (toy) (Entered: 08/16/2019)
08/16/2019		Set Deadlines/Hearings: Declaration/Exhibits/Witness Lists/26(a)(2) Disclosures due by **9/16/2019**. Rebuttal Evidence Deadline − by **9/23/2019**. Preliminary − Injuction Hearing set for **10/7/2019 09:00 AM** in U.S. Courthouse Tallahassee before JUDGE ROBERT L HINKLE. (toy) (Set per ECF# 107) (Entered: 08/16/2019)
08/19/2019	109	NOTICE OF HEARING on 108 Motion for Preliminary Injunction: Preliminary Injunction Hearing set for **10/7/2019 09:00 AM** before JUDGE ROBERT L HINKLE, United States Courthouse, Courtroom 5 East, 111 North Adams St., Tallahassee, Florida 32301. *NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment that requires a sign language interpreter or a wheelchair restriction that requires ramp access, please contact Cindy Markley at 850−521−3501 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.* *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 08/19/2019)
08/19/2019	110	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Scheduling Conference Proceedings held on 8/15/2019 before Judge Robert L. Hinkle. Court Reporter: Judy Gagnon, Telephone number: 850−561−6822.

		Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **8/26/2019**. Release of Transcript Restriction set for **11/25/2019**. (kjw) (Entered: 08/20/2019)
08/20/2019	111	NOTICE of Appearance by SUMMER DENAY BROWN on behalf of MARK EARLEY (HERRON, MARK) Modified on 8/20/2019 to correct filer (toy). (Entered: 08/20/2019)
08/21/2019	112	NOTICE *Notice of Withdrawal of Counsel by Adam Katzman, Nathaniel Klitsberg, and Rene Harrod* by PETER ANTONACCI re 83 Notice of Appearance (KATZMAN, ADAM) (Entered: 08/21/2019)
08/26/2019	113	NOTICE of Appearance by GEENA MARCELA CESAR on behalf of KIM A BARTON (CESAR, GEENA) (Entered: 08/26/2019)
08/29/2019	114	ANSWER to 1 Complaint by LESLIE ROSSWAY SWAN. (REINGOLD, DYLAN) (Entered: 08/29/2019)
08/29/2019	115	*Defendant, Mark Earley, Supervisor of Elections for Leon County's* ANSWER to 1 Complaint *for Injunctive and Declaratory Relief* by MARK EARLEY. (HERRON, MARK) (Entered: 08/29/2019)
08/29/2019	116	*Mike Hogan, Supervisor of Elections for Duval County* ANSWER to 1 Complaint *by McCoy* by MIKE HOGAN. (FEISER, CRAIG) (Entered: 08/29/2019)
08/29/2019	117	*Mike Hogan, Supervisor of Elections for Duval County* ANSWER to Complaint *by Gruver* by MIKE HOGAN. (FEISER, CRAIG) (Entered: 08/29/2019)
08/29/2019	118	ANSWER to 1 Complaint by CHRISTINA WHITE. (ROSENTHAL, OREN) (Entered: 08/29/2019)
08/29/2019	119	ANSWER to Complaint *and Affirmative Defenses* by KIM A BARTON. (HANSON, CORBIN) (Entered: 08/29/2019)
08/29/2019	120	ANSWER to 1 Complaint by BILL COWLES. (SHANNIN, NICHOLAS) (Entered: 08/29/2019)
08/29/2019	121	MEMORANDUM in Opposition re 97 Joint MOTION to Dismiss *(Florida Governor & Florida Secretary of State)* filed by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (MORALES−DOYLE, SEAN) (Entered: 08/29/2019)
08/29/2019	122	ANSWER to 1 Complaint *and Affirmative Defenses* by PETER ANTONACCI. (PRICE, TARA) (Entered: 08/29/2019)
08/30/2019	123	*Defendant's* ANSWER to 1 Complaint by CRAIG LATIMER. (TODD, STEPHEN) (Entered: 08/30/2019)
08/30/2019	124	OBJECTION AND RESPONSE BY GARY J. COONEY, AS CLERK OF THE CIRCUIT COURT, LAKE COUNTY FLORIDA TO SUBPOENA by GARY J. COONEY. (JOHNSON, DANIEL) Modified on 9/3/2019 to match PDF title (toy). (Entered: 08/30/2019)
09/04/2019	125	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction filed by CRAIG LATIMER. (TODD, STEPHEN) (Entered: 09/04/2019)
09/06/2019	126	RESPONSE to Motion re 108 MOTION for Preliminary Injunction *Or, in the alternative, for Further Relief* filed by MIKE HOGAN. (FEISER, CRAIG) (Entered: 09/06/2019)

09/06/2019	127	RESPONSE to Motion re 108 MOTION for Preliminary Injunction filed by KIM A BARTON. (SWAIN, ROBERT) (Entered: 09/06/2019)
09/06/2019	128	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction *or, in the Alternative, for Further Relief* filed by LESLIE ROSSWAY SWAN. (REINGOLD, DYLAN) (Entered: 09/06/2019)
09/06/2019	129	*Michael Bennett, Manatee County Supervisor of Elections* ANSWER to 1 Complaint by MICHAEL BENNETT. (BENTLEY, MORGAN) (Entered: 09/06/2019)
09/06/2019	130	Ron Turner, Sarasota County *Supervisor of Elections* ANSWER to 1 Complaint by RON TURNER. (BENTLEY, MORGAN) Modified on 9/9/2019 to identify filer (toy). (Entered: 09/06/2019)
09/06/2019	131	RESPONSE to Motion re 108 MOTION for Preliminary Injunction *or, In The Alternative, For Further Relief* filed by MARK EARLEY. (HERRON, MARK) (Entered: 09/06/2019)
09/06/2019	132	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction *(Governor & Secretary of State)* filed by LAUREL M LEE. (Attachments: # 1 Appendix) (JAZIL, MOHAMMAD) (Entered: 09/06/2019)
09/06/2019	133	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction *(Broward County Supervisor of Elections)* filed by PETER ANTONACCI. (PRICE, TARA) (Entered: 09/06/2019)
09/06/2019	134	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction filed by CHRISTINA WHITE. (ROSENTHAL, OREN) (Entered: 09/06/2019)
09/09/2019	135	RESPONSE in Opposition re 108 MOTION for Preliminary Injunction filed by BILL COWLES. (SHANNIN, NICHOLAS) (Entered: 09/09/2019)
09/09/2019	136	Unopposed MOTION to Deem Bill Cowles, Orange County Supervisor of Elections for Orange County, Response in Opposition to Motion for Preliminary Injunction or, in the Alternative, for Further Relief Timely Filed re 135 Response in Opposition to Motion by BILL COWLES. (SHANNIN, NICHOLAS) Modified on 9/9/2019 to match PDF title (toy). (Entered: 09/09/2019)
09/10/2019	137	ORDER DEEMING 135 PRELIMINARY − INJUNCTION RESPONSE TIMELY re 136 . Signed by JUDGE ROBERT L HINKLE on 09/10/2019. (toy) (Entered: 09/10/2019)
09/10/2019	138	Joint MOTION to Stay by RON DESANTIS. (Attachments: # 1 Exhibit Composite Exhibit − Request for Advisory Opinion and Florida Supreme Court Scheduling Order) (PRIMROSE, NICHOLAS) (Entered: 09/10/2019)
09/11/2019	139	NOTICE *of Filing Deposition Transcript* by CRAIG LATIMER re 125 Response in Opposition to Motion (Attachments: # 1 Supplement Deposition Transcript) (TODD, STEPHEN) (Entered: 09/11/2019)
09/11/2019	140	ORDER DENYING 138 THE MOTION TO STAY. But to the extent pertinent, the motion will be deemed a supplement to the pending motion to dismiss. No change is made to the briefing schedule on the motion to dismiss or to any other part of the existing schedule. Signed by JUDGE ROBERT L HINKLE on 09/11/2019. (toy) (Entered: 09/12/2019)
09/12/2019	141	NOTICE *of Pendency of Other Similar Action* by RON DESANTIS (Attachments: # 1 Exhibit Hand v. Scott Order Directing Supplemental Briefing) (PRIMROSE, NICHOLAS) (Entered: 09/12/2019)
09/13/2019	142	MOTION to Appear Pro Hac Vice by Jennifer A. Holmes.(Filing fee $ 201 receipt number AFLNDC−4620413.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing) (HOLMES, JENNIFER) (Entered: 09/13/2019)

09/16/2019	143	Witness List by MARK EARLEY. (HERRON, MARK) (Entered: 09/16/2019)
09/16/2019	144	RESPONSE by CRAIG LATIMER re 107 Order on Motion to Dismiss for Failure to State a Claim,, Order on Motion to Stay,, Order on Motion for Protective Order, *Dated 8/15/19*. (TODD, STEPHEN) (Entered: 09/16/2019)
09/16/2019	145	Witness List by BILL COWLES. (SHANNIN, NICHOLAS) (Entered: 09/16/2019)
09/16/2019	146	Witness List by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (ADEN, LEAH) (Entered: 09/16/2019)
09/16/2019	147	Witness List by RON DESANTIS, LAUREL M LEE. (PRICE, TARA) (Entered: 09/16/2019)
09/16/2019	148	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 1− Florida Supreme Court Oral Argument Transcript, # 2 Exhibit 2− Dec. 13, 2018 letter, # 3 Exhibit 3− Rulemaking Record, # 4 Exhibit 4− Voter Assistance Hotline Manual, # 5 Exhibit 5− HB 7089, # 6 Exhibit 6− SB 7086, # 7 Exhibit 7− SB 7066, # 8 Exhibit 8− Legislative History− Summaries, # 9 Exhibit 9− Art. VI, Sec. 4, Fla. Const., # 10 Exhibit 10− Fla. Stat. s. 98.9751, # 11 Exhibit 11− Fla. Stat. s. 97.0585, # 12 Exhibit 12− Fla. Stat. s. 104.011, # 13 Exhibit 13− Gov. Request for Advisory Opinion, # 14 Exhibit 14− Florida Supreme Court Order on Advisory Opinion, # 15 Exhibit 15− Proposed Constitutional Amendments, # 16 Affidavit 16− Declaration of Maria Matthews, # 17 Affidavit 17− Declaration of Patrick O'Bryant, # 18 Exhibit 17A− Gruver, # 19 Exhibit 17B− Mitchell, # 20 Exhibit 17C− Ivey, # 21 Exhibit 17D− Wrench, # 22 Exhibit 17E− Wright, # 23 Exhibit 17F− Miller, # 24 Exhibit 17G− Tyson, # 25 Exhibit 17H− McCoy, # 26 Exhibit 17I− Singleton, # 27 Exhibit 17J− Raysor, # 28 Exhibit 17K− Sherrill, # 29 Exhibit 17L− Hoffman, # 30 Exhibit 17M− Jones, # 31 Exhibit 17N− Mendez, # 32 Exhibit 17O− ACLU of Florida, # 33 Exhibit 17P− Second Chances, # 34 Exhibit 18− FCCC Voting Rights Restoration Presentation, # 35 Exhibit 19− Voter Restoration Workgroup Presentation, # 36 Exhibit 20− Chapter 2019−162, Laws of Florida, # 37 Exhibit 21− Dr. Barber Report) (PRICE, TARA) (Entered: 09/16/2019)
09/16/2019	149	Witness List by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Exhibit 1− Rule 26(a)(2) Expert Disclosures & Report of Dr. Barber) (PRICE, TARA) (Entered: 09/16/2019)
09/16/2019	150	Exhibit List & *Witness List* by PETER ANTONACCI.. (PRICE, TARA) (Entered: 09/16/2019)
09/16/2019	151	Exhibit List by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT.. (ADEN, LEAH) (Entered: 09/16/2019)
09/17/2019	152	Exhibit List by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 3, # 3 Exhibit 4, # 4 Exhibit 5, # 5 Exhibit 6, # 6 Exhibit 7, # 7 Exhibit 8, # 8 Exhibit 9, # 9 Exhibit 10, # 10 Exhibit 11, # 11 Exhibit 12, # 12 Exhibit 13, # 13 Exhibit 14, # 14 Exhibit 15, # 15 Exhibit 16, # 16 Exhibit 17, # 17 Exhibit 18, # 18 Exhibit 19, # 19 Exhibit 20, # 20 Exhibit 21, # 21 Exhibit 22, # 22 Exhibit 23, # 23

		Exhibit 24, # 24 Exhibit 25, # 25 Exhibit 26, # 26 Exhibit 27, # 27 Exhibit 28, # 28 Exhibit 29, # 29 Exhibit 30, # 30 Exhibit 31, # 31 Exhibit 32, # 32 Exhibit 33, # 33 Exhibit 35, # 34 Exhibit 36, # 35 Exhibit 37, # 36 Exhibit 38, # 37 Exhibit 40, # 38 Exhibit 41, # 39 Exhibit 42, # 40 Exhibit 43, # 41 Exhibit 44, # 42 Exhibit 45, # 43 Exhibit 46, # 44 Exhibit 47, # 45 Exhibit 48, # 46 Exhibit 49, # 47 Exhibit 50, # 48 Exhibit 51, # 49 Exhibit 52, # 50 Exhibit 53, # 51 Exhibit 54, # 52 Exhibit 55, # 53 Exhibit 56, # 54 Exhibit 57, # 55 Exhibit 58, # 56 Exhibit 59, # 57 Exhibit 60, # 58 Exhibit 61, # 59 Exhibit 62, # 60 Exhibit 63, # 61 Exhibit 64, # 62 Exhibit 65, # 63 Exhibit 66, # 64 Exhibit 67, # 65 Exhibit 68, # 66 Exhibit 69, # 67 Exhibit 70, # 68 Exhibit 71, # 69 Exhibit 72, # 70 Exhibit 73, # 71 Exhibit 74, # 72 Exhibit 75, # 73 Exhibit 76, # 74 Exhibit 77, # 75 Exhibit 78, # 76 Exhibit 79, # 77 Exhibit 80, # 78 Exhibit 81, # 79 Exhibit 82, # 80 Exhibit 83, # 81 Exhibit 84, # 82 Exhibit 85, # 83 Exhibit 86, # 84 Exhibit 87, # 85 Exhibit 88, # 86 Exhibit 89, # 87 Exhibit 90, # 88 Exhibit 91, # 89 Exhibit 92, # 90 Exhibit 93, # 91 Exhibit 94, # 92 Exhibit 95, # 93 Exhibit 96, # 94 Exhibit 97, # 95 Exhibit 98, # 96 Exhibit 99, # 97 Exhibit 100, # 98 Exhibit 101, # 99 Exhibit 103, # 100 Exhibit 104, # 101 Exhibit 105, # 102 Exhibit 107, # 103 Exhibit 108, # 104 Exhibit 109, # 105 Exhibit 110, # 106 Exhibit 111, # 107 Exhibit 113, # 108 Exhibit 114, # 109 Exhibit 115, # 110 Exhibit 116, # 111 Exhibit 117, # 112 Exhibit 118, # 113 Exhibit 119, # 114 Exhibit 120, # 115 Exhibit 121, # 116 Exhibit 123, # 117 Exhibit 124, # 118 Exhibit 125, # 119 Exhibit 126, # 120 Exhibit 127, # 121 Exhibit 128, # 122 Exhibit 131, # 123 Exhibit 132, # 124 Exhibit 133, # 125 Exhibit 141, # 126 Exhibit 142, # 127 Exhibit 143, # 128 Exhibit 144, # 129 Exhibit 145, # 130 Exhibit 146, # 131 Exhibit 147, # 132 Exhibit 148, # 133 Exhibit 149, # 134 Exhibit 169) (ADEN, LEAH) (Entered: 09/17/2019)
09/17/2019	153	Exhibit List by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT.. (Attachments: # 1 Exhibit 2, # 2 Exhibit 34, # 3 Exhibit 39, # 4 Exhibit 106, # 5 Exhibit 122, # 6 Exhibit 129, # 7 Exhibit 130, # 8 Exhibit 134) (ADEN, LEAH) (Entered: 09/17/2019)
09/17/2019	154	Witness List by MIKE HOGAN. (FEISER, CRAIG) (Entered: 09/17/2019)
09/17/2019	155	Witness List by LESLIE ROSSWAY SWAN. (REINGOLD, DYLAN) (Entered: 09/17/2019)
09/17/2019	156	MOTION By Plaintiffs For Leave to File Out of Time Declarations and Exhibits re 108 MOTION for Preliminary Injunction by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Proposed Order) (ADEN, LEAH) (Entered: 09/17/2019)
09/17/2019	157	Unopposed MOTION to Extend Time *to File Reply Brief in Support of Preliminary Injunction* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Text of Proposed Order) (EBENSTEIN, JULIE) Modified on 9/18/2019 to match PDF title (toy). (Entered: 09/17/2019)
09/17/2019		Set Response to Motion Deadline as to 156 MOTION By Plaintiffs For Leave to File Out of Time Declarations and Exhibits re 108 MOTION for Preliminary Injunction . (Internal deadline for referral to judge if response not filed earlier: **10/1/2019)**. (toy) (Entered: 09/18/2019)
09/18/2019	158	DOCKET ANNOTATION BY COURT: Counsel is advised that for all future pleadings, for this case and any future cases assigned to Judge Hinkle, any exhibit

		attached to a document filing should be properly identified. (Example: Deposition of John Doe rather than Exhibit A.) (toy) (Entered: 09/18/2019)
09/19/2019	159	ORDER ON LATE−FILED MATERIALS. The plaintiffs' motion, ECF No. 156 , to accept as timely the preliminary−injunction materials filed on September 17, 2019, ECF Nos. 152 and 153 , will be deemed granted without further order unless by September 23, 2019 a defendant files a memorandum in opposition to ECF No. 156 . (Memorandum in Opposition, if any due by **9/23/2019**.) Signed by JUDGE ROBERT L HINKLE on 09/19/2019. (toy) (Entered: 09/19/2019)
09/19/2019	160	ORDER EXTENDING THE DEADLINE FOR A REPLY MEMORANDUM ON THE PRELIMINARY−INJUNCTION MOTION re 157 . The deadline is extended to September 27, 2019. (Memorandum in Support due by **9/27/2019**.) Signed by JUDGE ROBERT L HINKLE on 09/19/2019. (toy) (Entered: 09/19/2019)
09/23/2019	161	RESPONSE to Motion re 156 MOTION By Plaintiffs For Leave to File Out of Time Declarations and Exhibits re 108 MOTION for Preliminary Injunction filed by RON DESANTIS, LAUREL M LEE. (PRICE, TARA) (Entered: 09/23/2019)
09/23/2019	162	Unopposed MOTION for Leave to File *a Reply Memorandum in Excess of Word Limit* by LAUREL M LEE. (JAZIL, MOHAMMAD) Modified on 9/24/2019 to match PDF title (toy). (Entered: 09/23/2019)
09/23/2019	163	RESPONSE in Support re 97 Joint MOTION to Dismiss *(Florida Governor & Florida Secretary of State)* filed by LAUREL M LEE. (JAZIL, MOHAMMAD) (Entered: 09/23/2019)
09/23/2019	164	Exhibit List *(Rebuttal Exhibits)* by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 22− Dr. Barber Supplemental Report) (PRICE, TARA) (Entered: 09/23/2019)
09/23/2019	165	Exhibit List *Supplemental Exhibits and Declarations* by JEFF GRUVER.. (EBENSTEIN, JULIE) (Entered: 09/23/2019)
09/24/2019	166	ORDER GRANTING 162 LEAVE TO EXCEED THE WORD LIMIT. The reply memorandum, ECF No. 163 , is deemed properly filed. Signed by JUDGE ROBERT L HINKLE on 09/24/2019. (toy) (Entered: 09/24/2019)
09/24/2019	167	Exhibit List *Supplemental Exhibits and Declarations* by JEFF GRUVER.. (Attachments: # 1 Ex. 170 Rosemary McCoys Termination of Supervision, # 2 Ex. 171 SOS Email communications regarding administrative hearings on ineligibility., # 3 Ex. 172 Nov. 20, 2018. SOS Internal Memo on Amendment 4 Implementation., # 4 Ex. 173 Rosemary McCoys Satisfaction of Judgment, # 5 Ex. 174 Termination of Supervision Letter from Florida Department of Corrections, # 6 Ex. 175 Clerks Amendment 4 Quick Response Team, July 8, 2019 Conference Call Agenda, # 7 Ex. 176 Clerks Amendment 4 Quick Response Team, August 19, 2019 Conference Call Agenda, # 8 Ex. 177 July 18, 2019 Email exchange regarding access to FDC records, # 9 Ex. 178 Materials from Restoration of Voting Rights Work Group Second Meeting on September 16, 2019, # 10 Ex. 179 Email chain between county clerks re: fines and fees ordered as part of the sentence, # 11 Ex. 180 Email chain re: disclaimer on financial summary information provided from CIS, # 12 Ex. 181 Summary of meeting between Manatee Clerk and SOE re: process for determining voter eligibility, # 13 Ex. 182 Notice from Texas based collections agency, # 14 Ex. 183 Email re: 10 cases per county study, # 15 Ex. 184 Alachua County 2017 Assessments and Collections Form, # 16 Ex. 185 Aug. 26, 2019 Agenda A4 QRT Conference Call, # 17 Ex. 186 Alachua County 2014 Assessments and Collections Form, # 18 Ex. 187 Alachua county 2014−15 Collection Agent Report, # 19 Ex. 188 Criminal Division Business Rules 5.14.19, # 20 Ex. 189 Customer Service Manual Aug. 18, 2016, # 21 Ex. 190 Alachua County 2016 Assessments and Collections form, # 22 Ex. 191 Escambia County Procedure for Collections Department, # 23 Ex. 192 Escambia County Procedure for Giving Credit to Defendant for Community Service Work in Lieu of Costs and Fees, # 24 Ex. 193 Hillsborough County 2016 Assessments and Collections Report, # 25 Ex. 194 Hillsborough County 2017 Assessments and Collections Report, # 26 Ex. 195 Hillsborough County Restitution Procedures, # 27 Ex. 196 Hillsborough County Collections Quarterly Report FY 15−16, # 28 Ex. 197 Hillsborough County Collections Quarterly Report FY 16−17, # 29 Ex. 198 Hillsborough County Collections Quarterly Report FY 17−18, # 30 Ex. 199 Hillsborough County VOP

Procedures, # 31 Ex. 200 Manatee, Sarasota, and Desoto County Cost Sheet Instructions, # 32 Ex. 201 Manatee County Agreement/Order for Payment of Court Costs, Fines, Fees, or Civil Restitution, # 33 Ex. 202 Manatee County Calculating Interest on Judgments, # 34 Ex. 203 Manatee County Monetary Final Judgments, # 35 Ex. 204 Penn Credit Collection Services Agreement with Walton County, # 36 Ex. 205 Penn Credit Settlement of Judgment/Civil lien debts, # 37 Ex. 206 Email from Carla A. Cribb, Nassau County Clerk of Courts, # 38 Ex. 207 12/19/18 Emails between Supervisor Earley and Clerk Marshall re: Clerk of Courts felon data, # 39 Ex. 208 12/18/18 Emails between Supervisor Earley and Steve Been re: Amendment 4 and Fees, Reparation, Restitution, etc., # 40 Ex. 209 12/20/18 emails between Monique Duncan−Jones and Rachel Matz re: "AMEND 4 follow up", # 41 Ex. 210 12/20/18 emails between Steve Been and Leon County SOE staff re: please review and provide input to our draft FAQ on Amendment 4, # 42 Ex. 211 1/3/19 emails among Leon County SOE staff re: felon voting handout draft from steve been, # 43 Ex. 212 1/17/19 emails among Leon County SOE staff re: Amber w/ the Division is visiting the front office tomorrow, # 44 Ex. 213 Report: Tour of Florida Courthouses to Access Court Records, # 45 Ex. 214 Email from Ken Burke 9/9/19 re: collecting sample county judgment and sentence documents for A4 QRT team and attachments, # 46 Ex. 215 5/28/19 email from Ken Burke re: Amendment 4 Workgroup, # 47 Ex. 216 May 2019 email chain re: negotiating judgments for fines and fees, # 48 Ex. 217 Nassau County Supervisor of Elections Amendment 4 FAQ, # 49 Ex. 218 Aug. 5 A4 QRT Call Agenda, # 50 Ex. 219 GT Memo July 26, 2019 Re: Issues Pertaining to Restoration of Voting Rights, # 51 Ex. 220 Sarasota County Judgment Sample, # 52 Ex. 221 FCCC Legal Opinion Restoration of Voting Rights, # 53 Ex. 222 FCCC 2017−18 Leg Session Overview, # 54 Ex. 223 FCCC Response to ACLU and Related Data Inquiries, # 55 Ex. 224 Email Correspondence Martin County Clerk*, # 56 Ex. 225 FCCC Amendment 4 Resources, # 57 Ex. 226 Amendment #4 Telephone Conference August 20, 2019, # 58 Ex. 227 Clerks Amendment 4 Quick Response Team August 26, 2019 Conference Call, # 59 Ex. 228 Florida Department of State Powerpoint on Identifying Potentially Ineligible Registered Voters for Reasons of a Felony Conviction, # 60 Ex. 229 Clerks Amendment 4 QRT Study Results, # 61 Ex. 230 Florida Dept of Corrections Letter re: CCIS Discrepancy, # 62 Ex. 231 Florida Dept of Corrections Termination of Supervision Letter, # 63 Ex. 232 Florida Dept of Corrections Closing Summary, # 64 Ex. 233 FCCC QRT Telephone Conference August 12, 2019, # 65 Ex. 234 FCCC QRT August 19, 2019 Conference Call, # 66 Ex. 235 FCC QRT Telephone Conference August 20, 2019 Conference Call, # 67 Ex. 236 August 5 FCC QRT Telephone Conference, # 68 Ex. 237 8/21/2019 Email from Jeanne Worthington to Pinella County Clerk, # 69 Ex. 238 5/10/2019 Email from Alessandra Shurina to other SOE staff, # 70 Ex. 239 Amendment 4 Pilot Project Workflow, # 71 Ex. 240 Community Foundation of Sarasota Application, # 72 Ex. 241 Clerks as the Point of Contact for Consolidated Information on Restoration of Voting Rights, # 73 Ex. 242 July 15 FCCC QRT Call, # 74 Ex. 243 Sarasota County 2918 Voter Restoration Work Group, # 75 Ex. 244 FCCC Advisory on Data Review Request, # 76 Ex. 245 FCCC QRT July 8, 2019 Call, # 77 Ex. 246 6/7/19 Email from Alessandra Shurina to Mark Earley and Leon SOE Staf, # 78 Ex. 247 FCCC Meeting with DOC 7/12/2019, # 79 Ex. 248 6/7/19 Emails between Maria Matthews and Mark Earley, # 80 Ex. 249 6/7/19 Emails between Mark Earley and Leon SOE Staff, # 81 Ex. 250 Broward County Clerk of Court 8/19/19 Press Release re Amendment 4, # 82 Ex. 251 12/13/18 Memorandum from Ronald Labasky to all SOEs, # 83 Ex. 252 Dept of State legislative Changes Rulemaking Election Administration (page 60), # 84 Ex. 253 Hillsborough County SOE Amendment 4 FAQs, # 85 Ex. 254 8/24/219 Email Exchange re FCOR referrals, # 86 Ex. 255 8/23/2019 Maria Matthews Email to Clerks, # 87 Ex. 256 8/14/2019 Email Exchange re 4 corners of sentence, # 88 Ex. 257 7/13/19 Email From Katherine Plante to Karen Rushing Re: SB 7066, # 89 Ex. 258 7/15/19 A4 QRT email re: negotiation of civil judgments, liens and fines, # 90 Ex. 259 7/18/19 Email exchange with DOC re: information on termination of supervision, # 91 Ex. 260 8/23/2019 email chain re: Court Ordered Financial Obligations, # 92 Ex. 261 7/18/19 A4 QRT email re: negotiation of civil judgments, liens and fines, # 93 Ex. 262 8/23/19 email chain re: court ordered financial obligations, # 94 Ex. 263 7/15/19 A4 QRT Conference Call Minutes, # 95 Ex. 264 7/24/19 Voter Restoration Work Group Meeting Minutes, # 96 Ex. 265 Email chain among supervisors of elections re: Draft Motion/Order − Amendment 4, # 97 Ex. 266 8/1 Email re: Sarasota program to clear felony debt, # 98 Ex. 267 Broward Proposed Motion and Order, # 99 Ex. 268 8/20/19 email between Lee Hawarth and Karen Rushing, # 100 Ex. 269 8/6/19 emal from Ken

		Burke re: CCIS Amend. 4 Issues, # 101 Ex. 270 5/29/19 email from Ken Burke re: Amendment 4 QRT report, # 102 Ex. 271 6/7/19 email from Andrew Warren to SOE Latimer and other Hillsborough County officials re: Amendment 4, # 103 Ex. 272 Carey Haughwout Decl and Exhibits) (EBENSTEIN, JULIE) (Entered: 09/24/2019)
09/24/2019	168	ORDER CONFIRMING SCHEDULE. Signed by JUDGE ROBERT L HINKLE on 9/24/19. (sms) (Entered: 09/24/2019)
09/24/2019	169	ORDER ACCEPTING ECF Nos. 152 AND 153 AS TIMELY. Signed by JUDGE ROBERT L HINKLE on 09/24/2019. (toy) (Entered: 09/24/2019)
09/24/2019	170	MOTION for Leave to File *Out of Time Supplemental Declarations and Exhibits in Support of Motion for Preliminary Injunction* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Pls.' Br. in Supp. of Mot. for Leave, # 2 Ex. A Wright Decl., # 3 Ex. B Martinez Decl., # 4 Ex. C Oats Decl., # 5 Ex. D Blake Decl.) (EBENSTEIN, JULIE) (Entered: 09/24/2019)
09/24/2019		Set Response to Motion Deadline as to 170 MOTION for Leave to File *Out of Time Supplemental Declarations and Exhibits in Support of Motion for Preliminary Injunction*. (Internal deadline for referral to judge if response not filed earlier: **10/8/2019)**. (toy) (Entered: 09/25/2019)
09/26/2019	171	NOTICE *of Plaintiffs' Northern District of Florida Local Rule 7.1 Certification* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT re 170 MOTION for Leave to File *Out of Time Supplemental Declarations and Exhibits in Support of Motion for Preliminary Injunction* (EBENSTEIN, JULIE) (Entered: 09/26/2019)
09/26/2019	172	MOTION to Certify Class by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Internal deadline for referral to judge if response not filed earlier: **10/10/2019)**. (Attachments: # 1 Memorandum in Support of Raysor Plaintiffs' Class Certification Motion, # 2 Exhibit 1 (Raysor Declaration), # 3 Exhibit 2 (Sherrill Declaration), # 4 Exhibit 3 (Hoffman Declaration), # 5 Exhibit 4 (Dunn Declaration), # 6 Exhibit 5 (Gaber Declaration)) (GABER, MARK) (Entered: 09/26/2019)
09/27/2019	173	MOTION to File Amicus Brief by Florida Rights Restoration Coalition. (Internal deadline for referral to judge if response not filed earlier: **10/11/2019)**. (Attachments: # 1 Exhibit A − FRRC Amicus Brief, # 2 Exhibit B − Proposed Order) (TREVISANI, DANTE) (Entered: 09/27/2019)
09/27/2019	174	MOTION to Appear Pro Hac Vice by Chiraag Bains.(Filing fee $ 201 receipt number AFLNDC−4635253.) by Florida Rights Restoration Coalition. (BAINS, CHIRAAG) (Entered: 09/27/2019)
09/27/2019	175	MOTION to Appear Pro Hac Vice by Naila Awan.(Filing fee $ 201 receipt number AFLNDC−4635308.) by Florida Rights Restoration Coalition. (AWAN, NAILA) (Entered: 09/27/2019)
09/27/2019	176	NOTICE of Appearance by DANTE PASQUALE TREVISANI on behalf of Florida Rights Restoration Coalition (TREVISANI, DANTE) (Entered: 09/27/2019)
09/27/2019	177	Unopposed MOTION for Leave to File *a Reply Memorandum of Law in Further Support of Motion for Preliminary Injunction in Excess of the Word Limit* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Pls.' Reply in Supp. of Mot. for Preliminary Injunction, # 2 Index to Pls.' Reply in Supp. of PI) (EBENSTEIN, JULIE) Modified on 9/30/2019 to match the PDF title (toy).

		(Entered: 09/27/2019)
09/30/2019		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MICHAEL J FRANK notified that action is needed Re: 175 MOTION to Appear Pro Hac Vice by Naila Awan, 142 MOTION to Appear Pro Hac Vice by Jennifer A. Holmes, 174 MOTION to Appear Pro Hac Vice by Chiraag Bains. Referred to MICHAEL J FRANK. (toy) (Entered: 09/30/2019)
09/30/2019	178	ORDER GRANTING 177 LEAVE TO FILE A REPLY MEMORANDUM OF EXCESSIVE LENGTH. The reply memorandum, ECF No. 177 −1, is deemed properly filed. Signed by JUDGE ROBERT L HINKLE on 09/30/2019. (toy) (Entered: 09/30/2019)
09/30/2019	179	ORDER ON FRRC'S 173 MOTION FOR LEAVE TO FILE ITS AMICUS BRIEF. FRRC's brief is untimely. This ordinarily would end consideration of its motion for leave. Here, though, the schedule has been compressed. At the preliminary−injunction hearing, the parties may address the motion for leave and the substantive arguments set out in the brief. No party, proposed intervenor, or proposed amicus should take this as license to tender untimely filings. Signed by JUDGE ROBERT L HINKLE on 09/30/2019. (toy) (Entered: 09/30/2019)
09/30/2019	180	ORDER granting 142 Motion to Appear Pro Hac Vice. Attorney Jennifer A. Holmes is admitted pro hac vice to represent Plaintiffs pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 9/30/2019. (jcw) (Entered: 09/30/2019)
09/30/2019	181	ORDER granting 175 Motion to Appear Pro Hac Vice. Attorney Naila S. Awan is admitted pro hac vice to represent proposed amicus curiae, Florida Rights Restoration Coalition, pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 9/30/2019. (jcw) (Entered: 09/30/2019)
09/30/2019	182	ORDER granting 174 Motion to Appear Pro Hac Vice. Attorney Chiraag Bains is admitted pro hac vice to represent proposed amicus curiae, Florida Rights Restoration Coalition, pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 9/30/2019. (jcw) (Entered: 09/30/2019)
10/01/2019	183	AFFIDAVIT of Service of Summons & Complaint served on Frances Frazier on behalf of CRAIG LATIMER on 09/30/2019. (toy) (Entered: 10/01/2019)
10/02/2019	184	AFFIDAVIT of Service for Summons & Complaint served on Nick Primose on behalf of RON DESANTIS on 10/01/2019. (toy) (Entered: 10/02/2019)
10/02/2019	185	SCHEDULING ORDER. The preliminary−injunction hearing 109 remains scheduled for October 7, 2019 at 9:00 a.m. If not completed that day, the hearing will continue on October 8. But court will not be in session after 4:00 p.m. on October 8 or at any time on October 9. If necessary, the hearing will continue on October 10. Signed by JUDGE ROBERT L HINKLE on 10/02/2019. (toy) (Entered: 10/02/2019)
10/02/2019	186	Amended MOTION to Appear Pro Hac Vice re 142 MOTION to Appear Pro Hac Vice by Jennifer A. Holmes.(Filing fee $ 201 receipt number AFLNDC−4620413.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing) (HOLMES, JENNIFER) (Entered: 10/02/2019)
10/03/2019		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MICHAEL J FRANK notified that action is needed Re: 186 Amended MOTION to Appear Pro Hac Vice re 142 MOTION to Appear Pro Hac Vice by Jennifer A. Holmes.(Filing fee $ 201 receipt number AFLNDC−4620413.) . Referred to MICHAEL J FRANK. (toy) (Entered: 10/03/2019)
10/03/2019	187	Unopposed MOTION To Excuse Appearance at October 7, 2019 Hearing or, in the alternative, Appear by Telephone by MICHAEL BENNETT, BILL COWLES, LESLIE ROSSWAY SWAN, RON TURNER. (SHANNIN, NICHOLAS) Modified on 10/3/2019 to match PDF title (toy). (Entered: 10/03/2019)

10/03/2019	188	ORDER granting 186 Amended MOTION to Appear Pro Hac Vice. Attorney Jennifer A. Holmes is admitted pro hac vice to represent the "Gruver Plaintiffs" pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 10/3/2019. (jcw) (Entered: 10/03/2019)
10/03/2019	189	ORDER ON TIME LIMITS. Signed by JUDGE ROBERT L HINKLE on 10/3/2019. (MKB) (Entered: 10/03/2019)
10/03/2019	190	MOTION for Leave to File *Exhibits* by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Exhibit Hearing Exhibit List, # 2 Exhibit 23− Deposition of Plaintiff McCoy, # 3 Exhibit 24− Deposition of Plaintiff Singleton, # 4 Exhibit 25− Deposition of Expert Smith) (PRICE, TARA). (Entered: 10/03/2019)
10/04/2019	191	ORDER ON ATTENDANCE AT HEARING. Signed by JUDGE ROBERT L HINKLE on 10/4/19. (sms) (Entered: 10/04/2019)
10/04/2019	192	MOTION to Appear Pro Hac Vice by Pietro Signoracci.(Filing fee $ 201 receipt number AFLNDC−4643293.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing) (SIGNORACCI, PIETRO) (Entered: 10/04/2019)
10/04/2019	193	MOTION to Appear Pro Hac Vice by David Giller.(Filing fee $ 201 receipt number AFLNDC−4643345.) by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Certificate of Good Standing) (GILLER, DAVID) (Entered: 10/04/2019)
10/04/2019	194	Consent MOTION for Leave to File *Supplemental Exhibits* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Proposed Exhibit 276 Transcript of Deposition of Carolyn Timmann, # 2 Ex. 1 to Timmann Deposition, # 3 Ex. 2 to Timmann Deposition, # 4 Ex. 3 Part A to Timmann Deposition, # 5 Ex. 3 Part B to Timmann Deposition, # 6 Ex. 3 Part C to Timmann Deposition, # 7 Ex. 4 to Timmann Deposition, # 8 Ex. 5 to Timmann Deposition, # 9 Ex. 6 to Timmann Deposition, # 10 Ex. 7 to Timmann Deposition, # 11 Ex. 8 to Timmann Deposition, # 12 Ex. 9 to Timmann Deposition, # 13 Ex. 10 Part A to Timmann Deposition, # 14 Ex. 10 Part B to Timmann Deposition, # 15 Ex. 11 to Timmann Deposition, # 16 Ex. 12 to Timmann Deposition, # 17 Ex. 13 to Timmann Deposition, # 18 Ex. 14 to Timmann Deposition, # 19 Ex. 15 to Timmann Deposition, # 20 Ex. 16 to Timmann Deposition, # 21 Ex. 17 to Timmann Deposition, # 22 Ex. 18 to Timmann Deposition, # 23 Ex. 19 to Timmann Deposition, # 24 Ex. 20 to Timmann Deposition, # 25 Ex. 21 to Timmann Deposition, # 26 Ex. 22 to Timmann Deposition, # 27 Ex. 23 to Timmann Deposition, # 28 Ex. 24 to Timmann Deposition, # 29 Ex. 25 to Timmann Deposition, # 30 Ex. 26 to Timmann Deposition, # 31 Ex. 27 to Timmann Deposition, # 32 Proposed Exhibit 278 Transcript of Deposition of Michael Barber, # 33 Ex. 1 to Barber Deposition, # 34 Ex. 2 to Barber Deposition, # 35 Ex. 3 to Barber Deposition, # 36 Ex. 4 to Barber Deposition, # 37 Ex. 5 to Barber Deposition, # 38 Ex. 6 to Barber Deposition, # 39 Ex. 7 to Barber Deposition, # 40 Ex. 8 to Barber Deposition, # 41 Ex. 9 Part A to Barber Deposition, # 42 Ex. 9 Part B to Barber Deposition) (SWEREN−BECKER, ELIZA) (Entered: 10/04/2019)
10/04/2019	195	MOTION in Limine by LAUREL M LEE. (Attachments: # 1 Exhibit 1−Sept. 30 Email T. Price to M. Steinberg, # 2 Exhibit 2−McCoy Responses to Secretary's Interrogatories, # 3 Exhibit 3−Sept. 27 Email L. Aden to T. Price, # 4 Exhibit 4−Oct. 2 Email L. Aden to T. Price) (PRICE, TARA) (Entered: 10/04/2019)

10/04/2019	196	MOTION for Extension of Time to File Response/Reply as to 172 MOTION to Certify Class by LAUREL M LEE. (PRICE, TARA) (Entered: 10/04/2019)
10/04/2019		Set Response to Motion Deadline as to 195 MOTION in Limine . (Internal deadline for referral to judge if response not filed earlier: **10/18/2019)**. (toy) (Entered: 10/07/2019)
10/04/2019		Set Response to Motion Deadline as to 196 MOTION for Extension of Time to File Response/Reply as to 172 MOTION to Certify Class . (Internal deadline for referral to judge if response not filed earlier: **10/18/2019)**. (toy) (Entered: 10/07/2019)
10/06/2019	197	RESPONSE to Motion re 196 MOTION for Extension of Time to File Response/Reply as to 172 MOTION to Certify Class filed by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit 1 (9/17/19 Counsel Email re Canceling Raysor Plaintiffs' Depositions)) (GABER, MARK) (Entered: 10/06/2019)
10/06/2019	198	MEMORANDUM in Opposition re 195 MOTION in Limine *to Exclude Evidence* filed by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (ADEN, LEAH) (Entered: 10/06/2019)
10/07/2019		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MICHAEL J FRANK notified that action is needed Re: 193 MOTION to Appear Pro Hac Vice by David Giller.(Filing fee $ 201 receipt number AFLNDC−4643345.), 192 MOTION to Appear Pro Hac Vice by Pietro Signoracci.(Filing fee $ 201 receipt number AFLNDC−4643293.). Referred to MICHAEL J FRANK. (toy) (Entered: 10/07/2019)
10/07/2019	199	ORDER granting 193 Motion to Appear Pro Hac Vice. Attorney David Giller is admitted pro hac vice to represent Plaintiffs Jeff Gruver, Emory Marquis "Marq" Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Florida State Conference of the NAACP, Orange County Branch of the NAACP, and the League of Women Voters of Florida, pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 10/7/2019. (jcw) (Entered: 10/07/2019)
10/07/2019	200	ORDER granting 192 Motion to Appear Pro Hac Vice. Attorney Pietro Signoracci is admitted pro hac vice to represent Plaintiffs Jeff Gruver, Emory Marquis "Marq" Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Florida State Conference of the NAACP, Orange County Branch of the NAACP, and the League of Women Voters of Florida, pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 10/7/2019. (jcw) (Entered: 10/07/2019)
10/07/2019	201	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Preliminary Injunction Hearing (Day 1) held on 10/7/2019. (Court Reporter Judy Gagnon) (ckm) (Entered: 10/07/2019)
10/08/2019	202	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Preliminary Injunction Hearing (Day 2) held on 10/8/2019. Ruling by Court: Motion for Leave to File Amicus Brief is granted. Motion in Limine is denied. Motion for Preliminary Injunction will be ruled on in a forthcoming order. No class certification response is due until ruling on preliminary injunction. Once the ruling on preliminary injunction has been rendered, Plaintiff has one week to adhere to or reform the proposed class. Defense will then have three weeks to respond. Leave is granted to amend the complaint. Plaintiffs have three weeks (until October 29) to file. Trial will be set for April 6, 2020. An order will follow. (Court Reporter Judy Gagnon) (Attachments: # 1 Exhibit List) (ckm) (Entered: 10/08/2019)
10/08/2019	203	SCHEDULING ORDER. The trial is set for the two−week trial period that begins on Monday, April 6, 2020 and is tentatively first on the docket. Within 7 days after entry of an order on the plaintiffs' preliminary−injunction motion, the plaintiffs must file a supplemental memorandum in support of their class− certification motion that (a) sets out their proposed class definition or definitions and (b) addresses any new

		class−certification issues arising from the preliminary−injunction ruling. The deadline for the defendants' response to the class−certification motion is 21 days after the plaintiffs file their supplemental memorandum. The discovery deadline is January 27, 2020. The deadline for Federal Rule of Civil Procedure 26(a)(2) and 26(a)(3) disclosures is March 2, 2020. The deadline for trial briefs is March 23, 2020. The motion for leave to file an amicus brief, ECF No. 173 , is granted. The brief is deemed properly filed. The motions for leave to file exhibits after the deadlines, ECF Nos. 170 , 190 , and 194 are granted. The exhibits are deemed part of the preliminary injunction record. The motion in limine, ECF No. 195 , seeking to exclude evidence of racial discrimination or racially disparate impact is denied. The motion, ECF No. 196 , to extend the deadline to respond to the class certification motion is granted to the extent set out above and otherwise denied. Leave is granted for the plaintiffs in each case to file an amended complaint. The deadline is October 29, 2019. (Discovery due by **1/27/2020**., Jury Trial set for **4/6/2020 08:15 AM** in U.S. Courthouse Tallahassee before JUDGE ROBERT L HINKLE., Amended Complaint due by **10/29 /2019**., Trial Briefs Deadline − by **3/23/2020**., Disclosure Deadline − by **3/2/2020**.) Signed by JUDGE ROBERT L HINKLE on 10/08/2019. (toy) (Entered: 10/09/2019)
10/09/2019		Set Disclosure Deadlines per ECF# 203 − by **3/2/2020**. (toy) (Entered: 10/09/2019)
10/11/2019	204	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Preliminary Injunction Hearing (Day 1) held on 10/7/2019 before Judge Robert L. Hinkle. Court Reporter: Judy Gagnon. Telephone number: 850−561−6822. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **10/18/2019**. Release of Transcript Restriction set for **1/16/2020**. (kjw) (Entered: 10/11/2019)
10/11/2019	205	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Preliminary Injunction Hearing (Day 2) held on 10/8/2019 before Judge Robert L. Hinkle. Court Reporter: Judy Gagnon. Telephone number: 850−561−6822. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **10/18/2019**. Release of Transcript Restriction set for **1/16/2020**. (kjw) (Entered: 10/11/2019)
10/18/2019	206	MOTION to Appear Pro Hac Vice by Whitley Carpenter.(Filing fee $ 201 receipt number AFLNDC−4661024.) by Whitley J. Carpenter, Forward Justice. (Attachments: # 1 Certificate of Good Standing) (CARPENTER, WHITLEY) (Entered: 10/18/2019)
10/18/2019	207	ORDER DENYING 97 THE MOTION TO DISMISS OR ABSTAIN AND GRANTING IN PART 108 MOTION FOR PRELIMINARY INJUNCTION. Signed by JUDGE ROBERT L HINKLE on 10/18/19. (sms) (Entered: 10/18/2019)
10/21/2019		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MICHAEL J FRANK notified that action is needed Re: 206 MOTION to Appear Pro Hac Vice by Whitley Carpenter.(Filing fee $ 201 receipt number AFLNDC−4661024.). Referred to MICHAEL J FRANK. (toy) (Entered: 10/21/2019)
10/23/2019	208	ORDER granting 206 Motion to Appear Pro Hac Vice. Attorney Whitley Carpenter is admitted pro hac vice to represent amicus curiai, Florida Rights Restoration Coalition, pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 10/23/2019. (jcw) (Entered: 10/23/2019)
10/25/2019	209	Supplemental MOTION to Certify Class *(Supplemental Memorandum in Support of Motion for Class Certification)* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Internal deadline for referral to judge if response not filed earlier:

		11/8/2019). (GABER, MARK) (Entered: 10/25/2019)
10/30/2019	210	DOCKET ANNOTATION BY COURT: Per 207 Order at #8: " This injunction will take effect upon the posting of security in the amount of $100 for costs and damages sustained by a defendant found to have been wrongfully enjoined. " $100.00 received, FLN400037852 from Jimmy Midyette. (blb) (Entered: 10/30/2019)
10/31/2019	211	Emergency MOTION to Amend/Correct 207 Order on Motion to Dismiss, Order on Motion for Preliminary Injunction by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit A−Declaration of Jesse D. Hamilton, # 2 Exhibit B−Declaration of Latoya A. Moreland, # 3 Exhibit C−First Supplemental Declaration of Cutis D. Bryant, Jr., # 4 Exhibit D−First Supplemental Declaration of Anthrone J. Oats, # 5 Text of Proposed Order) (GILLER, DAVID) (Entered: 10/31/2019)
10/31/2019		Set Response to Motion Deadline as to 211 Emergency MOTION to Amend/Correct 207 Order on Motion to Dismiss, Order on Motion for Preliminary Injunction . (Internal deadline for referral to judge if response not filed earlier: **11/14/2019)**. (toy) (Entered: 11/01/2019)
11/01/2019	212	ORDER setting a schedule on the motion to expand the preliminary injunction. Signed by JUDGE ROBERT L HINKLE on 11/1/19. (RH) (Entered: 11/01/2019)
11/01/2019	213	ANSWER to 84 Amended Complaint by LAUREL M LEE. (JAZIL, MOHAMMAD) (Entered: 11/01/2019)
11/02/2019	214	ORDER REQUIRING A 7.1(C) CERTIFICATE ON THE RAYNOR PLAINTIFFS' MOTION FOR LEAVE TO AMEND. Signed by JUDGE ROBERT L HINKLE on 11/02/2019. (toy) (Entered: 11/04/2019)
11/04/2019	215	RULE 7.1(B) CONFERENCE STATEMENT by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (LANG, DANIELLE) (Entered: 11/04/2019)
11/05/2019	216	ORDER GRANTING LEAVE TO FILE THE RAYSOR SECOND AMENDED COMPLAINT. The Raysor plaintiffs' motion, ECF No. 11 in Case No. 4:19cv301−RH−MJF, on which the defendant Secretary of State takes no position, for leave to file their second amended complaint is granted. The Raysor plaintiffs' second amended complaint, ECF No. 11 −2 in Case No. 4:19cv301−RH−MJF, is deemed filed as of November 5, 2019. Signed by JUDGE ROBERT L HINKLE on 11/05/2019. (toy) (Entered: 11/05/2019)
11/12/2019	217	*Defendant Hillsborough County Supervisor of Elections'* ANSWER to 84 Amended Complaint *and Affirmative Defenses* by CRAIG LATIMER. (TODD, STEPHEN) (Entered: 11/12/2019)
11/14/2019	218	RESPONSE in Opposition re 211 Emergency MOTION to Amend/Correct 207 Order on Motion to Dismiss, Order on Motion for Preliminary Injunction filed by LAUREL M LEE. (JAZIL, MOHAMMAD) (Entered: 11/14/2019)
11/15/2019	219	NOTICE OF APPEAL as to 207 Order on Motion to Dismiss, Order on Motion for Preliminary Injunction by RON DESANTIS, LAUREL M LEE. (Filing fee $505 Receipt Number AFLNDC−4704095.) (PRIMROSE, NICHOLAS) (Entered: 11/15/2019)
11/15/2019	220	RESPONSE in Opposition re 172 MOTION to Certify Class , 209 Supplemental MOTION to Certify Class *(Supplemental Memorandum in Support of Motion for Class Certification)* filed by RON DESANTIS, LAUREL M LEE. (MEROS, GEORGE) (Entered: 11/15/2019)
11/15/2019		Set Deadlines re 219 Notice of Appeal : Clerk to check status of Appeal on **2/15/2020**. Certificate of Readiness (FRAP 11) due by **11/29/2019**. (toy) Modified on 11/18/2019 to correct date (toy). (Entered: 11/18/2019)
11/18/2019	221	Appeal Instructions re: 219 Notice of Appeal : The Transcript Request Form is available on the Internet at

		http://www.flnd.uscourts.gov/forms/Attorney/ECCA_transcript_form_fillable.pdf **PLEASE NOTE** Separate forms must be filed for each court reporter. Transcript Order Form due by **12/2/2019**. (toy) (Entered: 11/18/2019)
11/18/2019	222	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 219 Notice of Appeal. (toy) (Entered: 11/18/2019)
11/19/2019	223	NOTICE of Appearance by STEPHEN MARK TODD on behalf of CRAIG LATIMER (TODD, STEPHEN) (Entered: 11/19/2019)
11/19/2019	224	USCA PROCEDURAL LETTER re: 219 NOTICE OF APPEAL. USCA Appeal # 19−14551−B (toy) (Entered: 11/20/2019)
11/21/2019	225	MOTION for Leave to File *a Reply to Defendant's Opposition to Plaintiffs' Motion to Expand the Preliminary Injunction* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Text of Proposed Order) (SIGNORACCI, PIETRO) (Entered: 11/21/2019)
11/21/2019		Set Response To Motion Deadline as to 225 MOTION for Leave to File *a Reply to Defendant's Opposition to Plaintiffs' Motion to Expand the Preliminary Injunction*. (Internal deadline for referral to judge if response not filed earlier: **12/5/2019)**. (toy) (Entered: 11/21/2019)
11/22/2019	226	ORDER DENYING 225 LEAVE TO FILE A REPLY MEMORANDUM IN SUPPORT OF THE MOTION TO EXPAND THE PRELIMINARY INJUNCTION. Signed by JUDGE ROBERT L HINKLE on 11/22/2019. (toy) (Entered: 11/22/2019)
11/22/2019	227	MOTION for Leave to File *a Reply Memorandum in Support of Motion for Class Certification* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Text of Proposed Order) (GABER, MARK) (Entered: 11/22/2019)
11/22/2019	228	ORDER SETTING A HEARING. Signed by JUDGE ROBERT L HINKLE on 11/22/19. (sms) (Entered: 11/22/2019)
11/22/2019		Set Response to Motion Deadline as to 227 MOTION for Leave to File *a Reply Memorandum in Support of Motion for Class Certification*. (Internal deadline for referral to judge if response not filed earlier: **12/6/2019)**. (toy) (Entered: 11/25/2019)
11/25/2019	229	TRANSCRIPT REQUEST by LAUREL M LEE for proceedings held on 10/07 −10/08 before Judge Hinkle, Court Reporter:Gagnon (DAVIS, ASHLEY) (Entered: 11/25/2019)
11/25/2019	230	TRANSCRIPT Acknowledgment − Part II, re 219 Notice of Appeal. Court Reporter: Judy Gagnon. (kjw) (Entered: 11/25/2019)
11/25/2019	231	NOTICE of Filing Transcript (Part III) by Court Reporter in District Court − re: 219 Notice of Appeal. Court Reporter: Judy Gagnon. (kjw) *Transcripts previously filed as ECF Documents 204 and 205. (Entered: 11/25/2019)
11/25/2019	232	NOTICE OF HEARING: Pending Motions Hearing (Oral Argument) set for **12/3/2019 10:00 AM** before JUDGE ROBERT L HINKLE, United States Courthouse, Courtroom 5 East, 111 North Adams St., Tallahassee, Florida 32301. *NOTE: If you or any party, witness or attorney in this matter has a disability that requires special accommodation, such as a hearing impairment that requires a sign language interpreter or a wheelchair restriction that requires ramp access, please contact Cindy Markley at 850−521−3518 in the Clerk's Office at least one week prior to the hearing (or as soon as possible) so arrangements can be made.* *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 11/25/2019)
11/27/2019	233	ORDER DENYING LEAVE TO FILE A REPLY MEMORANDUM IN SUPPORT OF THE CLASS−CERTIFICATION MOTION − The plaintiffs' motion, ECF No. 227

		, for leave to file a reply memorandum in support of their class−certification motion is denied. Signed by JUDGE ROBERT L HINKLE on 11/27/2019. (ckm) (Entered: 11/27/2019)
11/27/2019	234	Joint MOTION to Stay by RON DESANTIS, LAUREL M LEE. (PRIMROSE, NICHOLAS) (Entered: 11/27/2019)
12/02/2019	235	Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Northern District of Florida certifies that the record is complete for purposes of this appeal re: 219 Notice of Appeal, Appeal No. 19−14551−B. The entire record on appeal is available electronically. (toy) (Entered: 12/02/2019)
12/03/2019	236	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Motions Hearing (Oral Argument) held on 12/3/2019. Court hears argument of counsel on pending motions. Ruling by Court: An order will follow. (Court Reporter Megan Hague) (ckm) (Entered: 12/03/2019)
12/03/2019	237	*Sarasota County's* ANSWER to Complaint by RON TURNER. (BENTLEY, MORGAN) (Entered: 12/03/2019)
12/03/2019	238	*Manatee County's* ANSWER to Complaint by MICHAEL BENNETT. (BENTLEY, MORGAN) (Entered: 12/03/2019)
12/05/2019	239	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Proceedings held on 12/3/2019, before Judge Robert Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **12/12/2019**. Release of Transcript Restriction set for **3/11/2020**. (mah) (Entered: 12/05/2019)
12/09/2019	240	NOTICE *of Filing the Restoration of Voting Rights Work Group Report* by LAUREL M LEE (Attachments: # 1 Attachment A) (JAZIL, MOHAMMAD) (Entered: 12/09/2019)
12/10/2019	241	SUPPLEMENTAL ROA Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Northern District of Florida certifies that the record is complete for purposes of this appeal re: 219 Notice of Appeal, Appeal No. 19−14551−B. The entire record on appeal is available electronically. **Transcript filed on 12/05/2019. (toy) (Entered: 12/10/2019)
12/13/2019	242	RESPONSE in Opposition re 234 Joint MOTION to Stay *Pending Appeal* filed by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit A − October 28 Email) (EBENSTEIN, JULIE) (Entered: 12/13/2019)
12/16/2019	243	ORDER EXTENDING THE DEADLINE TO RESPOND TO SPECIFIC SUBPOENAS AND ALLOWING FURTHER AGREED EXTENSIONS WITHOUT A COURT ORDER. The motion to extend the deadline to respond to specific subpoenas, ECF No. 39 in Case No. 4:19cv302, is granted. The deadline is extended to December 23, 2019. Signed by JUDGE ROBERT L HINKLE on 12/16/2019. (toy) (Entered: 12/16/2019)
12/19/2019	244	ORDER STAYING THE PRELIMINARY INJUNCTION IN PART re 234 . Signed by JUDGE ROBERT L HINKLE on 12/19/19. (sms) (Entered: 12/19/2019)
12/31/2019	245	SCHEDULING ORDER : Rule 26 Meeting Report due by **3/2/2020**. Discovery due by **1/27/2020**. Dispositive Motions to be filed by **2/17/2020**. Pretrial Conference set for **3/26/2020 01:00 PM** in U.S. Courthouse Tallahassee before JUDGE ROBERT L HINKLE. Bench Trial set for **4/6/2020 09:00 AM** in U.S. Courthouse Tallahassee

		before JUDGE ROBERT L HINKLE. Signed by JUDGE ROBERT L HINKLE on 12/31/2020. (blb) Modified on 2/27/2020 to reflect bench trial (ckm). (Entered: 12/31/2019)
01/07/2020	246	NOTICE of Appearance by JOSHUA E PRATT on behalf of RON DESANTIS (PRATT, JOSHUA) (Entered: 01/07/2020)
01/08/2020	247	ORDER denying 211 Motion to Amend or Clarify the Preliminary Injunction. Signed by JUDGE ROBERT L HINKLE on 1/8/2020. (sms) (Entered: 01/08/2020)
01/08/2020	248	ORDER of USCA as to 219 Notice of Appeal filed by LAUREL M LEE, RON DESANTIS. (blb) (Entered: 01/13/2020)
01/13/2020	249	Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Northern District of Florida certifies that the record is complete for purposes of this appeal re: 219 Notice of Appeal, Appeal No. 19−14551. The entire record on appeal is available electronically. (blb) (Entered: 01/13/2020)
01/13/2020	250	NOTICE of Appearance by EDWARD M WENGER on behalf of LAUREL M LEE (WENGER, EDWARD) (Entered: 01/13/2020)
01/14/2020	251	MOTION to Appear Pro Hac Vice by Anton Marino.(Filing fee $ 201 receipt number AFLNDC−4777836.) by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (MARINO, ANTON) (Entered: 01/14/2020)
01/15/2020	252	MOTION to Compel *Discovery Responses* by LAUREL M LEE. (Attachments: # 1 Exhibit Exhibit 1) (PRICE, TARA) (Entered: 01/15/2020)
01/17/2020	253	ORDER ADVANCING THE DEADLINE TO RESPOND TO THE MOTION TO COMPEL. Signed by JUDGE ROBERT L HINKLE on 1/17/20. (sms) (Entered: 01/17/2020)
01/21/2020		Set Deadlines/Hearings (Internal deadline for referral to judge if response not filed earlier: **1/21/2020)**. (rcb) (Entered: 01/21/2020)
01/27/2020	254	MOTION to Extend Time*(Raysor Plaintiffs' Motion to Extend Time to File Motion to Compel re Secretary of State's Discovery Responses)* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A: Jan. 24 Jazil Email) (LANG, DANIELLE) (Entered: 01/27/2020)
01/27/2020	255	MOTION to Extend Time*(Raysor Plaintiffs' Motion to Extend Time for Discovery Compliance for FCOR and Governor)* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A: Appendix to FCOR Subpoena, # 3 Exhibit B: FCOR Production, # 4 Exhibit C: FCOR Written Objections, # 5 Exhibit D: State Defendants' 11th Circuit Reply Brief) (LANG, DANIELLE) (Entered: 01/27/2020)
01/28/2020	256	ORDER COMPELLING DISCOVERY FROM THE PLAINTIFFS JONES AND MENDEZ AND AWARDING ATTORNEY'S FEES RE 252 . Signed by JUDGE ROBERT L HINKLE on 1/28/20. (sms) (Entered: 01/28/2020)
01/28/2020	257	ORDER EXTENDING THE DEADLINES FOR SPECIFIC DISCOVERY AND MOTIONS TO COMPEL.IT IS ORDERED: The motion to extend the deadline for specific discovery, ECF No. 255 , is granted. The motion to extend the deadline for motions to compel, ECF No. 254 , is granted. Signed by JUDGE ROBERT L HINKLE on 1/28/20. (blb) (Entered: 01/29/2020)
01/29/2020		Set Deadlines for Motion to Redetermine Attorney's fees amount. File by **2/11/2020**. (blb) (Entered: 01/29/2020)
02/03/2020	258	MOTION to Compel *Production by Secretary of State Lee* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER,

		EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A − Aug 26 2019 McKown Email Exchange, # 3 Exhibit B −− Privileged Documents Log, # 4 Exhibit C − Feb 3, 2020 Lang Email, # 5 Exhibit D − Feb 3, 2020 McVay Email, # 6 Exhibit E − 2019−07−09 First Set of Gruver RFPs, # 7 Exhibit F − Raysor Plfs RFPs to SOS Lee, # 8 Exhibit G − 1−27−20 Matthews Depo, # 9 Exhibit H − Jan. 24, 2020 Jazil Email, # 10 Exhibit I − Jan. 24, 2020 Danahy Email, # 11 Exhibit J − Jan. 27, 2020 Price Email, # 12 Exhibit K − Jan. 29, 2020 Danahy Email, # 13 Exhibit L − Jan. 30 2020 Price Email, # 14 Exhibit M − Jan 30, 2020 Danahy Email, # 15 Exhibit N − Jan. 32, 2020 Price Email) (LANG, DANIELLE) Modified Exhibit Titles on 2/4/2020 (blb). (Entered: 02/03/2020)
02/04/2020	259	ORDER SETTING PROCEDURES ON THE MOTION TO COMPEL. Signed by JUDGE ROBERT L HINKLE on 2/4/20. (sms) (Entered: 02/04/2020)
02/04/2020	260	NOTICE OF TELEPHONIC HEARING on 258 Motion to Compel: Telephonic Motion Hearing set for **2/14/2020 10:00 AM** before JUDGE ROBERT L HINKLE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 02/04/2020)
02/05/2020		Set Deadline per 259 ORDER: Defendant Secretary of State must file her response to the plaintiffs' motion to compel, ECF No. 258 , by **2/11/2020**. (blb) (Entered: 02/05/2020)
02/05/2020		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MICHAEL J FRANK notified that action is needed Re: 251 MOTION to Appear Pro Hac Vice by Anton Marino.(Filing fee $ 201 receipt number AFLNDC−4777836.). Referred to MICHAEL J FRANK. (jcw) (Entered: 02/05/2020)
02/05/2020	261	ORDER granting 251 Motion to Appear Pro Hac Vice. Attorney Anton Marino is admitted pro hac vice to represent Plaintiffs Jeff Gruver, Emory Marquis Marq Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Jesse D. Hamilton, LaToya Moreland, Curtis D. Bryant, Jr., Florida State Conference of the NAACP, Orange County Branch of the NAACP, and the League of Women Voters of Florida pursuant to Local Rule 11.1(c). Signed by MAGISTRATE JUDGE MICHAEL J FRANK on 2/5/2020. (jcw) (Entered: 02/05/2020)
02/11/2020	262	NOTICE OF TELEPHONIC HEARING: Telephonic Status Conference set for **2/14/2020 10:00 AM** before JUDGE ROBERT L HINKLE. The Motion Hearing also remains scheduled for the same time. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 02/11/2020)
02/11/2020	263	RESPONSE in Opposition re 258 MOTION to Compel *Production by Secretary of State Lee* filed by LAUREL M LEE. (Attachments: # 1 Exhibit 1− Amended Privilege Log, # 2 Exhibit 2− SOS Discovery Responses, # 3 Exhibit 3− McKown email dated Aug. 20, # 4 Exhibit 4− Sweren−Becker email dated Aug. 21, # 5 Exhibit 5− Gruver Second Set of RFPs, # 6 Exhibit 6− Swain Declaration, # 7 Exhibit 7− McKown Affidavit, # 8 Exhibit 8− B. Riddle Second RFP Responses) (PRICE, TARA) (Entered: 02/11/2020)
02/11/2020	264	MOTION for Clarification and/or to Amend the Court's Scheduling Orders by LAUREL M LEE. (Attachments: # 1 Exhibit 1− Orange Cnty. NAACP Sept. 2019 Responses, # 2 Exhibit 2− Price and Aden emails− Sept. 2019, # 3 Exhibit 3− Orange

		Cnty. NAACP Supplemental Responses, # 4 Exhibit 4− Orange Cnty. NAACP January 2020 Responses, # 5 Exhibit 5− Orange Cnty. NAACP 30(b)(6) Deposition, # 6 Exhibit 6− Gruver First Supplemental Initial Disclosures, # 7 Exhibit 7− Price and Aden emails− Feb. 2020) (PRICE, TARA) (Entered: 02/11/2020)
02/14/2020	265	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Telephonic Motion Hearing and Status Conference held on 2/14/2020. Court hears argument of counsel on the Motion to Compel and the Motion to Clarify and/or Amend. Ruling by Court: The Motion to Compel is granted in part and the Motion to Clarify is granted. Expert names to be provided by February 24. Expert reports are due by March 2. Additional (rebuttal) expert names due by March 16. Depositions to be taken by March 23. Pretrial stipulation due by noon on March 25. Summary judgment motions due by February 18. An order is forthcoming. (Court Reporter Lisa Snyder) (ckm) (Entered: 02/14/2020)
02/18/2020	266	UNOPPOSED MOTION FOR LEAVE TO FILE MEMORANDUM IN SUPPORT OF THE OMNIBUS SUMMARY JUDGMENT MOTION IN EXCESS OF THE WORD LIMIT by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Proposed Memorandum) (WENGER, EDWARD) Modified Title on 2/19/2020 (blb). (Entered: 02/18/2020)
02/18/2020	267	OMNIBUS MOTION FOR SUMMARY JUDGMENT by RON DESANTIS, LAUREL M LEE. (Internal deadline for referral to judge if response to summary judgment not filed earlier: **3/10/2020)**. (WENGER, EDWARD) Modified Title on 2/19/2020 (blb). (Entered: 02/18/2020)
02/18/2020	268	MEMORANDUM in Support re 267 MOTION for Summary Judgment filed by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Exhibit A, DEPOSITION OF DESMOND MEADE, # 2 Exhibit B, DEPOSITION OF CORPORATE REPRESENTATIVE OF NAACP, # 3 Exhibit C), DEPOSITION OF CORPORATE REPRESENTATIVE OF LEAGUE OF WOMEN VOTERS OF FLORIDA, (WENGER, EDWARD) Modified Title and Exhibit Names on 2/19/2020 (blb). (Entered: 02/18/2020)
02/19/2020	269	DOCKET ANNOTATION BY COURT TO ALL COUNSEL: Counsel is advised that for all future pleadings, for this case and any future cases assigned to Judge Hinkle, any exhibit attached to a document filing should be properly identified. (Example: Deposition of John Doe rather than Exhibit A.) (blb) (Entered: 02/19/2020)
02/19/2020	270	ORDER GRANTING LEAVE TO FILE A MEMORANDUM OF EXCESSIVE LENGTH. The state defendants' unopposed motion, ECF No. 266 , to file a memorandum of excessive length is granted. The state defendants' memorandum, ECF No. 268 , is deemed properly filed on February 18, 2020. Signed by JUDGE ROBERT L HINKLE on 2/19/20. (blb) (Entered: 02/19/2020)
02/19/2020	271	USCA Opinion issued as JUDGMENT re: 219 Notice of Appeal filed by LAUREL M LEE, RON DESANTIS. AFFIRMED. State's motion to stay pending appeal is DENIED as moot. USCA # 19−14551−B. (blb) (Entered: 02/19/2020)
02/21/2020	272	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Telephonic Motion Hearing and Status Conference Proceedings held on 2/14/2020, before Judge Robert Hinkle. Court Reporter/Transcriber Lisa Snyder, Telephone number 850−597−4715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **2/28/2020**. Release of Transcript Restriction set for **5/28/2020**. (ls) (Entered: 02/21/2020)
02/24/2020	273	MCCOY PLAINTIFFS' SUBMISSION OF THE NAMES OF EXPERT WITNESSES PURSUANT TO THIS COURTS FEBRUARY 14, 2020 ORDER by ROSEMARY MCCOY. (ABUDU, NANCY) Modified Title on 2/25/2020 (blb). (Entered: 02/24/2020)

02/24/2020	274	ORDER AMENDING THE SCHEDULE AND SETTING PROCEDURES ON THE MOTION TO COMPEL RE 258 264 . Signed by JUDGE ROBERT L HINKLE on 2/24/20. (sms) (Entered: 02/24/2020)
02/24/2020	275	PLAINTIFFS' EXPERT WITNESS DISCLOSURE OF DRS. DAN A. SMITH , J. MORGAN KOUSSER, AND TRACI R. BURCH PURSUANT TO RULE 26(a)(2) by CURTIS D BRYANT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (ADEN, LEAH) Modified Title on 2/25/2020 (blb). (Entered: 02/24/2020)
02/24/2020	276	THE GOVERNOR AND THE SECRETARY OF STATE'S EXPERT WITNESS DISCLOSURE by RON DESANTIS, LAUREL M LEE. (WENGER, EDWARD) Modified Title on 2/25/2020 (blb). (Entered: 02/24/2020)
02/25/2020		Set Deadlines per 274 ORDER AMENDING THE SCHEDULE AND SETTING PROCEDURES ON THE MOTION TO COMPEL: Secretary must file hard copies of the documents for in camera review by **3/5/2020**. Dispositive Motions to be filed by **2/18/2020**. Pretrial Stipulation due by **3/25/2020**. (blb) (Entered: 02/25/2020)
03/02/2020	277	RULE 26 Disclosures by ROSEMARY MCCOY, SHEILA SINGLETON. (SHORT, CAREN) (Entered: 03/02/2020)
03/02/2020	278	Exhibit List *Rule 26(a)(3) Disclosures* by PETER ANTONACCI.. (PRICE, TARA) (Entered: 03/02/2020)
03/02/2020	279	Exhibit List *Rule 26(a)(3) Disclosures* by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit A− Deposition Designations, # 2 Exhibit B− Exhibit List) (PRICE, TARA) (Entered: 03/02/2020)
03/02/2020	280	RULE 26 Disclosures by LAUREL M LEE. (WENGER, EDWARD) (Entered: 03/02/2020)
03/02/2020	281	NOTICE *of Compliance with Expert Disclosure Deadline* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (ADEN, LEAH) (Entered: 03/02/2020)
03/02/2020	282	RULE 26 Disclosures by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit A − Plaintiffs Trial Exhibit List) (ADEN, LEAH) (Entered: 03/02/2020)
03/06/2020		ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE ROBERT L HINKLE notified that action is needed Re: 274 Order on Motion to Compel. Deadline to file hard copies of the documents for in camera review passed. (blb) (Entered: 03/06/2020)
03/09/2020	283	NOTICE *of Filing of Plaintiffs' Objections to Defendants' Rule 26(a)(3) Pretrial Disclosures* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT re 280 Rule 26 Disclosures, 279 Exhibit List (Attachments: # 1 Exhibit A− Counter Designations) (EBENSTEIN, JULIE) (Entered: 03/09/2020)

03/09/2020	284	NOTICE *of Filing Objections to Plaintiffs' Rule 26(a)(3) Disclosures* by RON DESANTIS, LAUREL M LEE re 282 Rule 26 Disclosures, (Attachments: # 1 Exhibit A− Objections to Deposition Designations, # 2 Exhibit B− Objections to Plaintiffs' Exhibit List) (PRICE, TARA) (Entered: 03/09/2020)
03/10/2020	285	Consent MOTION for Leave to File Excess Pages by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Proposed Memorandum) (GILLER, DAVID) (Entered: 03/10/2020)
03/10/2020	286	MEMORANDUM in Opposition re 267 MOTION for Summary Judgment filed by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Declaration of David Giller in Opposition to Defendants' Motion for Summary Judgment, # 2 Exhibit 1 − Excerpts from Beverlye Neal Depo, # 3 Exhibit 2 − Excerpts from Cecile Scoon Depo, # 4 Exhibit 3 − Excerpts from Craig Latimer Depo, # 5 Exhibit 4 − Excerpts from Desmond Meade Depo, # 6 Exhibit 5 − Excerpts from Barton Depo, # 7 Exhibit 6 − Excerpts from Maria Matthews Depo 1, # 8 Exhibit 7 − Excerpts from Maria Matthews Depo 2, # 9 Exhibit 8 − Excerpts from Mark Earley Depo, # 10 Exhibit 9 − Excerpts from Ellison Depo, # 11 Exhibit 10 − Excerpts from M.J. Arrington Depo, # 12 Exhibit 11 − Second Supp. Expert Report − Smith, # 13 Exhibit 12 − Expert Report − Kousser, # 14 Exhibit 13 − Expert Report − Burch, # 15 Exhibit 14 − OPPAGA Report, # 16 Exhibit 15 − BVRS Memo, # 17 Exhibit 16 − Work Group Report, # 18 Exhibit 17 − Referral Letter − Elections Fraud Compl., # 19 Exhibit 18 − J. Shang Deferred Prosecution Agreement, # 20 Exhibit 19 − Receipt for Singletary & McCoy, # 21 Exhibit 20 − Excerpt of Record, # 22 Exhibit 21 − Chart summarizing felony costs, # 23 Exhibit 22 − Letter from CLC to Secretary re NVRA, # 24 Exhibit 23 − Second Supp. Decl. of Curtis D. Bryant Jr., # 25 Exhibit 24 − Distribution Schedule of Court−Related Fees, # 26 Exhibit 25 − Rights Restoration Proposal − Miami−Dade County, # 27 Exhibit 26 − NAACP Voter Status Clarification Request) (SIGNORACCI, PIETRO) (Entered: 03/10/2020)
03/13/2020	287	RESPONSE by MICHAEL BENNETT re 286 Memorandum in Opposition to Motion,,,,,,, *for SummaryJudgment*. (BENTLEY, MORGAN) (Entered: 03/13/2020)
03/16/2020	288	AMENDED NOTICE OF HEARING ***(Changing to telephonic)***: The Pretrial Conference set for **3/26/2020 01:00 PM** before JUDGE ROBERT L HINKLE will now take place by TELEPHONE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 03/16/2020)
03/16/2020	289	Joint MOTION Status Conference by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (LANG, DANIELLE) (Entered: 03/16/2020)
03/16/2020	290	RULE 26 Disclosures by LAUREL M LEE. (WENGER, EDWARD) (Entered: 03/16/2020)
03/16/2020	291	RULE 26 Disclosures by LAUREL M LEE. (WENGER, EDWARD) (Entered: 03/16/2020)

03/16/2020	292	RULE 26 Disclosures by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit 1, REBUTTAL REPORT OF PROFESSOR TODD DONOVAN) (ADEN, LEAH) Modified Exhibit Title on 3/17/2020 (blb). (Entered: 03/16/2020)
03/17/2020	293	NOTICE OF TELEPHONIC HEARING (re: 289 Request) − Telephonic Status Conference set for **3/17/2020 10:45 AM** before JUDGE ROBERT L HINKLE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 03/17/2020)
03/17/2020	294	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Telephonic Status Conference held on 3/17/2020. Parties discuss pending trial and court hears argument of counsel regarding rescheduling trial. Ruling by Court: Trial is rescheduled for April 27, 2020. Trial exhibits to be exchanged by March 23; attorney conference to take place by April 2; trial briefs and pretrial stipulation due by April 9. An order is forthcoming. (Court Reporter Lisa Snyder) (ckm) (Entered: 03/17/2020)
03/17/2020	295	MOTION for Leave to File Excess Pages by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Exhibit A) (WENGER, EDWARD) (Entered: 03/17/2020)
03/17/2020	296	REPLY to Response to Motion re 267 MOTION for Summary Judgment filed by RON DESANTIS, LAUREL M LEE. (Attachments: # 1 Exhibit A) (WENGER, EDWARD) (Entered: 03/17/2020)
03/18/2020	297	ORDER AMENDING THE SCHEDULE Re: 285 Consent MOTION for Leave to File Excess Pages, 295 MOTION for Leave to File Excess Pages. The trial is rescheduled for Monday, **4/27/2020 09:00 AM** in U.S. Courthouse Tallahassee before JUDGE ROBERT L HINKLE., Pretrial Stipulation due by **4/9/2020**, The consented motions to exceed word limits, ECF Nos. 285 and 295 , are granted. Signed by JUDGE ROBERT L HINKLE on 3/18/20. (blb) Modified on 3/19/2020 changing the bench trial time to 9:00 a.m. (ckm). (Entered: 03/18/2020)
03/20/2020	298	MOTION to Withdraw as Attorney *(Jimmy Midyette)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (TILLEY, DANIEL) (Entered: 03/20/2020)
03/23/2020	299	Exhibit List by MARK EARLEY.. (HERRON, MARK) (Entered: 03/23/2020)
03/23/2020	300	Witness List by MARK EARLEY. (HERRON, MARK) (Entered: 03/23/2020)
03/23/2020	301	Exhibit List *State Defendants' Supplemental Rule 26(a)(3) Disclosures* by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit A− Supplemental Exhibit List) (PRICE, TARA) (Entered: 03/23/2020)
03/23/2020	302	RULE 26 Disclosures by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Exhibit Plaintiffs' Amended Witness List, # 2 Exhibit Plaintiffs' Amended Exhibit List, # 3 Exhibit Plaintiffs' Supplemental Exhibit List) (DIAZ, JONATHAN) (Entered: 03/23/2020)
03/24/2020	303	ORDER GRANTING LEAVE TO WITHDRAWMIDYETTE. The motion for leave for attorney Jimmy Midyette to withdraw as counsel for the Gruver plaintiffs, ECF No. 298 , is granted, effective immediately. Signed by JUDGE ROBERT L HINKLE on 3/24/20. (blb) (Entered: 03/24/2020)

03/25/2020	304	MOTION in Limine *to Exclude Testimony of Hannah Walker, Ph.D.* by LAUREL M LEE. (Attachments: # 1 Exhibit, # 2 Exhibit) (JAZIL, MOHAMMAD) (Entered: 03/25/2020)
03/25/2020	305	MOTION in Limine *to Exclude Testimony of Traci Burch, Ph.D.* by LAUREL M LEE. (Attachments: # 1 Exhibit A, # 2 Exhibit B) (JAZIL, MOHAMMAD) (Entered: 03/25/2020)
03/25/2020	306	MOTION in Limine *to Exclude Testimony of J. Morgan Kousser, Ph.D.* by LAUREL M LEE. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (JAZIL, MOHAMMAD) (Entered: 03/25/2020)
03/26/2020	307	AMENDED NOTICE OF HEARING (change in time) − Due to the high volume of calls coming into the AT&T conferencing line at the top of the hour, the time for this hearing is being changed. Telephonic Pretrial Conference and hearing on all pending motions set for **3/26/2020 01:22 PM** before JUDGE ROBERT L HINKLE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** ***NOTE: Each side will have 30 minutes for argument.*** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 03/26/2020)
03/26/2020	308	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Telephonic Pretrial Conference and Motions Hearing held on 3/26/2020. Court hears argument of counsel on Motion for Summary Judgment. Ruling by Court: Motion for Summary Judgment is denied. Other rulings will be made in a forthcoming order. Follow−up telephonic Pretrial Conference set for April 2, 2020 at 1:22 p.m. (Court Reporter Lisa Snyder) (ckm) (Entered: 03/26/2020)
03/27/2020	309	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for **4/2/2020 01:22 PM** before JUDGE ROBERT L HINKLE. Call in number: **888−684−8852** Access code: **3243416#** Security code: **1234#** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 03/27/2020)
03/30/2020	310	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Summary Judgment Motion and Pretrial Conference Telephonic Proceedings held on 3/26/2020, before Judge Robert Hinkle. Court Reporter/Transcriber Lisa Snyder, Telephone number 850−597−4715. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **4/6/2020**. Release of Transcript Restriction set for **7/6/2020**. (ls) (Entered: 03/30/2020)
03/30/2020	311	ORDER DISMISSING THE EX POST FACTO, VOTING RIGHTS ACT, FLORIDA CONSTITUTION, AND MANDAMUS CLAIMS AND OTHERWISE DENYING SUMMARY JUDGMENT. The plaintiffs' Ex Post Facto, Voting Rights Act, Florida Constitution, and mandamus claims have been abandoned and are dismissed. In all other respects the defendants' summary−judgment motion, ECF No. 267 , is denied. I do *not* direct the entry of judgment under Federal Rule of Civil Procedure 54(b). Signed by JUDGE ROBERT L HINKLE on 3/30/20. (blb) (Entered: 03/30/2020)
03/31/2020	312	ORDER ON THE DEFENDANTS' MOTIONS IN LIMINE. The defendants' motion in limine to exclude testimony of Dr. Hannah Walker, ECF No. 304 , is denied. The defendants' motion in limine to exclude testimony of Dr. Traci Burch, ECF No. 305 ,

		is denied. The defendants' motions in limine to exclude the testimony of Dr. J. Morgan Kousser, ECF No. 306 , is granted in part and denied in part. Testimony stating a conclusion about intent is excluded. Signed by JUDGE ROBERT L HINKLE on 3/31/20. (blb) (Entered: 03/31/2020)
04/02/2020	313	NOTICE *of Preferred Method for Trial* by LAUREL M LEE (JAZIL, MOHAMMAD) (Entered: 04/02/2020)
04/02/2020	314	NOTICE *of Preferred Method for Trial* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT re 313 Notice (Other) (GILLER, DAVID) (Entered: 04/02/2020)
04/02/2020	315	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Telephonic Pretrial Conference held. Court conducts pretrial conference and parties discuss trial procedures. Ruling by Court: Expert reports will be admitted and should be filed by April 10. Plaintiffs' declarations will be admitted. All experts who submitted reports will be available for direct and can be cross−examined. Exhibits to be filed by April 17. Another hearing will be set for April 8 at 1:22 using the national platform. An order is forthcoming. (Court Reporter Megan Hague) (ckm) (Entered: 04/02/2020)
04/02/2020	316	NOTICE OF HEARING: Pretrial Conference set for **4/8/2020 01:22 PM** before JUDGE ROBERT L HINKLE using the national platform. More details will be provided at a later date. *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 04/02/2020)
04/02/2020	317	ORDER ON TRIAL PROCEDURES. First−level hearsay objections to previously served expert reports and previously filed declarations of the plaintiffs have been waived. These are admitted into evidence subject to other objections. All expert reports not yet in the electronic case file must be filed by April 10, 2020. All exhibits not yet in the electronic case file must be filed by April 17, 2020. By April 20, 2020, the party who intends to call a witness must file a notice listing each exhibit the party intends to use with the witness. By April 22, 2020, each other party must file a notice listing each additional exhibit the other party intends to use with the witness. The defendants' request to require the prefiling of direct testimony in writing is denied. By a separate notice, the clerk must set a hearing by videoconference on April 8, 2020. Signed by JUDGE ROBERT L HINKLE on 4/2/20. (blb) (Entered: 04/03/2020)
04/03/2020	318	RULE 26 Disclosures by ROSEMARY MCCOY, SHEILA SINGLETON. (Attachments: # 1 Exhibit Expert Report − Walker, # 2 Exhibit Expert Report − Weinstein) (SHORT, CAREN) (Entered: 04/03/2020)
04/03/2020	319	MOTION to Withdraw *Plaintiff Jessie D. Hamilton* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, JESSE D HAMILTON, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Text of Proposed Order) (ADEN, LEAH) (Entered: 04/03/2020)
04/06/2020	320	MOTION for clarification by LAUREL M LEE. (JAZIL, MOHAMMAD) (Entered: 04/06/2020)
04/07/2020	321	ORDER CERTIFYING A CLASS AND SUBCLASS. The plaintiffs' class−certification motion, ECF No. 172 , as supplemented, ECF No. 209 , is granted with modified class definitions. Signed by JUDGE ROBERT L HINKLE on 4/7/20. (blb) (Entered: 04/07/2020)
04/07/2020	322	MOTION to Extend Time *Re pretrial stipulations and trial brief* by FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, ORANGE COUNTY BRANCH OF THE NAACP,

		STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (GILLER, DAVID) (Entered: 04/07/2020)
04/07/2020	323	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Telephonic Proceedings held on 4/2/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−443−9797. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **4/14/2020**. Release of Transcript Restriction set for **7/13/2020**. (mah) (Entered: 04/07/2020)
04/08/2020	324	Sealed Document (ckm) (Entered: 04/08/2020)
04/08/2020	325	NOTICE OF TELEPHONIC HEARING: Telephonic Pretrial Conference set for **4/8/2020 01:22 PM** before JUDGE ROBERT L HINKLE. Call in number: **571−353−2300** Access code: **159339561** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) (Entered: 04/08/2020)
04/08/2020	326	ORDER ON VIDEO AND AUDIO ACCESS TO TODAYS HEARING. Signed by JUDGE ROBERT L HINKLE on 4/8/20. (sms) (Entered: 04/08/2020)
04/08/2020	327	ORDER EXTENDING THE DEADLINE FOR THE PRETRIAL STIPULATION AND TRIAL BRIEF. The unopposed motion, ECF No. 322 , to extend the deadline for the pretrial stipulation and trial brief is granted. The deadline is extended to **4/14/2020**. Signed by JUDGE ROBERT L HINKLE on 4/8/20. (blb) (Entered: 04/08/2020)
04/08/2020	328	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Pretrial Conference held on 4/8/2020. Court reviews best practices for virtual trial and hears argument of counsel on Motion for Clarification. Ruling by Court: Motion to Dismiss Hamilton is granted. Ruling on the Motion for Clarification will be made in an Order to follow. (Court Reporter Megan Hague) (ckm) (Entered: 04/08/2020)
04/08/2020	329	USCA ORDER ISSUED AS MANDATE as to 219 Notice of Appeal filed by LAUREL M LEE, RON DESANTIS. USCA Appeal # 19−14551−B. (blb) (Entered: 04/09/2020)
04/09/2020	330	ORDER DISMISSING MR. HAMILTON'S CLAIMS.The motion to withdraw Jesse D. Hamiltons claims, ECF No. 319 , is granted. Mr. Hamilton's claims are dismissed without prejudice. I do not direct the entry of judgment under Federal Rule of Civil Procedure 54(b). This order does not affect the claims of any other plaintiff or class member and does not affect Mr. Hamilton's possible membership in the class or subclass. Signed by JUDGE ROBERT L HINKLE on 4/9/20. (blb) (Entered: 04/09/2020)
04/09/2020	331	SECOND ORDER ON TRIAL PROCEDURES. The motion to clarify, ECF No. 320 , is granted. The April 2 order is clarified as set out in this order. Signed by JUDGE ROBERT L HINKLE on 4/9/20. (blb) (Entered: 04/09/2020)
04/09/2020	332	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconference Proceedings − Pretrial held on 4/8/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due **4/16/2020**. Release of Transcript Restriction set for **7/15/2020**. (mah) (Entered: 04/09/2020)
04/10/2020	333	NOTICE *of Filing Expert Reports* by LAUREL M LEE (JAZIL, MOHAMMAD) (Entered: 04/10/2020)
04/10/2020	334	NOTICE *of Filing of Smith Second Supplemental Expert Report with Exhibits* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Smith 2d Suppl. Expert Rep., # 2 Ex. 1 County Data, # 3 Ex. 2 FDC Report) (EBENSTEIN, JULIE) (Entered: 04/10/2020)
04/14/2020	335	TRIAL BRIEF by CHRISTINA WHITE. (VALDES, MICHAEL) (Entered: 04/14/2020)
04/14/2020	336	TRIAL BRIEF by RON DESANTIS, LAUREL M LEE. (WENGER, EDWARD) (Entered: 04/14/2020)
04/14/2020	337	STIPULATION *Parties' Joint Stipulation as to the Admission of Certain Exhibits* by RON DESANTIS, LAUREL M LEE. (PRICE, TARA) (Entered: 04/14/2020)
04/14/2020	338	NOTICE *of State Defendants' Pretrial Statement* by RON DESANTIS, LAUREL M LEE (Attachments: # 1 Exhibit A− State Defendants' April 6 Objections to Plaintiffs Revised Initial Exhibit List, # 2 Exhibit B− State Defendants' April 6 Objections to Plaintiffs' Supplemental Exhibit List, # 3 Exhibit C− Plaintiffs' April 6 Objections to State Defendants' Exhibits, # 4 Exhibit D− State Defendants' Amended Witness List) (PRICE, TARA) (Entered: 04/14/2020)
04/14/2020	339	NOTICE *of Plaintiffs' Proposed Pretrial Stipulation* by BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit 1: Plaintiffs' Exhibit List, # 2 Exhibit 2: Plaintiffs' Witness List) (GABER, MARK) (Entered: 04/14/2020)
04/14/2020	340	TRIAL BRIEF by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 App. A Statutory Costs, # 2 App. B Statutory Fines) (EBENSTEIN, JULIE) (Entered: 04/14/2020)
04/17/2020	341	NOTICE *Joint Notice of Filing Video Links with the Court* by RON DESANTIS, LAUREL M LEE (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	342	Exhibit List *Notice of Filing Deposition Designations* by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 1− D. Meade Designations, # 2 Exhibit 2− B. Neal Designations (NAACP Orange County), # 3 Exhibit 3− M. Ellison Designations (NAACP Florida), # 4 Exhibit 4− C. Scoon Designations (LWV Florida), # 5 Exhibit 5− R. McCoy Designations, # 6 Exhibit 6− S. Singleton Designations) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	343	NOTICE *of Supplementing Exhibits and Discovery Responses* by LAUREL M LEE (Attachments: # 1 Exhibit 167, Processing Potential Felon Match Files , # 2 Exhibit 168, Interagency Agreement, # 3 Exhibit 169, Florida Voter Registration Application, # 4 Exhibit 170, Florida Voter Registration Application) (JAZIL, MOHAMMAD) Modified Titles of Exhibits on 4/20/2020 (blb). (Entered: 04/17/2020)
04/17/2020	344	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit A− State Defendants' Exhibit List, # 2 Exhibit 26− FL SC Opinion Jan. 2020, # 3 Exhibit 28− March 11 letter, # 4 Exhibit 29− D. Meade notice of taking deposition, # 5 Exhibit 30− About D. Meade, # 6 Exhibit 31− M. Marshall email re FFD tracking, # 7 Exhibit 32− FRR Research Briefing, # 8 Exhibit 33− Voting Rights Amendment Telephone Survey, # 9 Exhibit 34− Recap of ballot language, # 10 Exhibit 35− Common Questions, # 11 Exhibit 36− About the Issue, # 12 Exhibit 37− Voting Restoration Amendment Qualifies, # 13 Exhibit 38− Second Chances Campaign, # 14 Exhibit 39−

		Economic Study on Amend. 4, # 15 Exhibit 40− Previous Research, # 16 Exhibit 41− Floridians ready to make history, # 17 Exhibit 42− National Military Veterans Organization, # 18 Exhibit 43− 2 million calls, 3 million doors, # 19 Exhibit 44− M. Matthews deposition, # 20 Exhibit 45− Composite Gruver Ps Interrogatory Responses) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	345	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 46− Composite Gruver P responses to RFPs, # 2 Exhibit 47− Composite McCoy P responses to Interrogatories, # 3 Exhibit 48− Composite McCoy P responses to RFPs, # 4 Exhibit 49− Composite Raysor responses to Interrogatories, # 5 Exhibit 50− Composite Raysor responses to RFPs, # 6 Exhibit 51− Composite Jones discovery responses, # 7 Exhibit 52− Composite Mendez discovery responses, # 8 Exhibit 53− BVRS Processing Potential Felon Match Files, # 9 Exhibit 54− BVRS Quick Reference, # 10 Exhibit 55− BVRS Internal Resource Guide, # 11 Exhibit 56− Interstate Cases, # 12 Exhibit 57− Budget Amendment Request, # 13 Exhibit 58− Florida SC OA transcript− Nov. 2019, # 14 Exhibit 59− Secretary's Appendix dated Sept. 2019, # 15 Exhibit 60− Secretary's Appendix dated Oct. 2019, # 16 Exhibit 61− Calculating/Messaging People Affected by Amend. 4, # 17 Exhibit 62− ACLU email dated Jan. 21, 2019 regarding written comments, # 18 Exhibit 63− ACLU written comments dated Jan. 21, 2019, # 19 Exhibit 64− ACLU email dated March 11, 2019, # 20 Exhibit 65− ACLU March 11, 2019 letter to Secretary) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	346	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 66− Barber Report, # 2 Exhibit 67− M. Matthews Oct. 28, 2019 email, # 3 Exhibit 68− M. Matthews Dec. 20, 2019 email, # 4 Exhibit 69− ACLU March 22, 2019 email, # 5 Exhibit 70− ACLU March 22, 2019 bill analysis, # 6 Exhibit 71− ACLU March 25, 2019 email, # 7 Exhibit 72− ACLU March 25, 2019 written testimony, # 8 Exhibit 73− ACLU March 25, 2019 email regarding talking points, # 9 Exhibit 74− Sen. Thurston April 3, 2019 email, # 10 Exhibit 75− ACLU April 7, 2019 email, # 11 Exhibit 76− ACLU April 8, 2019 written testimony, # 12 Exhibit 77− FRRC April 19, 2019 email, # 13 Exhibit 78− FRRC draft amendment, # 14 Exhibit 79− ACLU April 23, 2019 email, # 15 Exhibit 80− ACLU April 22, 2019 written testimony, # 16 Exhibit 81− LWVF April 23, 2019 email, # 17 Exhibit 82− LWVF April 23, 2019 letter, # 18 Exhibit 83− ACLU email dated April 29, 2019 to Senate, # 19 Exhibit 84− ACLU written testimony dated April 28, 2019, # 20 Exhibit 85− NAACP April 30, 2019 email to Senate, # 21 Exhibit 86− NAACP April 30, 2019 written position, # 22 Exhibit 87− LWVF April 30, 2019 email, # 23 Exhibit 88− LWVF April 30, 2019 written position, # 24 Exhibit 89− NAACP May 28, 2019 email to Sen. Thurston, # 25 Exhibit 90− NAACP Amend. 4 talking points) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	347	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 91− Sen. Pizzo May 31, 2019 email, # 2 Exhibit 92− ACLU Nov. 8, 2019 email to Sen. Brandes, # 3 Exhibit 93− FL Clerks Nov 13, 2019 email regarding collections data, # 4 Exhibit 94− FL Clerks collections data, # 5 Exhibit 95− LWVF Nov. 26, 2019 email to Sen. Brandes, # 6 Exhibit 96− ACLU April 3, 2019 email to House State Affairs, # 7 Exhibit 97− ACLU April 4, 2019 written testimony, # 8 Exhibit 98− ACLU April 7, 2019 email to Rep. Diamond on civil liens and ballot interpretation, # 9 Exhibit 99− ACLU April 9, 2019 email to Judiciary, # 10 Exhibit 100− ACLU April 9, 2019 written testimony, # 11 Exhibit 101− ACLU email to Rep. Diamond regarding Judiciary comments, # 12 Exhibit 102− LWVF April 18, 2019 email to House, # 13 Exhibit 103− LWVF April 17, 2019 written position, # 14 Exhibit 104− NAACP April 22, 2019 email to Florida House, # 15 Exhibit 105− NAACP April 22, 2019 written position, # 16 Exhibit 106− ACLU April 22 email to House, # 17 Exhibit 107− ACLU April 22, 2019 written testimony, # 18 Exhibit 108− ACLU April 22, 109 email to Rep. Diamond with 7089 follow up, # 19 Exhibit 109− House April 23, 2019 email regarding ACLU's questions and amendments, # 20 Exhibit 110− ACLU April 23, 2019 email to Rep. Diamond with proposed questions and debate information, # 21 Exhibit 111− ACLU proposed questions on 7089, # 22 Exhibit 112− ACLU proposed questions for Rep. Diamond, # 23 Exhibit 113− LWVF April 23, 2019 email, # 24 Exhibit 114− LWVF April 23, 2019 written position, # 25 Exhibit 115− House March 21, 2019 email regarding FRRC, # 26 Exhibit 116− FRRC Amend. 4 FAQs) (PRICE, TARA) (Entered: 04/17/2020)

04/17/2020	348	NOTICE *of Plaintiffs' Exhibits* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit Exhibit A − Table of Plaintiffs' Trial Exhibits, # 2 Exhibit PX096A, # 3 Exhibit PX096B, # 4 Exhibit PX096C, # 5 Exhibit PX096D, # 6 Exhibit PX096E, # 7 Exhibit PX096F, # 8 Exhibit PX102, # 9 Exhibit PX112, # 10 Exhibit PX137, # 11 Exhibit PX140, # 12 Exhibit PX150, # 13 Exhibit PX151, # 14 Exhibit PX155, # 15 Exhibit PX156, # 16 Exhibit PX157, # 17 Exhibit PX160, # 18 Exhibit PX164, # 19 Exhibit PX166, # 20 Exhibit PX167, # 21 Exhibit PX282, # 22 Exhibit PX283, # 23 Exhibit PX285, # 24 Exhibit PX286, # 25 Exhibit PX288, # 26 Exhibit PX290) (MORALES−DOYLE, SEAN) (Entered: 04/17/2020)
04/17/2020	349	NOTICE *of Plaintiffs' Exhibits (2)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX292, # 2 Exhibit PX296, # 3 Exhibit PX297, # 4 Exhibit PX298, # 5 Exhibit PX299, # 6 Exhibit PX300, # 7 Exhibit PX301, # 8 Exhibit PX303, # 9 Exhibit PX305, # 10 Exhibit PX306, # 11 Exhibit PX307, # 12 Exhibit PX309, # 13 Exhibit PX311, # 14 Exhibit PX313, # 15 Exhibit PX315, # 16 Exhibit PX316, # 17 Exhibit PX329, # 18 Exhibit PX330, # 19 Exhibit PX332, # 20 Exhibit PX333) (SWEREN−BECKER, ELIZA) (Entered: 04/17/2020)
04/17/2020	350	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 117− Rep. Renner talking points, # 2 Exhibit 118− House Jan. 21, 2020 regarding N. Volz, # 3 Exhibit 119− Amend. 4− "The Basics", # 4 Exhibit 120− ACLU email to Rep. Diamond regarding 7086 amendment, # 5 Exhibit 121− ACLU proposed amendment, # 6 Exhibit 122− ACLU email to Rep. Diamond regarding questions for 7089, # 7 Exhibit 123− ACLU proposed questions on 7089, # 8 Exhibit 124− ACLU topline summary of House bill, # 9 Exhibit 125− ACLU email to Rep. Diamond proposed questions on 7089, # 10 Exhibit 126− ACLU proposed questions and amendments, # 11 Exhibit 127− House July 26, 2019 email on State Attorney Rundle's planning, # 12 Exhibit 128− Restoration of Voting Rights for Certain Felons, # 13 Exhibit 129− Miami State Attorney's Office Oct. 14, 2019 email, # 14 Exhibit 130− Amend. 4 Implementation in Miami, # 15 Exhibit 131− NAACP Florida declaration, # 16 Exhibit 132− D. Meade deposition transcript, # 17 Exhibit 133− NAACP Orange County declaration) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	351	NOTICE *Plaintiffs' Exhibits (3)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX339, # 2 Exhibit PX340, # 3 Exhibit PX345, # 4 Exhibit PX346, # 5 Exhibit PX350, # 6 Exhibit PX352, # 7 Exhibit PX358, # 8 Exhibit PX360, # 9 Exhibit PX362, # 10 Exhibit PX363, # 11 Exhibit PX364, # 12 Exhibit PX364, # 13 Exhibit PX367, # 14 Exhibit PX378, # 15 Exhibit PX379, # 16 Exhibit PX381, # 17 Exhibit PX382, # 18 Exhibit PX383, # 19 Exhibit PX387, # 20 Exhibit PX389, # 21 Exhibit PX390, # 22 Exhibit PX392, # 23 Exhibit PX393, # 24 Exhibit PX395, # 25 Exhibit PX396, # 26 Exhibit PX398, # 27 Exhibit PX399, # 28 Exhibit PX400, # 29 Exhibit PX401, # 30 Exhibit PX402, # 31 Exhibit PX403, # 32 Exhibit PX404, # 33 Exhibit PX407, # 34 Exhibit PX408, # 35 Exhibit PX409, # 36 Exhibit PX411, # 37 Exhibit PX412) (MORALES−DOYLE, SEAN) (Entered: 04/17/2020)
04/17/2020	352	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 134− NAACP Orange County Notice of Taking Deposition, # 2 Exhibit 135− S. Singleton Declaration, # 3 Exhibit 136− S. Singleton Judgment & Restitution Order, # 4 Exhibit

		137− S. Singleton Judgment, # 5 Exhibit 138− Clerk of Courts printout− S. Singleton, # 6 Exhibit 139− S. Singleton Arrest & Booking Report, # 7 Exhibit 140− R. McCoy Declaration, # 8 Exhibit 141− Transcript of June 29, 2015 proceedings, # 9 Exhibit 142− Draft MOU between FCOR and DOS, # 10 Exhibit 143− Draft MOU between FCOR and DOS, # 11 Exhibit 144− Draft additions to felon DOS procedures, # 12 Exhibit 145− Adkins rebuttal report, # 13 Exhibit 146− Barber rebuttal report, # 14 Exhibit 147− M. McKown declaration, # 15 Exhibit 147−1 Kousser individual contributions, # 16 Exhibit 148− Weinstein deposition transcript, # 17 Exhibit 149− Walker deposition transcript, # 18 Exhibit 150− Walker depo. ex. 2− The Gender Divide) (PRICE, TARA) (Entered: 04/17/2020)
04/17/2020	353	NOTICE *of Plaintiffs' Exhibits (4)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX416, # 2 Exhibit PX417, # 3 Exhibit PX418, # 4 Exhibit PX419, # 5 Exhibit PX421, # 6 Exhibit PX426, # 7 Exhibit PX430, # 8 Exhibit PX432, # 9 Exhibit PX434, # 10 Exhibit PX435, # 11 Exhibit PX436, # 12 Exhibit PX437, # 13 Exhibit PX438, # 14 Exhibit PX439, # 15 Exhibit PX440, # 16 Exhibit PX442, # 17 Exhibit PX443, # 18 Exhibit PX445, # 19 Exhibit PX446, # 20 Exhibit PX447, # 21 Exhibit PX449, # 22 Exhibit PX450, # 23 Exhibit PX456, # 24 Exhibit PX457, # 25 Exhibit PX460, # 26 Exhibit PX461, # 27 Exhibit PX462, # 28 Exhibit PX474, # 29 Exhibit PX475, # 30 Exhibit PX477, # 31 Exhibit PX478, # 32 Exhibit PX479, # 33 Exhibit PX480, # 34 Exhibit PX483, # 35 Exhibit PX484, # 36 Exhibit PX485, # 37 Exhibit PX486, # 38 Exhibit PX488, # 39 Exhibit PX499, # 40 Exhibit PX500, # 41 Exhibit PX501, # 42 Exhibit PX504, # 43 Exhibit PX505, # 44 Exhibit PX507, # 45 Exhibit PX508) (SWEREN−BECKER, ELIZA) (Entered: 04/17/2020)
04/17/2020	354	NOTICE *of Plaintffs' Exhibits (5)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX509, # 2 Exhibit PX510, # 3 Exhibit PX513, # 4 Exhibit PX515, # 5 Exhibit PX522, # 6 Exhibit PX530, # 7 Exhibit PX531, # 8 Exhibit PX532, # 9 Exhibit PX533, # 10 Exhibit PX534, # 11 Exhibit PX535, # 12 Exhibit PX536, # 13 Exhibit PX537, # 14 Exhibit PX538, # 15 Exhibit PX539, # 16 Exhibit PX541, # 17 Exhibit PX542, # 18 Exhibit PX543, # 19 Exhibit PX545, # 20 Exhibit PX546, # 21 Exhibit PX547, # 22 Exhibit PX548, # 23 Exhibit PX549, # 24 Exhibit PX550, # 25 Exhibit PX552, # 26 Exhibit PX553, # 27 Exhibit PX554, # 28 Exhibit PX556, # 29 Exhibit PX557, # 30 Exhibit PX558, # 31 Exhibit PX559, # 32 Exhibit PX560) (GILLER, DAVID) (Entered: 04/17/2020)
04/17/2020	355	NOTICE *Plaintiffs' Exhibits (6)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX561, # 2 Exhibit PX566, # 3 Exhibit PX569, # 4 Exhibit PX571, # 5 Exhibit PX574, # 6 Exhibit PX575, # 7 Exhibit PX578, # 8 Exhibit PX580, # 9 Exhibit PX584, # 10 Exhibit PX586, # 11 Exhibit PX592, # 12 Exhibit PX593, # 13 Exhibit PX596, # 14 Exhibit PX606, # 15 Exhibit PX607, # 16 Exhibit PX612) (MORALES−DOYLE, SEAN) (Entered: 04/17/2020)
04/17/2020	356	NOTICE *of Plaintiffs' Exhibits (7)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A

		MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX615, # 2 Exhibit PX621, # 3 Exhibit PX622, # 4 Exhibit PX629, # 5 Exhibit PX630, # 6 Exhibit PX631, # 7 Exhibit PX634, # 8 Exhibit PX635, # 9 Exhibit PX636, # 10 Exhibit PX638, # 11 Exhibit PX639, # 12 Exhibit PX640, # 13 Exhibit PX641, # 14 Exhibit PX642, # 15 Exhibit PX643, # 16 Exhibit PX644, # 17 Exhibit PX645, # 18 Exhibit PX646, # 19 Exhibit PX647, # 20 Exhibit PX648, # 21 Exhibit PX652, # 22 Exhibit PX654, # 23 Exhibit PX655, # 24 Exhibit PX656, # 25 Exhibit PX658, # 26 Exhibit PX660, # 27 Exhibit PX661, # 28 Exhibit PX662, # 29 Exhibit PX663, # 30 Exhibit PX665, # 31 Exhibit PX666, # 32 Exhibit PX667, # 33 Exhibit PX668, # 34 Exhibit PX669, # 35 Exhibit PX670, # 36 Exhibit PX671, # 37 Exhibit PX672, # 38 Exhibit PX675, # 39 Exhibit PX676, # 40 Exhibit PX677, # 41 Exhibit PX679, # 42 Exhibit PX680, # 43 Exhibit PX684, # 44 Exhibit PX685, # 45 Exhibit PX686, # 46 Exhibit PX688, # 47 Exhibit PX689, # 48 Exhibit PX690, # 49 Exhibit PX692, # 50 Exhibit PX694) (SWEREN−BECKER, ELIZA) (Entered: 04/17/2020)
04/17/2020	357	NOTICE *of Plaintiffs' Exhibits (8)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX696, # 2 Exhibit PX697, # 3 Exhibit PX698, # 4 Exhibit PX699, # 5 Exhibit PX700, # 6 Exhibit PX701, # 7 Exhibit PX702, # 8 Exhibit PX703, # 9 Exhibit PX704, # 10 Exhibit PX706, # 11 Exhibit PX707, # 12 Exhibit PX712, # 13 Exhibit PX714, # 14 Exhibit PX715, # 15 Exhibit PX719, # 16 Exhibit PX721, # 17 Exhibit PX722, # 18 Exhibit PX724, # 19 Exhibit PX725, # 20 Exhibit PX727, # 21 Exhibit PX728, # 22 Exhibit PX729, # 23 Exhibit PX730, # 24 Exhibit PX731, # 25 Exhibit PX732, # 26 Exhibit PX733, # 27 Exhibit 735, # 28 Exhibit PX736A, # 29 Exhibit PX736B, # 30 Exhibit PX736C, # 31 Exhibit PX736D, # 32 Exhibit PX736E, # 33 Exhibit PX736F, # 34 Exhibit PX737, # 35 Exhibit PX73, # 36 Exhibit PX740, # 37 Exhibit PX741) (GILLER, DAVID) (Entered: 04/18/2020)
04/17/2020	358	NOTICE *of Plaintiffs' Exhibits (9)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX745, # 2 Exhibit PX746, # 3 Exhibit PX747, # 4 Exhibit PX748, # 5 Exhibit PX749, # 6 Exhibit PX750, # 7 Exhibit PX751, # 8 Exhibit PX753, # 9 Exhibit PX754, # 10 Exhibit PX755, # 11 Exhibit PX756, # 12 Exhibit PX757, # 13 Exhibit PX758, # 14 Exhibit PX759, # 15 Exhibit PX760, # 16 Exhibit PX761, # 17 Exhibit PX762, # 18 Exhibit PX763, # 19 Exhibit PX764, # 20 Exhibit PX766, # 21 Exhibit PX767, # 22 Exhibit PX768, # 23 Exhibit PX769, # 24 Exhibit PX770) (MORALES−DOYLE, SEAN) (Entered: 04/18/2020)
04/17/2020	359	NOTICE *of Plaintiffs' Exhibits (10)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX771, # 2 Exhibit PX772, # 3 Exhibit PX774, # 4 Exhibit PX775, # 5 Exhibit PX777, # 6 Exhibit PX778, # 7 Exhibit PX779, # 8 Exhibit PX780, # 9 Exhibit PX781A, # 10 Exhibit PX781B, # 11 Exhibit PX784, # 12 Exhibit PX785, # 13 Exhibit PX786, # 14 Exhibit PX787, # 15 Exhibit PX788, # 16 Exhibit PX789, # 17 Exhibit PX790, # 18 Exhibit PX791, # 19 Exhibit PX792, # 20 Exhibit PX793, # 21 Exhibit PX794, # 22 Exhibit PX797, # 23 Exhibit PX798, # 24 Exhibit PX801, # 25 Exhibit PX802, # 26 Exhibit PX803, # 27 Exhibit PX804, # 28 Exhibit

		PX805, # 29 Exhibit PX807, # 30 Exhibit PX808, # 31 Exhibit PX813, # 32 Exhibit PX815, # 33 Exhibit PX817, # 34 Exhibit PX818A, # 35 Exhibit PX818B, # 36 Exhibit PX818C, # 37 Exhibit PX818D, # 38 Exhibit PX819, # 39 Exhibit PX820, # 40 Exhibit PX821, # 41 Exhibit PX822, # 42 Exhibit PX823, # 43 Exhibit PX824, # 44 Exhibit PX825, # 45 Exhibit PX826, # 46 Exhibit PX831, # 47 Exhibit PX834, # 48 Exhibit PX836, # 49 Exhibit PX838, # 50 Exhibit PX839A, # 51 Exhibit PX839B, # 52 Exhibit PX839C) (SWEREN−BECKER, ELIZA) (Entered: 04/18/2020)
04/17/2020	361	Exhibit List by RON DESANTIS, LAUREL M LEE.. (Attachments: # 1 Exhibit 151− Walker Depo. Ex. 3− The Gender Divide, Table 2, # 2 Exhibit 152− Walker Depo. Ex. 4− The Sentencing Project, # 3 Exhibit 153− Walker Depo. Ex. 5− Incarceration Trends in Florida, # 4 Exhibit 154− Burch deposition transcript, # 5 Exhibit 155− Burch Depo. Ex. B− SB 7066, # 6 Exhibit 156− Kousser deposition transcript, # 7 Exhibit 157− Kousser depo. Ex. 1− Dec. 13, 2018 letter, # 8 Exhibit 158− Kousser depo. Ex. 2− Jan. 21, 2019 ACLU letter, # 9 Exhibit 159− Kousser depo. Ex. 3− Jan. 6, 2019 email to Sen. Pizzo, # 10 Exhibit 160− Kousser depo. Ex. 4− March 11, 2019 letter, # 11 Exhibit 161− Kousser depo. Ex. 5− SJR 1264, # 12 Exhibit 162− Kousser depo. Ex. 6− SJR 1434, # 13 Exhibit 163− Kousser depo. Ex. 7− SJR 1612, # 14 Exhibit 164− Kousser depo. Ex. 8− SJR 244, # 15 Exhibit 165− Kousser depo. Ex. 9− HJR 263, # 16 Exhibit 166− Donovan deposition transcript) (PRICE, TARA) (Entered: 04/18/2020)
04/18/2020	360	NOTICE *of Plaintiffs' Exhibits (11)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX840, # 2 Exhibit PX841, # 3 Exhibit PX842, # 4 Exhibit PX844, # 5 Exhibit PX845, # 6 Exhibit PX847, # 7 Exhibit PX849, # 8 Exhibit PX850, # 9 Exhibit PX851, # 10 Exhibit PX852, # 11 Exhibit PX853, # 12 Exhibit PX854, # 13 Exhibit PX855, # 14 Exhibit PX856, # 15 Exhibit PX857, # 16 Exhibit PX858, # 17 Exhibit PX859, # 18 Exhibit PX860, # 19 Exhibit PX861, # 20 Exhibit PX862, # 21 Exhibit PX863, # 22 Exhibit PX864, # 23 Exhibit PX865, # 24 Exhibit PX866, # 25 Exhibit PX867, # 26 Exhibit PX868, # 27 Exhibit PX869, # 28 Exhibit PX870, # 29 Exhibit PX871, # 30 Exhibit PX872, # 31 Exhibit PX873, # 32 Exhibit PX874, # 33 Exhibit PX875, # 34 Exhibit PX876, # 35 Exhibit PX878, # 36 Exhibit PX879, # 37 Exhibit PX880, # 38 Exhibit PX881, # 39 Exhibit PX882, # 40 Exhibit PX883, # 41 Exhibit PX884, # 42 Exhibit PX885, # 43 Exhibit PX886, # 44 Exhibit PX887, # 45 Exhibit PX888, # 46 Exhibit PX888, # 47 Exhibit PX892, # 48 Exhibit PX894, # 49 Exhibit PX895) (GILLER, DAVID) (Entered: 04/18/2020)
04/18/2020	362	NOTICE *of Plaintiffs' Exhibits (12)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX896, # 2 Exhibit PX898, # 3 Exhibit PX899A, # 4 Exhibit PX899B, # 5 Exhibit PX899C, # 6 Exhibit PX899D, # 7 Exhibit PX900A, # 8 Exhibit PX9005, # 9 Exhibit PX901, # 10 Exhibit PX902, # 11 Exhibit PX903, # 12 Exhibit PX904) (MORALES−DOYLE, SEAN) (Entered: 04/18/2020)
04/18/2020	363	NOTICE *of Plaintiffs' Exhibits (13)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX905, # 2 Exhibit PX906A, # 3 Exhibit PX906B, # 4 Exhibit PX906C, # 5 Exhibit PX906D, # 6 Exhibit PX906E, # 7 Exhibit PX906F, # 8 Exhibit PX907, # 9 Exhibit PX908A, # 10 Exhibit PX908B, # 11 Exhibit PX908C, #

		12 Exhibit PX908D, # 13 Exhibit PX908E, # 14 Exhibit PX908F, # 15 Exhibit PX909, # 16 Exhibit PX910, # 17 Exhibit PX911, # 18 Exhibit PX912, # 19 Exhibit PX913, # 20 Exhibit PX914, # 21 Exhibit PX915) (SWEREN−BECKER, ELIZA) (Additional attachment(s) added on 4/20/2020: # 22 Exhibit PX906G, # 23 Exhibit PX906H) (blb). (Entered: 04/18/2020)
04/18/2020	364	NOTICE *of Plaintiffs' Exhibits (14)* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit PX906G, # 2 Exhibit PX906H) (SWEREN−BECKER, ELIZA) Exhibits added to 363 on 4/20/2020 (blb) for continuity. (Entered: 04/18/2020)
04/20/2020	365	NOTICE *of Filing Exhibits to be Used with State Defendants' Witnesses* by LAUREL M LEE (PRICE, TARA) (Entered: 04/20/2020)
04/20/2020	366	NOTICE *of Filing Exhibits To Be Used with Plaintiffs' Witnesses* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit 1: Exhibits to be Used with Plaintiffs' Witnesses) (GABER, MARK) (Entered: 04/20/2020)
04/22/2020	367	Emergency MOTION to Amend/Correct 354 Notice (Other),,,, *to replace 354−7 PX351 with redacted version* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit A − PX351 replacement) (ADEN, LEAH) (Entered: 04/22/2020)
04/22/2020	368	ORDER SEALING ECF NO. 354 −7The plaintiffs emergency motion to seal, ECF No. 367 , is granted. The clerk must maintain ECF No. 354 −7 under seal. Signed by JUDGE ROBERT L HINKLE on 4/22/20. (blb) (Entered: 04/22/2020)
04/22/2020	369	Emergency MOTION to Take Deposition from Maria Matthews by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Brief in Support of Motion, # 2 Exhibit 1: 4.22.2020 McVay Email, # 3 Exhibit 2: 4.17.2020 Plaintiff Letter, # 4 Exhibit 3: 4.20.2020 McVay Letter) (GABER, MARK) (Entered: 04/22/2020)
04/22/2020	370	NOTICE *of Filing of Exhibits to be Used for Cross−Examination* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit 1 − Pls.' Cross Exhibits List) (EBENSTEIN, JULIE) (Entered: 04/22/2020)
04/22/2020	371	NOTICE *of Filing Exhibits to be Used During Cross−Examination* by LAUREL M LEE (PRICE, TARA) (Entered: 04/22/2020)
04/22/2020	372	MOTION to Amend/Correct 363 Notice (Other),,,, *to replace PX908* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (Attachments: # 1 Exhibit PX908A, # 2 Exhibit PX908B, # 3 Exhibit PX908C, # 4 Exhibit PX908D, # 5 Exhibit PX908E, # 6 Exhibit PX908F, # 7 Exhibit PX908G, # 8

		Exhibit PX908H, # 9 Exhibit PX908I) (ADEN, LEAH) (Entered: 04/22/2020)
04/23/2020	373	ORDER ALLOWING AN ADDITIONAL DEPOSITION OF MS. MATTHEWS RE 369 Motion to Take Deposition. Signed by JUDGE ROBERT L HINKLE on 4/23/20. (sms) (Entered: 04/23/2020)
04/23/2020	374	Sealed Document (ckm) (Entered: 04/23/2020)
04/23/2020	375	NOTICE OF TELEPHONIC HEARING: Bench Trial set for **4/27/2020 09:00 AM** before JUDGE ROBERT L HINKLE. Call in number: **571−353−2300** Access code: **034872985#** ***All callers should mute their phones.*** *s/ Cindy Markley* Courtroom Deputy Clerk (ckm) Modified on 4/28/2020 (ckm). (Entered: 04/23/2020)
04/23/2020	376	NOTICE *State Defendants' Notice of Preservation of Objections to Plaintiffs' Exhibit List Dated April 17 and Other Matters in Advance of Trial* by LAUREL M LEE (PRICE, TARA) (Entered: 04/23/2020)
04/24/2020	377	MOTION *for Clarification* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT. (SWEREN−BECKER, ELIZA) (Entered: 04/24/2020)
04/25/2020	378	ORDER ON VIDEO ATTENDANCE AT THE TRIAL RE 377 Motion. Signed by JUDGE ROBERT L HINKLE on 4/25/20. (sms) (Entered: 04/25/2020)
04/25/2020	379	NOTICE *of Supplemental Exhibits To Be Used with Trial Witnesses* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit PX916: Defendant's Supplemental Responses to Gruver Plaintiffs' First Set of Interrogatories, # 2 Exhibit PX917: Florida Dep't of State Voter Assistance Hotline Manual, dated Mar. 15, 2020) (GABER, MARK) (Entered: 04/25/2020)
04/26/2020	380	RESPONSE by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, LEE HOFFMAN, KEITH IVEY, KELVIN LEON JONES, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, ROSEMARY MCCOY, LUIS A MENDEZ, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BONNIE RAYSOR, BETTY RIDDLE, DIANE SHERRILL, SHEILA SINGLETON, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT re 376 Notice (Other) *(Plaintiffs' Response to State Defendants' Notice of Preservation of Objections to Plaintiffs' Exhibit List Dated April 17 and Other Matters in Advance of Trial)*. (Attachments: # 1 Exhibit A−3/23/20 Email, # 2 Exhibit B−4/24/20 Email) (GILLER, DAVID) (Entered: 04/26/2020)
04/26/2020	381	NOTICE *of Filing Supplemental Exhibit To Be Used with Trial Witnesses* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit PX918: 4.26.2020 Maria Matthews Deposition Transcript) (GABER, MARK) (Entered: 04/26/2020)
04/27/2020	382	AFFIDAVIT of Service for Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action served on Ashley Davis, Deputy General Counsel on 04/27/2020, filed by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (DUNN, CHAD) Sealed per Chambers on 4/27/2020 (blb). (Entered: 04/27/2020)
04/27/2020	383	AFFIDAVIT of Service for Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action served on Toshia Brown, Chief, Bureau of Voter Registration Services on 04/27/2020, filed by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (DUNN, CHAD) Sealed per Chambers on 4/27/2020 (blb). (Entered: 04/27/2020)

04/27/2020	384	NOTICE *of Filing of Supplemental Exhibits To Be Used with Trial Witnesses* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit PX919: Notice of Proposed Rule: Statewide Voter Registration Application (Dated 4/27/2020), # 2 Exhibit PX920: Dep't of State's Advisory Opinion Regulations, # 3 Exhibit PX921: Fla. Stat. s. 106.23, # 4 Exhibit PX922: Dep't of State's Advisory Opinion Webpage) (GABER, MARK) (Entered: 04/27/2020)
04/27/2020	385	AFFIDAVIT of Service for Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action served on Ashley Davis, Deputy General Counsel on 04/27/2020, filed by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (DUNN, CHAD) (Entered: 04/27/2020)
04/27/2020	386	AFFIDAVIT of Service for Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action served on Toshia Brown, Chief, Bureau of Voter Registration Services on 04/27/2020, filed by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (DUNN, CHAD) (Entered: 04/27/2020)
04/27/2020	387	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 1) held on 4/27/2020. (Court Reporter Megan Hague) (ckm) (Entered: 04/28/2020)
04/27/2020	388	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Day 1 of Videoconference Bench Trial Proceedings held on 4/27/2020 before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/4/2020**. Release of Transcript Restriction set for **8/3/2020**. (ckm) (Main Document 388 replaced on 4/30/2020) (kjw). (Entered: 04/28/2020)
04/28/2020	389	NOTICE *OF FILING HIGHLIGHTED DEPOSITION DESIGNATIONS* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit A − Arrington Deposition Designations (Highlighted), # 2 Exhibit B − Barton Deposition Designations (Highlighted), # 3 Exhibit C − Earley Deposition Designations (Highlighted), # 4 Exhibit D − Latimer Deposition Designations (Highlighted), # 5 Exhibit E − Brown Deposition Designations (Highlighted), # 6 Exhibit F − Hogan Deposition Designations (Highlighted), # 7 Exhibit G − Matthews 1st Deposition Designations (Highlighted), # 8 Exhibit H − Neal Deposition Designations (Highlighted), # 9 Exhibit I − Matthews 2d Deposition Designations (Highlighted), # 10 Exhibit J − Table of Matthews 3d Deposition Designations, # 11 Exhibit K − Matthews 3d Deposition Designations (Highlighted)) (DIAZ, JONATHAN) (Entered: 04/28/2020)
04/28/2020	390	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 2) held on 4/28/2020. (Court Reporter Megan Hague) (ckm) (Entered: 04/28/2020)
04/28/2020	391	NOTICE *OF FILING HIGHLIGHTED DEPOSITION DESIGNATIONS* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit M − Timmann Deposition Designations (Highlighted)) (DIAZ, JONATHAN) (Entered: 04/28/2020)
04/29/2020	392	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 3) held on 4/29/2020. (Court Reporter Megan Hague) (ckm) (Entered: 04/29/2020)
04/29/2020	393	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconerence Bench Trial Proceedings − Day 3 held on 4/29/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained

		through PACER. Redaction Request due **5/6/2020**. Release of Transcript Restriction set for **8/4/2020**. (mah) (Entered: 04/29/2020)
04/30/2020	395	NOTICE *State Defendants' Notice of Filing Additional Video Designations* by LAUREL M LEE (PRICE, TARA) (Entered: 04/30/2020)
04/30/2020	396	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconference Bench Trial Proceedings − Day 2 held on 4/28/2020 before Judge Robert L. Hinkle. Court Reporter: Megan Hague. Telephone number: 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/7/2020**. Release of Transcript Restriction set for **8/5/2020**. (kjw) (Entered: 04/30/2020)
04/30/2020	397	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconference Bench Trial Proceedings − Day 4 held on 4/30/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/7/2020**. Release of Transcript Restriction set for **8/5/2020**. (mah) (Entered: 04/30/2020)
04/30/2020	398	NOTICE *of Filing of Demonstrative Exhibits* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, BETTY RIDDLE, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit A − Burch Demonstratives, # 2 Exhibit B − Kousser Demonstratives) (ADEN, LEAH) (Entered: 04/30/2020)
04/30/2020	399	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 4) held on 4/30/2020. (Court Reporter Megan Hague) (ckm) (Entered: 05/01/2020)
05/01/2020	400	MOTION for Joinder by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL. (Attachments: # 1 Brief in Support of Motion to Join Consolidated Case Defendant Craig Latimer as Defendant in Member Case No. 4:19−cv−301) (GABER, MARK) (Entered: 05/01/2020)
05/01/2020	401	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 5) held on 5/1/2020. (Court Reporter Megan Hague) (ckm) (Entered: 05/01/2020)
05/01/2020	402	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconference Bench trial − Day 5 Proceedings held on 5/1/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due **5/8/2020**. Release of Transcript Restriction set for **8/6/2020**. (mah) (Entered: 05/01/2020)
05/01/2020	403	NOTICE *(Raysor Plaintiffs' Notice of Service Regarding Joinder Motion)* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit 1: 4.30.2020−5.1.2020 Email Correspondence Regarding Joinder Motion) (GABER, MARK) (Entered: 05/01/2020)
05/02/2020	404	NOTICE *(Raysor Plaintiffs' Notice of Agreement with Consolidated Case Defendant Hillsborough County Supervisor of Elections Craig Latimer Regarding Joinder Motion)* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL re 400 MOTION for Joinder (GABER, MARK) (Entered: 05/02/2020)
05/04/2020	405	NOTICE *of Filing Objections and Counter−Designations to M. Matthews' Third Deposition* by LAUREL M LEE (Attachments: # 1 Exhibit A− Objections and Counter−Designations, # 2 Exhibit B− Highlighted Designations and Counter−Designations) (PRICE, TARA) (Entered: 05/04/2020)
05/04/2020	407	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 6) held on 5/4/2020. (Court Reporter Megan Hague) (ckm) (Entered: 05/04/2020)
05/04/2020	408	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconfrence Bench Trial − Day 6 Proceedings held on 5/4/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/11/2020**. Release of Transcript Restriction set for **8/10/2020**. (mah) (Entered: 05/04/2020)
05/05/2020	409	NOTICE *of Filing Demonstrative Exhibit* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit 1: Matthews Testimony Demonstrative Exhibit) (GABER, MARK) (Entered: 05/05/2020)
05/05/2020	410	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 7) held on 5/5/2020. (Court Reporter Megan Hague) (ckm) (Entered: 05/05/2020)
05/05/2020	411	NOTICE *OF JOINT STIPULATION AND FILING OF EXHIBIT* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit PX923 − Declaration of Ashley Davis) (DIAZ, JONATHAN) (Entered: 05/05/2020)
05/05/2020	412	NOTICE *of Citations to Legislative Videos* by LAUREL M LEE (PRICE, TARA) (Entered: 05/05/2020)
05/05/2020	413	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconfrence Bench Trial − Day 7 Proceedings held on 5/5/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/12/2020**. Release of Transcript Restriction set for **8/10/2020**. (mah) (Entered: 05/05/2020)
05/05/2020	414	NOTICE *of Filing Demonstrative Exhibit* by ROSEMARY MCCOY, SHEILA SINGLETON (Attachments: # 1 Exhibit McCoy Closing Demonstrative Exhibit) (SHORT, CAREN) (Entered: 05/05/2020)

05/06/2020	415	NOTICE *of Filing of Demonstrative Exhibits* by CURTIS D BRAYNT, FLORIDA STATE CONFERENCE OF THE NAACP, JEFF GRUVER, KEITH IVEY, LEAGUE OF WOMEN VOTERS OF FLORIDA, KAREN LEICHT, JERMAINE MILLER, EMORY MARQUIS MITCHELL, LATOYA A MORELAND, ORANGE COUNTY BRANCH OF THE NAACP, STEVEN PHALEN, CLIFFORD TYSON, KRISTOPHER WRENCH, RAQUEL WRIGHT (Attachments: # 1 Exhibit A − Ebenstein Closing Argument Demonstratives) (ADEN, LEAH) (Entered: 05/06/2020)
05/06/2020	416	NOTICE *of Filing Demonstrative Exhibits* by LEE HOFFMAN, BONNIE RAYSOR, DIANE SHERRILL (Attachments: # 1 Exhibit A − Lang Closing Argument Demonstratives) (DIAZ, JONATHAN) (Entered: 05/06/2020)
05/06/2020	417	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Videoconference Bench Trial − Day 8 Proceedings held on 5/6/2020, before Judge Robert L. Hinkle. Court Reporter/Transcriber Megan A. Hague, Telephone number 850−422−0011. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due **5/13/2020**. Release of Transcript Restriction set for **8/11/2020**. (mah) (Entered: 05/06/2020)
05/06/2020	418	Minute Entry for proceedings held before JUDGE ROBERT L HINKLE: Video Bench Trial (Day 8) completed on 5/6/2020. The Court's ruling will be made in a separate order. (Court Reporter Megan Hague) (Attachments: # 1 Exhibit List) (ckm) (Entered: 05/06/2020)
05/07/2020	419	ORDER AMENDING THE COMPLAINT IN CASE NO. 4:19cv301. Signed by JUDGE ROBERT L HINKLE on 5/7/20. (sms) (Entered: 05/07/2020)
05/24/2020	420	OPINION ON THE MERITS. Signed by JUDGE ROBERT L HINKLE on 5/24/20. (Attachments: # 1 Request for an Advisory Opinion, # 2 Standards Governing Eligibility to Vote after a Felony Conviction) (RH) (Entered: 05/24/2020)
05/26/2020	421	CLERK'S JUDGMENT entered pursuant to 420 Opinion on the Merits (Attachments: # 1 Request for Advisory Opinion, # 2 Standards Governing Eligibility to Vote after a Felony Conviction) 90 Day Exhibit Return Deadline set for **8/24/2020** (ckm) (Entered: 05/26/2020)
05/29/2020	422	NOTICE OF APPEAL as to 421 Clerk's Judgment, 420 Order by LAUREL M LEE. (Filing fee $505 Receipt Number AFLNDC−5281014.) (JAZIL, MOHAMMAD) (Entered: 05/29/2020)
05/29/2020	423	MOTION to Stay *Pending Appeal and Incorporated Memorandum of Law* by LAUREL M LEE. (JAZIL, MOHAMMAD) (Entered: 05/29/2020)
06/01/2020	424	Appeal Instructions re: 422 Notice of Appeal : The Transcript Request Form is available on the Internet at http://www.flnd.uscourts.gov/forms/Attorney/ECCA_transcript_form_fillable.pdf **PLEASE NOTE** Separate forms must be filed for each court reporter. Transcript Order Form due by **6/15/2020**. (blb) (Entered: 06/01/2020)
06/01/2020	425	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 422 Notice of Appeal. (blb) (Entered: 06/01/2020)
06/01/2020		Set Deadlines re 422 Notice of Appeal : Clerk to check status of Appeal on **9/1/2020**. Certificate of Readiness (FRAP 11) due by **6/15/2020**. (blb) (Entered: 06/01/2020)
06/01/2020	427	USCA PROCEDURAL LETTER re: 422 NOTICE OF APPEAL. USCA Appeal # 20−12003−B (blb) (Entered: 06/03/2020)
06/02/2020	426	NOTICE *of Compliance with Final Order and Final Judgment* by LAUREL M LEE (Attachments: # 1 Exhibit M. Matthews Correspondence with Supervisors of Elections) (JAZIL, MOHAMMAD) (Entered: 06/02/2020)

06/11/2020	428	ORDER of USCA as to 422 Notice of Appeal filed by LAUREL M LEE. "Defendants−Appellants' Motion to Expedite Appeal" is GRANTED as follows: The initial brief is due June 19, 2020, with the appendix due 7 days after the initial brief is filed. The response brief is due July 17, 2020. The reply brief is due July 29, 2020. This appeal is placed on the argument calendar for the week of August 10, 2020 in Atlanta, Georgia. USCA #20−12003−BB (blb) (Entered: 06/11/2020)
06/11/2020	429	TRANSCRIPT REQUEST by LAUREL M LEE for proceedings held on 4/27/2020−5/6/2020 before Judge Hinkle, Court Reporter:Megan Hague (JAZIL, MOHAMMAD) (Entered: 06/11/2020)
06/12/2020	430	PLAINTIFFS' RESPONSE IN OPPOSITION TO STATE DEFENDANTS' MOTION FOR STAY PENDING APPEAL1) Modified to edit title on 6/15/2020 (rcb). (Entered: 06/12/2020)
06/14/2020	431	ORDER denying 423 Motion to Stay. Signed by JUDGE ROBERT L HINKLE on 6/14/20. (sms) (Entered: 06/14/2020)
06/16/2020	432	Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Northern District of Florida certifies that the record is complete for purposes of this appeal re: 422 Notice of Appeal, Appeal #20−12003−BB. The entire record on appeal is available electronically. (blb) (Entered: 06/16/2020)

1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES
Petitioner,

v.

RON DESANTIS,
IN HIS OFFICIAL CAPACITY
AS THE GOVERNOR OF
FLORIDA, AN INDISPENSIBLE PARTY,
CRAIG LATIMER, IN HIS OFFICIAL CAPACITY AS SUPERVISOR OF ELECTIONS OF HILLSBOROUGH COUNTY, FLORIDA AN INDISPENSIBLE PARTY,
AND LAUREL M. LEE , IN HER OFFICIAL CAPACITY AS SECRETARY OF STATE, OF THE STATE OF FLORIDA, AN INDISPENSABLE PARTY,
Respondents.

Case No. 4:19-cv-00300

COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY RELIEF, AND MANDAMUS

Petitioner, by and through his undersigned counsel, hereby complains of the Respondents, and alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to 42 U.S.C. § 1983 to secure equitable relief from Respondents' unlawful deprivation of Petitioner's rights, privileges and immunities guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Twenty-fourth Amendment to the United States Constitution, 52 U.S.C. § 10301 Section 2, and Article VI, Section 4 of the Florida Constitution; and

pursuant to 28 U.S.C. § 1361 to seek a writ of mandamus. Jurisdiction is conferred pursuant to 28 U.S.C. § 1331 and § 1343. Declaratory relief can be sought pursuant to 28 U.S.C. § 2201 and § 2202.

2. “No right is more precious in a free country than that of having a voice in the election of those who make the laws…” Wesberry v. Sanders, 376 U.S. 1, 17 (1964). Petitioner brings the instant lawsuit to have the relevant portion of F.S. 98.0751, which requires payment of all costs, prior to restoration of voting rights to convicted felons, declared unconstitutional and unenforceable.

3. Once the franchise or right to vote is granted to the electorate, lines may not be drawn, which are inconsistent with the Equal Protection Clause of the United States Constitution. Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966)

4. A state violates the Equal Protection Clause of the United States Constitution whenever it makes affluence of the voter or payment of any fee, an electoral standard. Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966)

5. Article VI, Section 4 of the Florida Constitution, provides:

> " Disqualifications.—
> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
> (b) No person convicted of murder or a felony sexual offense

shall be qualified to vote until restoration of civil rights.

6. The Florida Legislature enacted F.S. 98.0751, which purportedly clarified this amendment, which included the following language:

> "98.0751 Restoration of voting rights; termination of ineligibility subsequent to a felony conviction.—
> (1) A person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution upon the completion of all terms of his or her sentence, including parole or probation. The voting disqualification does not terminate unless a person's civil rights are restored pursuant to s. 8, Art. IV of the State Constitution if the disqualification arises from a felony conviction of murder or a felony sexual offense, or if the person has not completed all terms of sentence, as specified under subsection (2).
> (2) For purposes of this section, the term:
> (a) "Completion of all terms of sentence" means any portion of a sentence that is contained in the four corners of the sentencing document, including, but not limited to:
> 1. Release from any term of imprisonment ordered by the court as a part of the sentence;
> 2. Termination from any term of probation or community control ordered by the court as a part of the sentence;
> 3. Fulfillment of any term ordered by the court as a part of the sentence;
> 4. Termination from any term of any supervision, which is monitored by the Florida Commission on Offender Review, including, but not limited to, parole; and
> 5. Payment of all:
> a. Restitution ordered by the court as a part of the sentence, regardless of whether such restitution is converted to a civil lien; and
> b. Fees or fines ordered by the court as part of the sentence or that are ordered by the court as a condition of any form of supervision including, but not limited to, probation, community control, or parole. A financial obligation required under this sub-subparagraph is deemed to have been completed to the extent that the financial obligation has been converted to a civil lien.
> A term required to be completed in accordance with this

> paragraph shall be deemed completed if the court modifies the original sentencing order to no longer require completion of such term.

7. This requirement that payment of all restitution, fees or fines ordered by the court as part of the sentence, as a condition of voting rights restoration, is in violation of U.S. Constitution's guarantee of Equal Protection, applied to states pursuant to the Fourteenth Amendment, and the Twenty-fourth Amendment to the United States Constitution. In addition it violates 52 U.S.C. § 10301(a) in that it discriminates on the basis of race, color, or membership in one of the language minority groups identified in Section 4(f)(2) of the Act. The requirement further is unconstitutional, invalid and ineffective under the Florida Constitution, because it prescribes qualifications for restoration of voting rights to persons convicted of felonies, in addition to those prescribed by the Florida Constitution.

8. The Petitioner asserts that while the statute, on its face, is race neutral, it has a disproportionate impact on blacks and a material and motivating factor in adopting the statute was to reduce and limit the number of black persons who would otherwise be eligible to have their voting rights restored. Based on the totality of circumstances, F.S. 98.0751 results in the political processes leading to nomination or election in the State or political subdivision, not being equally open to participation by members of a class of citizens protected by the Voting Rights Act, subsection (a), in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

9. The Petitioner posits that once the state grants the right to vote to persons convicted of felonies, who have completed their sentence, including probation and parole, the state may not condition that right on the person's ability to pay legal financial obligations.

PARTIES TO THE ACTION

10. Petitioner is a citizen of the County of Hillsborough, State of Florida.

11. Petitioner has been convicted of felonies in the past and has completed all of the terms of his sentences and probation, except payment of court costs and fines. In connection with his felony cases, the courts have imposed court costs, fines, and/or fees in the aggregate amount of approximately $52,596.00

12. The Petitioner is a 46 year old black man, who suffers from a disability and is unable to work. He resides with his girlfriend in a small house and he must live off the charity of others.

13. The Petitioner, who is disabled, does not have the financial resources to pay the court costs, fines, and/or fees assessed against him. Furthermore, he is unable to afford to pay an attorney to petition the courts to allow him to convert his court costs, fines, and/or fees to community service, and even if he did, he is unable to perform community service, without accommodations, due to his disability.

14. After passage of the aforesaid Amendment to the Florida Constitution, but before enactment of the aforesaid statute, Petitioner registered to vote, genuinely believing he completed all of the terms of his sentence.

15. Respondents, Laurel M. Lee and Craig Latimore, as part of their official duties, are responsible for conducting Federal, State, County, special and local elections. Thus, they are sued in their official capacities. Ron DeSantis, as Governor, is the titular head of the State of Florida, and is sued in his official capacity, as such.

FIRST CAUSE OF ACTION (FOURTEENTH AMENDMENT, AND 42 USC 1983)

Paragraphs 1-15 are incorporated by reference.

16. F.S. 98.0751 violates the Equal Protection Clause of the 14th Amendment to the United States Constitution, as the statute makes affluence of the voter or payment of money, an electoral standard.

The Fourteenth Amendment of the Constitution requires that courts closely scrutinize challenged election regulations, weighing "the character and magnitude of the asserted injury . . . against the precise interests put forward by the State as justifications for the burden imposed by its rule." Burdick v. Takushi, 504 U.S. 428, 434 (1992).

Even when voters are only modestly burdened by State action, the State's "precise interests" must be able to justify the regulation, which must in turn be both "reasonable" and "nondiscriminatory," id.; see also U.S. Taxpayers Party of Florida v. Smith, 871 F. Supp. 426, 435 (N.D. Fla. 1993) (citing New Alliance Party v. Hand, 933 F.2d 1568 (11th Cir. 1991), as holding that "although the burden imposed on minor parties was not insurmountable, the interests put forth by

the state were inadequate to justify the restriction imposed.").

When the burden is more severe, the regulation in question must be able to survive strict scrutiny. Burdick, 504 U.S. at 434. When the law applies differently to preexisting classes of similarly situated citizens seeking to exercise their fundamental rights, the distinction is analyzed under strict scrutiny. See, e.g., Wexler v.Anderson, 452 F.3d 1226, 1231-32 (11th Cir. 2006) ;Dunn v. Blumstein, 405 U.S. 330, 336 (1972) ("[A] citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.") .

SECOND CAUSE OF ACTION (TWENTY-FOURTH AMENDMENT)

Paragraphs 1-15 are incorporated by reference

17. The Twenty-Fourth Amendment to the United States Constitution provides in part, that "The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax."

18. Taxation of court costs constitutes a tax. A charge is a tax if its purpose is to generate revenue, it is proportionate to the related costs and services, and the payor does not have the ability to limit the use of the service. It is a tax because it generates revenue disproportionate to the services provided, and because it benefits the public and not the payor. Even though the statute allowing the imposition of the court fines and

fees fails to use the word tax, it is a tax because the statute's purpose to generate revenue is clear.

The Twenty-Fourth Amendment precludes the denial of the right to vote by reason of failure to pay court costs taxed against a person in connection with a criminal court case.

THIRD CAUSE OF ACTION (52 U.S.C. § 10301-VOTING RIGHTS ACT)

Paragraphs 1-15 are incorporated by reference

19. F.S. 98.0751 violates 52 U.S.C. § 10301-Voting Rights Act, in that it has and will have a disproportionate and negative impact on black and Hispanic citizens, and was enacted intentionally to slow down and reduce the number of black and Hispanic ex-felons from registering to vote.

FOURTH CAUSE OF ACTION (FLORIDA CONSTITUTION)

Paragraphs 1-15 are incorporated by reference

20. F.S. 98.0751 violates Article VI, Section 4 of the Florida Constitution because it prescribes qualifications for restoration of voting rights to persons convicted of felonies, in addition to those prescribed by the Florida Constitution. The Legislature may not add to the requirements for restoration of voting rights over and above what is set forth in the Florida Constitution.

FIFTH CAUSE OF ACTION (MANDAMUS)

Paragraphs 1-15 are incorporated by reference.

20. Petitioner seeks mandamus pursuant to 28 USC 1361 to require the Respondents to allow him to register to vote or precluding Respondents from revoking his voters registarion, if he is qualified, other than having outstanding legal financial obligations.

PRAYER FOR RELIEF

For good cause, Petitioner seeks injunctive relief, declaratory relief, and a writ of mandamus.

1. Petitioner seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring that F.S 98.0751 violates the Equal Protection Clause under the Fourteenth Amendment of the U.S. Constitution, the Twenty-Fourth Amendment of the U.S. Constitution, 52 U.S.C. § 10301-Voting Rights Act, and Article VI, Section 4, of the Florida Constitution.

2. Petitioner seeks injunctive relief in the form of mandamus directing the Respondents to allow him to register to vote or precluding them from revoking his voters registration, if he qualifies, without consideration of outstanding legal financial obligations.

DATED: June 15, 2019

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, *et al.*, Plaintiffs, v. RON DeSANTIS, in his official capacity as Governor, *et al.*, Defendants.	Civil Action No. 4:19-cv-00300-MW-MJF [Lead Case] No. 4:19-cv-00301-MW-MJF [Consolidated] No. 4:19-cv-00302-MW-MJF [Consolidated] No. 4:19-cv-00304-MW-CAS [Consolidated] No. 4:19-cv-00272-MW-CAS [Consolidated] [Class Action]

FIRST AMENDED COMPLAINT

In the matter of *Raysor, et al. v. Lee*, No. 4:19-cv-00301-MW-MJF, consolidated with the above-captioned matter as *Jones, et al. v. DeSantis, et al.*, No. 4:19-cv-00300-MW-MJF, Plaintiff Bonnie Raysor, Plaintiff Diane Sherrill, and Plaintiff Lee Hoffman ("Plaintiffs") bring this class

action against Laurel M. Lee, in her official capacity as Secretary of State ("Defendant"), and allege the following:

INTRODUCTION

1. On November 6, 2018, almost two-thirds of Floridians voted for Amendment 4 to restore the right to vote to individuals with past felony convictions. Except for individuals convicted of murder or felony sexual offense, Amendment 4 re-enfranchised otherwise eligible Florida citizens automatically "upon completion of all terms of sentence including parole or probation." Fla. Const. art. VI, § 4.

2. On June 28, 2019, Governor Ron DeSantis signed Senate Bill 7066 ("SB 7066"), which purports to "implement" Amendment 4, in part by seeking to define "all terms of sentence" to include the payment of any restitution, fines, and fees ("legal financial obligations" or "LFOs") ordered by the court "as a part of the sentence *or* that are ordered by the court as a condition of any form of supervision." S.B. 7066, 2019 Leg., Reg. Sess., § 25 (Fla. 2019) (emphasis added).

3. Amendment 4 went into effect on January 8, 2019. SB 7066 went into effect on July 1, 2019.

4. The natural and foreseeable effect of this "implementing" law will be to drastically reduce the number of people with past convictions who regain the right to vote under Amendment 4; permanently disenfranchise many minor offenders; and dole out the right to vote on the basis of wealth.

5. On its face, SB 7066 discriminates on the basis of wealth. People with the financial means to satisfy their LFOs either during or at the conclusion of their sentence of incarceration or supervision will have their rights automatically restored. But, people whose socioeconomic status prevents them from satisfying their LFOs concurrent with the termination of their incarceration or supervision will be prohibited from voting until they are able to pay their outstanding balance.

6. As a result, whether otherwise eligible individuals will have the right to vote upon completion of their sentence of incarceration and supervision depends entirely on their ability to pay for it. Indeed, two otherwise eligible individuals with the same conviction, who received the same terms of probation and parole, and the same LFOs, would be treated differently under SB 7066 based solely on whether they have the means to satisfy their LFOs.

7. In short, SB 7066's wealth-based discrimination not only violates the Fourteenth Amendment, but also the Twenty-Fourth Amendment by functioning as a modern-day poll tax.

8. Further, SB 7066 is vague as to its scope. For example, it is internally contradictory with respect to whether fees or costs incurred after sentencing may nonetheless disenfranchise a person. Although the statute states that individuals must pay all LFOs imposed as a condition of supervision, it also states that individuals must pay only the amount specifically ordered by the court at sentencing. Yet, standard conditions of probation, which are imposed at sentencing, often require individuals to pay off certain debts that are only incurred *after* sentencing. Thus, SB 7066 will confuse potential voters and chill core First Amendment speech.

9. Finally, under SB 7066, it will be extraordinarily difficult for individuals with past convictions to determine their eligibility to vote and the risk of erroneous deprivation of the right to vote is high. Persons with both disqualifying and non-disqualifying LFOs will struggle to disaggregate those outstanding debts. And, the updated state voter

registration form provided for in SB 7066 fails to inform people with convictions of the new eligibility requirements the law creates.

10. As a result of SB 7066, people with convictions will often be left in the dark and find themselves in need of a lawyer just to find out their eligibility to vote. Individuals who register in error risk felony prosecution and thus the unique threat of recidivism. Such ambiguity surrounding access to the right to vote violates procedural due process and cannot survive scrutiny under the First and Fourteenth Amendments.

JURISDICTION AND VENUE

11. This action is brought under the United States Constitution. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

12. This Court has personal jurisdiction over Defendant Lee, who is an appointed state official and a resident of Florida.

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). Among other things, the office of Defendant Lee is located in this District.

14. This Court has authority to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

15. Plaintiff Bonnie Raysor (née Bonnie Ryan) is fifty-eight years old and has resided in Florida since she was seventeen. She is a United States citizen and currently resides in Boynton Beach, Florida.

16. After becoming addicted to opioids, Plaintiff Raysor was charged in 2009 and convicted in October 2010 of six felony and two misdemeanor drug-related charges. Since she was unable to afford an attorney, Plaintiff Raysor was assigned a public defender for these charges. She was sentenced to one year, six months, and five days in prison. Plaintiff Raysor was released from prison on March 29, 2011, with no parole or probation. She has no other criminal convictions.

17. Plaintiff Raysor works as an office manager and makes thirteen dollars per hour. She has a mortgage and a car payment and is responsible for the utilities, groceries, and other basic needs for herself and her nineteen-year-old daughter, who is a full-time student. She also has approximately $48,000 in student loan debt.

18. Voting is important to Plaintiff Raysor. As a Floridian, she knows how important a single vote can be in a close election. Voting gives

her the opportunity to make a difference, and to speak her mind politically. It gives her the opportunity to make her voice heard.

19. When Amendment 4 passed, Plaintiff Raysor was thrilled to regain her right to vote. She proactively reached out for help to understand her rights and to ensure that she would be able to register to vote despite her past felony conviction.

20. Under SB 7066, however, Plaintiff Raysor is unable to register and vote in Florida. She has $4,260 in outstanding fines and fees related to her conviction.

21. Upon information and belief, this sum includes fines and fees associated with her two misdemeanor convictions, as well as her felony convictions. Upon information and belief, when Plaintiff Raysor was convicted, all fines and fees levied upon her were in the form of a civil lien. These fines and fees include the following: court costs, cost of prosecution, crime stoppers fund, cost of investigation, drug trust fund, public defender application fee, and public defender fee.

22. Based on her current income and ability to pay, Plaintiff Raysor is on a payment plan with the court, where she pays $30 per month towards her outstanding balance. Under this payment plan,

Plaintiff Raysor will not pay off her LFOs until 2031. Thus, under SB 7066, she will not regain her right to vote for another twelve years, at which time she will be seventy years old.

23. Plaintiff Diane Sherrill is fifty-eight years old and is a Florida resident. She is a United States citizen and currently resides in St. Petersburg, Florida.

24. As a result of her struggle with addiction, Plaintiff Sherrill was convicted of one count of possession of crack cocaine in the third degree, two counts of possession of cocaine in the third degree, and one count of prostitution in the third degree between 1999 and 2005. For each of these charges, Plaintiff Sherrill was determined to be indigent and was assigned a public defender.

25. Plaintiff Sherrill has been drug-free and sober for over a decade. She has not had any criminal convictions since 2005. She has two adult children who live in the area and one grandchild. She is an active member of her church, Cornerstone Community Church.

26. Plaintiff Sherrill largely lives on a fixed Supplemental Security Income (SSI) of approximately $770 per month. She lives in public housing and receives approximately $70 per month in

Supplemental Nutrition Assistance Program (SNAP) benefits, otherwise known as food stamps. She has recently obtained part-time work at the local Ruby Tuesdays as a hostess, earning $8 per hour for 15 hours per week.

27. Plaintiff Sherrill lives by herself and is responsible for her monthly rent of $200, her utility bills (including electric, internet, and phone), groceries, car insurance and gas, and any other household expenses.

28. Plaintiff Sherrill lost her driver's license as a result of her convictions and unpaid LFOs. After ten years, she was recently able to reinstate her driver's license in order to help care for her first grandchild.

29. Voting is important to Plaintiff Sherrill. As a Floridian, she knows how important a single vote can be in a close election. Voting gives her the opportunity to make a difference, and to speak her mind politically. It gives her the opportunity to make her voice heard.

30. A few years ago, Plaintiff Sherrill's church set up a table for voter registration of congregants. Plaintiff Sherrill inquired about whether she could regain her voting rights. The organizers referred her to the Pinellas County Supervisor of Elections, Deborah Clark. Plaintiff

Sherrill wrote to Supervisor Clark about restoring her voting rights and received an application in the mail in response.

31. Plaintiff Sherrill wanted to apply to restore her voting rights but could not understand the confusing application she was sent or the process she was supposed to follow.

32. After the passage of Amendment 4, Plaintiff Sherrill was excited to register to vote and join her political community in voting in the next election. Since her convictions are well behind her, she believed she would be eligible to vote under Amendment 4.

33. Under SB 7066, however, Plaintiff Sherrill will not be eligible to register to vote and vote in the next election.

34. Plaintiff Sherrill owes $2,279 in outstanding LFOs related to her convictions. These LFOs include, *inter alia,* the following: indigent criminal defense fees, fines, investigative costs, and court costs. Upon information and belief, these LFOs also include penalties for nonpayment. Upon information and belief, all of these outstanding LFOs were converted to civil liens and sent to a collections agency. Plaintiff Sherrill is living on a financial razor's edge. She is unable to afford to pay these LFOs at this time and cannot foresee a time when she will ever be

able to pay these LFOs in full. As a result, SB 7066 may amount to permanent disenfranchisement for Plaintiff Sherrill.

35. Plaintiff Lee Hoffman is sixty years old and a Florida resident. He is a United States citizen and currently resides in Plant City, Florida.

36. Plaintiff Hoffman is a disabled U.S. military veteran. In 1976, he enlisted in the U.S. Navy. After being administratively discharged for medical reasons, Plaintiff Hoffman moved to Florida in 1978 to help care for his mother, who was seriously ill.

37. Plaintiff Hoffman has six previous nonviolent felony convictions. He has a burglary conviction in Pinellas County from 1978, and convictions in Hillsborough County for criminal mischief in 1995, grand theft in 2001, and driving without a license and possession of cocaine in 2006. Plaintiff Hoffman also has a robbery conviction in California from 1985.

38. Since 2006, Plaintiff Hoffman has had no felony convictions. He completed probation in 2008. He now spends his time as a minister and advocate for the homeless, and was recently appointed to the Board of Directors of Bay Area Legal Services.

39. Plaintiff Hoffman's primary source of income is a monthly disability benefit in the amount of $907. He also works part time, three to four months each year, as a federal contractor with National Telecommunications Institute, working with the Internal Revenue Service. Plaintiff Hoffman earns approximately $1,140 per month during the months he spends working as a contractor.

40. Voting is important to Plaintiff Hoffman. As a Floridian, he knows how important a single vote can be in a close election. Voting gives him the opportunity to make a difference, and to speak his mind politically. It gives him the opportunity to make his voice heard.

41. When Amendment 4 passed in November 2018, Plaintiff Hoffman felt relieved and empowered. He was excited to finally have the opportunity to register and participate in the democratic process. He registered to vote in Hillsborough County on January 17, 2019. As of July 15, 2019, the State of Florida Voter Information Lookup tool maintained by the Florida Department of State lists Plaintiff Hoffman as an Active voter.

42. Shortly thereafter, Plaintiff Hoffman learned about SB 7066. Plaintiff Hoffman saw SB 7066 as a betrayal by lawmakers and an

attempt to pull the rug out from under the thousands of formerly incarcerated Floridians who had registered to vote in the wake of Amendment 4.

43. Until he read about SB 7066, Plaintiff Hoffman did not know that he still owed LFOs associated with his felony convictions. Upon learning about SB 7066, he contacted the relevant county authorities to determine whether he had any outstanding LFOs. Plaintiff Hoffman believes he owes a total of $1,772.13 in LFOs, $469.88 of which are associated with his felony convictions.

44. Plaintiff Hoffman is not aware of any means by which he can prioritize payment of his felony LFOs to reduce the amount of time he is disenfranchised by SB 7066. Nor does he know whether the $469.88 associated with his felony convictions represents LFOs ordered at the time of his conviction, or if it incorporates amounts accrued at a later date.

45. If he was permitted to prioritize his felony LFOs, Plaintiff Hoffman estimates that he may be able to repay the outstanding balance associated with his felony convictions in approximately one to two years if he were to dedicate a significant portion of his supplemental income to

paying off his LFOs—assuming that he does not have any unexpected medical or other emergency expenses. If he is unable to prioritize his LFOs, it would take over three times as long for him to pay his full outstanding debt. In any event, he is unable to pay off his felony LFOs prior to the start of the 2020 election cycle, and thus will be denied the right to vote under SB 7066.

46. Plaintiffs Raysor, Sherrill, and Hoffman seek to represent a class for Count 2 (Twenty-Fourth Amendment) and Count 4 (Procedural Due Process) defined as: all persons otherwise eligible to register to vote in Florida who are denied the right to vote pursuant to SB 7066 because they have outstanding LFOs.

47. Plaintiffs Raysor, Sherrill, and Hoffman seek to represent a subclass for Count 1 (Fourteenth Amendment) defined as: all persons otherwise eligible to register to vote in Florida who are denied the right to vote pursuant to SB 7066 because they are unable to pay off their outstanding LFOs due to their socioeconomic status.

48. Defendant Laurel M. Lee is the Secretary of State of Florida ("the Secretary") and is sued in her official capacity. The Secretary is the head of the Department of State ("the Department") and the chief election

officer of the state. As chief election officer, the Secretary is responsible for obtaining and maintaining "uniformity in the interpretation and implementation of the election laws," and providing "uniform standards for the proper and equitable interpretation and implementation" of such laws. Fla. Stat. § 97.012(1)-(2). The Secretary is also responsible for administering the statewide voter registration system. *Id.* § 97.012(11).

49. Further, under SB 7066, the Department of State is responsible for identifying registered voters who have been convicted of a felony and whose voting rights have not been restored, and for initiating the process for removing potentially ineligible individuals from the voter rolls. *See* S.B. 7066, *supra*, §§ 24, 25, *amending* Fla. Stat. § 98.075(5). The Department is similarly responsible for obtaining and reviewing information on new registrants' eligibility for rights restoration and for initiating the process for rejecting applications from potentially ineligible voters. *See id.* § 25, *enacting* Fla. Stat. § 98.0751(3)(a).

FACTS

50. The Florida Constitution prohibits individuals with felony convictions from voting unless their voting rights have been restored. Fla. Const. art. VI, § 4. As of January 8, 2019, except for persons convicted of

murder or felony sexual offense, voting rights are restored automatically "upon completion of all terms of sentence including parole and probation." *Id.* Persons convicted of murder or felony sexual offense are permanently disenfranchised but may apply to the Board of Executive Clemency to have their voting rights restored on a case-by-case basis. *See* S.B. 7066, *supra*, § 25, *enacting* Fla. Stat. §98.0751(1).

SB 7066

51. On June 28, 2019, Governor DeSantis signed SB 7066 into law. SB 7066 purports to implement the constitutional provision restoring voting rights to individuals with felony convictions, and states:

> A person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution upon the completion of all terms of his or her sentence, including parole or probation.

S.B. 7066, supra, § 25, *enacting* Fla. Stat. § 98.0751(1).

52. But SB 7066 does not merely implement Amendment 4. Rather, it severely restricts access to the right to vote. SB 7066 defines "completion of all terms of sentence" to include not only any term of imprisonment, probation, community control or supervision (collectively, "carceral supervision"), but also the full payment of any LFOs, including

restitution, fines and fees "ordered by the court as a part of the sentence or that are ordered by the court as a condition of any form of supervision," even if those obligations have been converted to civil liens. *Id.*, *enacting* Fla. Stat. § 98.0751(2).

53. Governor DeSantis' signing statement accompanying SB 7066 does not address these financial barriers to voting but does state his personal opinion that Florida voters made a "mistake" by restoring "voting rights to violent felons." By requiring the payment of all LFOs—many of which people with past convictions will never be able to pay—Governor DeSantis has ratified a law that will undermine Amendment 4, which he deems a "mistake."

54. Florida does not require courts to consider ability to pay at the time LFOs are imposed. When seeking to enforce compliance with a legal financial obligation, however, courts may inquire into ability to pay. *See, e.g.*, Fla. Stat. § 938.30. Based on the individual's ability to pay, a court seeking to enforce a legal financial obligation may order the individual to comply with a payment schedule; convert the obligation to a judgment or civil lien against the individual's property; or may, in limited instances, convert outstanding fines and court costs "into a court-ordered obligation

to perform community service." *Id.* Upon information and belief, many mandatory LFOs cannot be converted to community service.

55. SB 7006 defines the "completion" of LFOs to include: actual payment of the obligation in full; termination of the obligation by the court, with the approval of the payee; or completion of all community service hours where the court has converted the financial obligation to community service. SB 7066, *supra*, § 25, *enacting* Fla. Stat. § 98.0751(5)(e). Finally, SB 7066 states that "[t]he requirement to pay any financial obligation specified in this paragraph is not deemed completed upon conversion to a civil lien." *Id.* This language, however, does not directly address the circumstance of Plaintiff Raysor, whose LFOs were imposed as civil liens as an initial matter.

56. While SB 7066 acknowledges that LFOs can be modified by the sentencing court, it does not require any modifications to LFOs, even in cases where indigence or inability to pay is the only barrier to voting rights restoration.

THE IMPACT OF SB 7066

57. Across all jurisdictions in Florida, over $700 million in fines, court costs, and other monetary penalties were assessed in 2018 alone.

In addition, over $481 million in fees, service charges, and costs were assessed during 2018. These figures do not include the enormous sum of fines and fees that were assessed prior to 2018 but are still outstanding.

58. Criminal Circuit Courts in Florida assessed over $275 million in fines and fees during 2018. Of that amount, nearly thirty percent is categorized as at risk for collection due to indigence or reduction to a civil judgment or lien. In several Circuits, the amount at risk due to indigence is over forty percent. Criminal Circuit Courts in Florida converted only about $1.2 million in court fines to community service during 2018.

59. The Department of Corrections reported just under $20 million dollars in revenue from cost of supervision fees in fiscal year 2017-2018, nearly $50 million dollars in revenue from restitution, fines, and court costs, and over $20 million dollars in court ordered fees.[1]

60. Individuals with past felony convictions are more likely to have lower incomes than other registered voters, and to live in neighborhoods with higher unemployment than other Florida voters.[2]

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[1] Fla. Dep't of Corr., *2017-2018 Annual Report* 6, http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf.

[2] *See* Kevin Morris, *Thwarting Amendment 4*, BRENNAN CTR. FOR JUSTICE, https://www.brennancenter.org/sites/default/files/analysis/2019_05_FloridaAmendment_FINAL-3.pdf.

61. On information and belief, many individuals with fines, fees, and restitution ordered as part of their sentence or as a condition of supervision related to a felony conviction also have other LFOs assessed through the criminal justice system. These may include LFOs associated with felony convictions but not ordered at the time of sentence or as a condition of supervision. In other instances, LFOs may be related to misdemeanor or civil judgments, rather than a felony conviction. On information and belief, these LFOs are not disaggregated by the County or the court when converted to a civil judgment, lien, community service, or incorporated into a payment plan.

62. For example, upon information and belief, Plaintiff Raysor has fines and fees associated with her misdemeanor convictions, which are a part of the $4,260 she still owes. Based on the records available to Plaintiff Raysor, she cannot ascertain how much of her $30 monthly payments go towards her felony versus misdemeanor LFOs. Nor does she know if she may prioritize paying the LFOs associated with her felony convictions, which prevent her from voting.

63. Similarly, Plaintiff Raysor does not know how the outstanding LFOs associated with her felony convictions break down, such that she

cannot determine which of these LFOs fall within the scope of SB 7066, and which fall outside the scope of SB 7066. Nor does she know whether the fact that her LFOs were initially imposed as a civil lien—rather than converted—affects their status under SB 7066.

64. Likewise, Plaintiff Sherrill believes that some of her outstanding LFOs are penalties for nonpayment that should not bar her from voting under SB 7066. But since the full balance has been sent to a collections agency, she does not know if or how she may prioritize paying the LFOs that disqualify her from voting.

65. Plaintiff Sherrill does not know if there are additional fines, fees, and costs within her outstanding balance that fall outside the scope of SB 7066.

66. Finally, although only $469.88 of Plaintiff Hoffman's $1,772.13 in LFOs are related to his felony convictions, he does not know how much of that amount was imposed as part of his sentence, or whether any of it encompasses penalties or other costs incurred after sentencing. Nor does Plaintiff Hoffman know how he can prioritize payment of those LFOs related to his felony convictions, to ensure he is not denied the right to vote on account of non-disqualifying LFOs.

67. For individuals whose LFOs have been converted to community service, a civil judgment, or lien, satisfaction of the obligation is often determined by a private third-party. Private, non-profit, community, or charitable organizations may all serve as community service agencies for the purpose of court-ordered community service. *See* Fla. Stat. § 318.18. The responsibility for monitoring and recording community service hours—defined as "uncompensated labor for a community service agency"—falls to these entities. *Id.* Similarly, a county may pursue the collection of outstanding LFOs through private attorneys and collection agencies. Not only does this place the obligation in the hands of a third party, but Florida allows those parties to impose a surcharge of up to forty percent of the balance owed as a collection fee.

68. For example, at times when she was facing financial hardship, Plaintiff Raysor has fallen behind on paying her LFOs. As a result, in 2014, her debts were placed with a collection agency, Penn Credit, which imposed a forty percent surcharge on her balance. Plaintiff Raysor also lost her driver's license as a consequence of her overdue LFOs. Ultimately, she was able to petition the court to remove the surcharge,

place her back on a payment plan, and reinstate her driver's license. She currently pays $30 per month toward her LFO balance.

69. Upon information and belief, Plaintiff Sherrill's outstanding balance includes several substantial fees imposed as penalties for transfer to a collections agency.

70. Fines and fees that may be assessed as part of an individual's sentence include, but are not limited to: mandatory assessments for the Court Cost Clearing Trust Fund, the Crimes Compensation Trust Fund, the Operating Trust Fund of the Department of Law Enforcement, a mandatory $225 fine for a felony conviction, mandatory fines assessed based on the specific felony conviction or convictions, mandatory costs authorized by local governmental entities, discretionary costs related to the specific type of case or conviction, and additional surcharges on these costs. *See generally* ch. 983, Fla. Stat.

71. In addition, conditions of carceral supervision imposed at sentencing may include, but are not limited to: payment of debts due to a detention center for medical care, treatment, hospitalization, or transportation; application fees and attorneys' costs and fees if the individual had a public defender appointed; and reimbursement for costs

of drawing and transmitting blood or DNA samples to the Department of Law Enforcement. *See, e.g.*, Fla. Stat. § 948.03.

72. In other words, under SB 7066, it appears an individual's right to vote may be conditioned on the payment of outstanding medical debt that accrues after sentencing.

73. Thus, the requirement in SB 7066 that an individual pay off all LFOs "ordered by the court as a condition of any form of supervision," SB 7066, § 25, *enacting* Fla. Stat. § 98.0751(2)(a)(5)(b), is inconsistent with later language stating that payment of LFOs "accrue[d] after the date the obligation is ordered as a part of the sentence" is *not* required to be eligible for rights restoration, *id.*, *enacting* Fla. Stat. § 98.0751(2)(a)(5)(c). This internally incoherent language will undoubtedly leave Florida citizens in the dark about which LFOs are disqualifying and which LFOs are not disqualifying.

74. Upon information and belief, this confusion will only be compounded by the lack of easy access to records disaggregating the LFOs incurred by a person with a past conviction. Plaintiffs Raysor, Sherrill, and Hoffman even with assistance of counsel, have been unable to ascertain this information with respect to their own outstanding debts.

75. SB 7066 itself recognizes that Florida citizens are not likely to be able to assess their own eligibility to vote under this law. It provides for the creation of a "Restoration of Voting Rights Work Group." SB 7066, §33. The work group is charged with developing recommendations for the Legislature related to "[t]he process of informing a registered voter of the entity or entities that are custodians of the relevant data necessary for verifying . . . eligibility for restoration of voting rights." *Id.*

76. Yet, although SB 7066 became effective on July 1, 2019, these recommendations are not due to the Legislature for consideration until November 1, 2019. *Id.* In other words, the Legislature passed SB 7066 fully aware that eligible Florida citizens will struggle or be unable to ascertain their eligibility to vote.

77. Nonetheless, since July 1, 2019, Florida citizens risk criminal sanction if they register to vote while their voting rights have not, in fact, been restored under SB 7066's vague and ambiguous language—despite the fact that the updated state voter registration form required by SB 7066 will not mention the LFO requirement at all.

78. Further, between January and March 2019 alone, more than 2,000 individuals with past felony convictions registered to vote in

Florida.[3] Indeed, upon information and belief, as many as 8,000 to 15,000 people with past felony convictions have registered to vote since the effective date of Amendment 4. Upon information and belief, many of these individuals, like Plaintiff Hoffman, have outstanding LFOs.

79. Defendant Lee is responsible for ensuring compliance with all state election laws. Yet, upon information and belief, Defendant Lee took no action during the period between January 8, 2019 and July 1, 2019 to prohibit individuals with past felony convictions who completed their sentence but had outstanding LFOs from registering to vote. Defendant Lee did not instruct registrars to deny the applications of individuals with past felony convictions on the basis of outstanding LFOs or remove individuals with past felony convictions from the voter rolls on the basis of outstanding LFOs.

80. In other words, prior to the enactment of SB 7066, Amendment 4's implementation included no requirement that individuals with past convictions pay all outstanding LFOs prior to registering to vote. Defendant Lee did not interpret or implement Amendment 4 as denying rights registration to otherwise eligible

[3] *See* Morris, *supra* note 2.

individuals on the basis of outstanding LFOs. Nor did Defendant Lee recognize or seek to enforce a duty on the part of any county supervisor to deny rights registration to otherwise eligible individuals on the basis of outstanding LFOs.

81. SB 7066 itself recognizes that the state of Florida cannot retroactively punish otherwise eligible individuals with outstanding LFOs who registered to vote during the period between January 8, 2019 and July 1, 2019, on the basis that such individuals made a false affirmation by indicating that their voting rights had been restored. *See* S.B. 7066, 2019 Leg., Reg. Sess., § 26 (Fla. 2019) (*enacting* Fla. Stat. § 104.011(3)).

82. SB 7066 provides no such safe harbor, however, for individuals with outstanding LFOs who registered during the interim period and later vote in an election after July 1, 2019. Yet, like Plaintiff Hoffman, many such individuals remain actively registered despite the fact that SB 7066 is now in effect. SB 7066 placed every such individual in jeopardy of criminal prosecution if they subsequently vote in an election in reliance on their active registration status.

83. The mechanics of SB 7066 are inordinately complicated for affected citizens, and its scope is vague. Its consequences, however, are clear. Under SB 7066, Floridians with past felony convictions who have completed their term of carceral supervision, including incarceration, probation, and parole, and who either do not have LFOs or have paid them off, will automatically have their voting rights restored. Individuals who have outstanding LFOs are denied the right to vote unless or until they are able to satisfy their financial obligations. An individual who is unable to pay off her outstanding LFOs due to her socioeconomic status is permanently denied the right to vote.

84. In short, SB 7066 conditions the restoration of voting rights entirely upon an individual's financial resources, in violation of the Fourteenth and Twenty-Fourth Amendments.

EXECUTIVE CLEMENCY

85. Under SB 7066, individuals who are disenfranchised solely because of their outstanding LFOs may apply for executive clemency, subject to the "unfettered discretion" of the Florida Governor. *See* SB 7066, § 25, *enacting* Fla. Stat. § 98.0751(1); Fla. R. Exec. Clemency 4.

This "unfettered discretion" means the Governor has the authority "to deny clemency at any time, for any reason." Fla. R. Exec. Clemency 4.

86. Thus, individuals able to pay their LFOs can register and vote automatically upon completing carceral supervision, while those unable to pay are disenfranchised indefinitely, subject to the whim of the Governor.

87. Applying for executive clemency is extremely burdensome. An individual with outstanding LFOs must wait seven years after the completion of carceral supervision to apply for a restoration of civil rights.[4] Fla. R. Exec. Clemency 5. If denied, an applicant must wait for at least two years to reapply. Fla. R. Exec. Clemency 14. Applications must contain certified copies of the charging document, judgment, and sentence for each felony conviction. Fla. R. Exec. Clemency 6(B). After applying, the individual is subject to an investigation by the Florida Commission on Offender Review, and her application will be decided at a hearing in Tallahassee.[5] Fla. R. Exec. Clemency 8(B). The applicant

[4] Individuals with no outstanding restitution may be eligible to apply for rights restoration after five years, depending on their crime of conviction. *See* Fla. R. Exec. Clemency 9.

[5] Prior to January 8, 2019, all Floridians with past felony convictions were permanently disenfranchised unless they applied for and obtained a restoration of civil rights from the Governor and the Board of Clemency. Under this system, individuals who had paid their restitution were eligible to apply for rights restoration without being subject to a

must give ten days notice to the Board if she or any other person intends to speak at the hearing on her behalf. Fla. R. Exec. Clemency 12(B). The final determination of any application is subject to the "unfettered discretion" of the Florida Governor. Fla. R. Exec. Clemency 4.

88. Thus, even after completing the burdensome application process, individuals who lack the means to pay their LFOs will not be allowed to vote "unless Florida's Governor approves restoration of this fundamental right" or a complete remission of their LFOs. *Hand v. Scott*, 285 F. Supp. 3d 1289, 1292 (N.D. Fla. 2018). Meanwhile, similarly situated individuals—including those convicted of the same crimes—are granted automatic restoration of their voting rights based solely on their ability to pay their LFOs.

89. This process necessarily discriminates on the basis of wealth. Rights restoration is guaranteed to individuals of financial means, while the indigent must not only suffer the indignity of having to beg for their

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hearing. In *Johnson v. Governor of Fla.*, the Eleventh Circuit found the hearing requirement, standing alone, insufficient to support a claim that restoration was conditioned upon an applicant's financial resources. 405 F.3d 1214, 1216 n.1 (11th Cir. 2005). The Court reserved ruling, however, on the question of "whether conditioning an application for clemency on paying restitution would be an invalid poll tax." *Id.* Plaintiffs' claims present exactly the question reserved by the Court. But for their outstanding LFOs, Plaintiffs' voting rights would be restored. But for their outstanding LFOs, Plaintiffs would not be subject to a discretionary restoration process at all. The entire clemency procedure is conditioned upon otherwise eligible individuals' inability to pay.

rights to be restored, but they must do so on blind faith, without any notice of the conditions, factors, or whims that will determine if their application is successful.

CLASS ALLEGATIONS

90. Upon information and belief, at least 500,000 individuals with past felony convictions who are otherwise eligible under Amendment 4 have outstanding LFOs and are therefore not qualified for voting rights restoration under SB 7066, just like Plaintiffs. Thousands of currently registered voters with outstanding LFOs risk removal from the voter registration rolls, or, to the extent they remain on the rolls, criminal prosecution if they vote in reliance on their active registration. Countless otherwise eligible individuals will be prevented from exercising their right to vote in the future because they are unable to pay their LFOs due to their socioeconomic status.

91. Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs Raysor, Sherrill, and Hoffman bring this action on behalf of themselves and all other similarly situated persons. Plaintiffs Raysor, Sherrill, and Hoffman do not seek claims for compensatory relief. Instead, Plaintiffs seek only declaratory and injunctive relief broadly applicable to members

of the Plaintiff Class and the Plaintiff Subclass, as defined above. The requirements of Rule 23, and in particular Rule 23(b)(2), are met with respect to the Plaintiff Class and Plaintiff Subclass as defined in ¶¶ 22 and 23.

92. The members of the Plaintiff Class and Plaintiff Subclass are so numerous that joinder is impracticable. While the exact number of members in the Plaintiff Class and Plaintiff Subclass are not publicly available, upon information and belief, the total number of otherwise eligible citizens of Florida disenfranchised due to some combination of outstanding fines, fees, or restitution exceeds 500,000. The Plaintiff Class and Plaintiff Subclass are ascertainable through Defendant's records and records kept by the Florida State Department of Corrections. Indeed, under SB 7066, it is Defendant's responsibility to identify registrants who are not eligible for rights restoration because they have outstanding LFOs.

93. Common questions of law and fact predominate over questions affecting only individual class and subclass members with respect to allegations in this complaint. Those questions include, but are not limited to, the following:

a. Whether SB 7066 discriminates on the basis of wealth in violation of the Fourteenth Amendment.

b. Whether SB 7066 constitutes a poll tax in violation of the Twenty-Fourth Amendment.

c. Whether SB 7066 creates an impermissible risk of erroneous deprivation of the fundamental right to vote in violation of the Fourteenth Amendment.

94. Plaintiffs' claims are typical of the Plaintiff Class and Plaintiff Subclass as defined in ¶¶ 22 and 23. Plaintiffs Raysor, Sherrill, and Hoffman are not aware of any conflict between their interests and those of the Plaintiff Class and Plaintiff Subclass they seek to represent.

95. Plaintiffs Raysor, Sherrill, and Hoffman can fairly and adequately represent the interests of the Plaintiff Class and Plaintiff Subclass because they are similarly situated with class members. Plaintiffs have retained counsel experienced in class-action and voting rights litigation to represent them and the Plaintiff Class and Plaintiff Subclass for the purpose of this litigation.

96. Defendants have acted, or refused to act, on grounds generally applicable to the entire class, and final injunctive relief and

corresponding declaratory relief are appropriate respecting the class as a whole.

CLAIMS
Count 1: Wealth-Based Disenfranchisement, Fourteenth Amendment

97. Plaintiffs reallege the facts set forth in paragraphs 1-96 above.

98. Wealth "is not germane to one's ability to participate intelligently in the electoral process." *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 668 (1966).

99. A state "violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard." *Id.* at 666; *see also Johnson v. Governor of Fla.*, 405 F.3d 1214, 1216 n.1 (11th Cir. 2005).

100. By requiring an otherwise eligible Florida citizen to pay all LFOs before she is eligible to restore her right to vote, SB 7066 impermissibly makes financial payments an electoral standard.

101. By requiring an otherwise eligible Florida citizen to pay all LFOs before she is eligible to restore her right to vote, SB 7066

impermissibly makes the affluence of an otherwise eligible voter an electoral standard.

102. It is well established that "a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction." *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972). Thus, "[h]aving once granted the right to vote on equal terms, the State may not by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush v. Gore*, 531 U.S. 98, 104–5 (2000). Rather, "once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment." *Harper*, 383 U.S. at 665.

103. Plaintiffs Raysor, Sherrill, and Hoffman, and members of the Plaintiff Subclass are unable to afford to pay their remaining LFOs, and, as of July 1, 2019, this is the only reason they are not eligible to register and vote in the state of Florida. In the case of Plaintiff Hoffman, SB 7066 will lead to his removal from the voter rolls and prohibits him from voting even while he remains on the voter rolls.

104. The mere possibility that LFOs could, in some cases, be modified—left to the discretion of individual judges—does nothing to

alleviate this unconstitutional barrier to voting for Plaintiffs and other members of the Plaintiff Subclass. Nor does the possibility that the Governor could, if he felt so moved, exercise his discretion to restore the right to vote to individuals with outstanding LFOs on a case-by-case basis. Indeed, Representative James Grant noted in enacting SB 7066 that discretionary rights restoration is "'a recipe for rampant discrimination.'"[6] Moreover, it is well established that imposing additional requirements on voters who cannot pay is no more constitutionally permissible than outright disenfranchisement. *See Harman v. Forssenius,* 380 U.S. 528 (1965).

105. It is also well established that a state may not impose additional punishment[7] or deprive a citizen of a fundamental right solely because "through no fault of his own, he cannot pay the fine." *Bearden v. Georgia,* 461 U.S. 660, 673 (1983). In other words, *Bearden* requires a

[6] Tyler Kendall, *Felons in Florida Won Back Their Right to Vote. Now a New Bill Might Limit Who Can Cast a Ballot*, CBS News (May 23, 2019), https://www.cbsnews.com/news/florida-felons-won-back-right-to-vote-new-bill-might-limit-who-can-cast-ballot-2019-05-23/.

[7] While not a necessary element of Plaintiffs' claims, disenfranchisement on the basis of a past conviction—and continued because of inability to pay LFOs—certainly qualifies as punishment. *See Johnson*, 405 F.3d at 1228 ("Indeed, throughout history, criminal disenfranchisement provisions have existed as a punitive device."); *see also* Act of June 25, 1868, ch. 70, 15 Stat. 73, 73 (Readmission Act for Florida) (prohibiting any change to the state constitution that "deprive[s] any citizen or class of citizens of the United States of the right to vote . . . except as punishment for such crimes as are now felonies at common law").

careful consideration of ability to pay before fundamental rights are withheld on the basis of failure to pay a fine.

106. SB 7066 provides no such procedure. Neither Plaintiffs Raysor nor Sherrill have a mechanism for receiving an exception from SB 7066's requirements because they are unable to pay their LFOs prior to the next election. In the case of Plaintiff Lee, SB 7066 authorizes his removal based on outstanding LFOs without any inquiry into his ability to pay his LFOs. Failure to condition the LFOs requirement on an ability to pay inquiry further violates "the fundamental fairness required by the Fourteenth Amendment." *Id.*

107. Florida has no cognizable interest in denying its citizens the right to vote solely on the basis that they are unable to pay their LFOs. "[W]ealth or fee paying has . . . no relation to voting qualifications." *Harper*, 383 U.S. at 670. When the LFOs requirement is applied to those unable to pay, "the statute merely prevents" citizens from voting "without delivering any money at all into the hands of [the State]." *Zablocki v. Redhail*, 434 U.S. 374, 389 (1978); *see also Bearden*, 461 U.S. at 670 ("Revoking the probation of someone who through no fault of his own is

unable to make restitution will not make restitution suddenly forthcoming.").

108. SB 7066 invidiously discriminates between Florida citizens with prior felony convictions who have been discharged from carceral supervision and who are able to pay their LFOs, and Florida citizens with prior felony convictions, who have been discharged from carceral supervision but are unable to pay their LFOs, in violation of the Fourteenth Amendment.

Count 2: Poll Tax, Twenty-Fourth Amendment

109. Plaintiffs reallege the facts set forth in paragraphs 1-108 above.

110. The Twenty-Fourth Amendment provides that "[t]he right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay *any poll tax or other tax*." U.S. Const. amend. XXIV, § 1 (emphasis added).

111. For those who are otherwise eligible, SB 7066 denies the right to vote to those who cannot afford to pay their LFOs solely by reason of their failure to pay fines and fees to the State of Florida.

112. SB 7066 hinges access to the right to vote on the payment of many fines and fees to the government—such as contributions to various state funds and to the costs of the court system itself—that fall well within any reasonable definition of "other tax." *See U.S. v. State Tax Comm'n of Miss.*, 421 U.S. 599, 606 (1975) (noting that the "standard definition of a tax" is any "enforced contribution to provide for the support of government").

113. The failure to call SB 7066's LFOs requirement a "poll tax" does nothing to change its function, which hinges access to the ballot box on the payment of a variety of fines and fees to the state of Florida. *See Harman*, 380 U.S. at 540-41 ("[T]he Twenty-fourth [Amendment] nullifies sophisticated as well as simple-minded modes of impairing the right guaranteed." (internal quotation marks omitted)).

114. SB 7066 directly conflicts with the prohibition of the Twenty-Fourth Amendment.

Count 3: Void for Vagueness, First and Fourteenth Amendment

115. Plaintiffs reallege the facts set forth in paragraphs 1-114, above.

116. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution requires that a law that imposes penalties give ordinary people reasonable notice of what conduct it prohibits and guard against arbitrary and discriminatory enforcement.

117. The applicability of the void for vagueness doctrine is heightened both when criminal sanctions are attached to a vague law and when the First Amendment is implicated.

118. Here, SB 7066 does both. It attaches threat of criminal sanction to the acts of registering to vote and voting, both of which fall squarely within "core political speech" given the utmost First Amendment protection.

119. SB 7066 does not reasonably inform people with past convictions of which LFOs—imposed as a condition of supervision or imposed in the first instance as civil liens—are disqualifying and which are not. Nor does it, by its own admission, provide citizens with access to the records necessary to determine their eligibility. Like Plaintiffs, the

reasonable person with a variety of outstanding LFOs will not be able to determine which LFOs are disqualifying and which are not, or how to prioritize paying disqualifying LFOs.

120. The state voter registration form—as updated by SB 7066—will not provide citizens with meaningful information to determine their eligibility to vote.

121. Nonetheless, the state subjects voters who make an error in determining their eligibility to the threat of criminal prosecution.

122. This cocktail of confusion and obfuscation will undeniably chill the registration and voting of eligible Florida voters in violation of the First and Fourteenth Amendments. The ambiguous portions of the LFOs requirement—as they relate to LFOs imposed as conditions of supervision or as civil liens in the first instance—must be enjoined.

Count 4: Violation of Due Process, Fourteenth Amendment

123. Plaintiffs reallege the facts set forth in paragraphs 1-122, above.

124. A "claim alleging a denial of procedural due process requires proof of three elements: (1) a deprivation of a constitutionally protected liberty or property interest; (2) state action; and (3) constitutionally

inadequate process." *Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003).

125. Plaintiffs Raysor, Sherrill, and Hoffman and the members of the Plaintiff Class and Subclass have a constitutionally protected right to vote upon completion of their sentence per Art. VI § 4 of the Florida Constitution and the Fourteenth Amendment to the U.S. Constitution.

126. SB 7066 denies otherwise eligible individuals the right to vote unless and until they pay off certain—but not all—legal financial obligations.

127. Further, SB 7066 fails to provide for adequate procedures to ensure that individuals who qualify for rights restoration are able to register and vote in Florida.

128. Determining what process is due under the Fourteenth Amendment "is a flexible concept that varies with the particular circumstances of each case." *Id.* Under *Mathews v. Eldridge*, the determination of what process is due rests on the balance between (1) the interest affected; (2) the risk of erroneous deprivation under the current procedures and the "probable value, if any, of additional or substitute procedural safeguards;" and (3) the state's interest, including the "fiscal

and administrative burdens" additional procedures would entail. 424 U.S. 319, 335 (1976).

129. Here, the constitutionally protected interest at stake is no less than the fundamental right to vote, and the risk of erroneous deprivation is high. SB 7066 conditions the restoration of voting rights on payment of unenumerated legal financial obligations, without providing for any process by which an otherwise eligible voter can (1) differentiate between LFOs that are disqualifying and those which are non-disqualifying, or (2) prioritize payment of disqualifying LFOs, such that they are not disenfranchised by their inability to pay off non-disqualifying LFOs.

130. The Florida criminal justice system imposes a dizzying array of fines, fees, and costs on persons with felony convictions, including processing fees, surcharges, penalties, and costs that are incurred after sentencing, but which must be paid off as a condition of supervision. Not only is SB 7066 itself internally inconsistent about which LFOs disqualifying, it fails to provide any procedures for otherwise eligible individuals to determine which of their LFOs are disqualifying, or to prioritize payment of those LFOs that prevent them from being able to vote.

131. In other words, even those individuals able to pay their disqualifying LFOs may be denied the right to vote because they are unable to determine which LFOs are disqualifying, or because they are not allowed to pay fully their disqualifying LFOs without also paying toward their non-disqualifying LFOs.

132. Further, SB 7066 fails to provide any procedures for how Defendant Lee shall identify registered voters or new registrants whose rights have not been restored due to disqualifying LFOs, including on what basis Defendant Lee shall determine that information related to an individual's disqualifying LFOs is "credible and reliable." S.B. 7066, 2019 Leg., Reg. Sess., § 24 (Fla. 2019).

133. In creating the Restoration of Voting Rights Work Group, SB 7066 acknowledges that Defendant Lee does not yet know what data is necessary to determine an individual's eligibility to vote under SB 7066, and that no process yet exists for informing registered voters where they may find this information. Indeed, the Work Group's report and recommendations for developing these data sources and procedures are not due until four months after the effective date for SB 7066. And the

law makes no provision for when or if these recommendations, or any other such procedures, shall be adopted.

134. The lack of procedural safeguards creates a substantial likelihood that eligible voters will be denied the right to vote upon completion of their sentence based on outstanding but non-disqualifying LFOs.

135. In other words, SB 7066 creates a substantial likelihood that individuals entitled to rights restoration under the Florida Constitution will be erroneously deprived of their right to vote.

136. As stated above, the state has no cognizable interest in discriminating against otherwise eligible voters on the basis of wealth. Nor does the state have any interest in using the right to vote as an incentive for individuals to pay their LFOs. And even to the extent the state has an interest in ensuring that persons with past felony convictions pay in full their financial obligations associated with their convictions, there is simply no evidence to suggest that withholding voting rights until payment of LFOs is complete assists the state in achieving that end any more so than existing procedures unrelated to voting. Indeed, the fiscal and administrative burdens on the state of

ensuring that eligible voters are not denied the right to vote under SB 7066 are substantially higher than they otherwise would be, absent the LFO requirements.

137. SB 7066 therefore violates due process because it creates a procedure for restoration of voting rights that is fundamentally unfair and gives rise to a substantial likelihood of erroneous deprivation of the right to vote, and which cannot be justified by any cognizable state interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

(1) Certify the Plaintiff Class as defined in paragraph 46, and the Plaintiff Subclass as defined in paragraph 47;

(2) Issue a declaratory judgment that SB 7066, by its terms and as applied, violates the Fourteenth and Twenty-Fourth Amendments of the U.S. Constitution;

(3) Issue a declaratory judgment that the identified LFOs portions of SB 7066, by their terms and as applied, are void for vagueness in violation of the First and Fourteenth Amendments;

(4) Issue a declaratory judgment that SB 7066 fails to provide adequate safeguards against unlawful disenfranchisement in violation of the Fourteenth Amendment;

(5) Enjoin Defendant, her agents, employees, and successors, and all those persons acting in concert or participation with them, from enforcing SB 7066 including:

a. Enjoining Defendant from initiating a process for the rejection of any voter registration applications on the basis of outstanding LFOs;

b. Enjoining Defendant from initiating a process for the removal of any voters from the voter registration rolls on the basis of outstanding LFOs;

c. Requiring Defendant to instruct county election supervisors that outstanding LFOs do not disqualify any individual from voting rights restoration, and therefore not to remove or reject any registrant based on outstanding LFOs;

d. Requiring Defendant to inform those with past felony convictions that the failure to pay LFOs does not disqualify them from voting rights restoration under Amendment 4;

e. Requiring Defendant to instruct county election supervisors to restore Florida citizens to the voter registration rolls if they were removed solely on the basis of their outstanding LFOs;

(6) Award Plaintiffs their costs, expenses, and reasonable attorneys' fees incurred in the prosecution of this action, as authorized by the Civil Rights Attorney's Fees Awards Act of 1973, 42 U.S.C. § 1988(b); and

(7) Grant such other equitable and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Chad W. Dunn
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendants.
_____/

DEFENDANT, LESLIE ROSSWAY SWAN, SUPERVISOR OF ELECTIONS FOR INDIAN RIVER COUNTY'S ANSWER AND AFFIRMATIVE DEFENSE TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

COMES NOW, Defendant, Leslie Rossway Swan, Supervisor of Elections for Indian River County ("Indian River County Supervisor"), by and through her undersigned counsel, answers Plaintiff's Complaint for Injunctive and Declaratory Relief, and states:

PRELIMINARY STATEMENT

1. The Indian River County Supervisor admits that on November 6, 2018, Amendment 4 was approved by the voters of the State of Florida. All other allegations are denied.

2. Denied.

3. The Indian River County Supervisor admits that this is an action challenging SB 7066, and denies the remaining allegations.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

11. The Indian River County Supervisor is without knowledge, and thus his paragraph is denied.

12. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

13. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

14. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

15. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

16. The Indian River County Supervisor admits Ms. Wright has registered to vote on-line, and otherwise is without knowledge to the remaining allegations. Thus, the remaining allegations of this paragraph are denied.

17. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

18. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

19. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

20. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

21. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

22. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

23. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

24. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

25. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

26. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

27. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

28. Denied.

29. The Indian River County Supervisor is without knowledge, and thus this paragraph is denied.

30. Admitted.

31. Indian River County Supervisor admits that the named Supervisors, including herself, hold the positions as stated. Otherwise, the state speaks for itself and so the remaining allegations of this paragraph are denied.

JURISDICTION

32. The Indian River County Supervisor admits this is an action under 42 U.S.C. §§ 1983 and 1988, and otherwise denies the remaining portions of this paragraph.

33. The Indian River County Supervisor admits that this Court has jurisdiction, and otherwise denies the remaining portions of this paragraph.

34. Admitted.

35. Admitted.

36. Admitted.

STATEMENT OF FACTS

37. The Indian River County Supervisor admits that on November 6, 2018, Florida voters approved Amendment 4, and the remaining allegations are denied.

38. The Florida Constitution speaks for itself and thus the allegations of this paragraph are denied.

39. The Florida Constitution and the Advisory Opinion speak for themselves and thus the allegations of this paragraph are denied.

40. The cases speak for themselves, and thus the allegations of the paragraph are denied.

41. The cases speak for themselves, and thus the allegations of the paragraph are denied.

42. Admitted.

43. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

44. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

45. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

46. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

47. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

48. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

49. Admitted.

50. Admitted.

51. Admitted.

52. The statute speaks for itself, and thus the allegations of this paragraph are denied.

53. The statute speaks for itself, and thus the allegations of this paragraph are denied.

54. The Advisory Opinion speaks for itself, and thus the allegations of this paragraph are denied.

55. The statute speaks for itself, and thus the allegations of this paragraph are denied.

56. The statute speaks for itself, and thus the allegations of this paragraph are denied.

57. The statute speaks for itself, thus the allegations of this paragraph are denied.

58. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

59. SB 7066 speaks for itself and thus the allegations of this paragraph are denied.

60. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

61. The statute speaks for itself, and thus the allegations of this paragraph are denied.

62. The statute speaks for itself, and thus the allegations of this paragraph are denied.

63. The statute and the case speak for themselves, and thus the allegations of this paragraph are denied.

64. The statute speaks for itself, and thus the allegations of this paragraph are denied.

65. The statute speaks for itself, and thus the allegations of this paragraph are denied.

66. The statute speaks for itself, and thus the allegations of this paragraph are denied.

67. The statute speaks for itself, and thus the allegations of this paragraph are denied.

68. The Indian River County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

69. The statute speaks for itself, and thus the allegations of this paragraph are denied.

70. The comments of the members of the Florida Legislature speak for themselves, and thus the allegations of this paragraph are denied.

71. The statute speaks for itself, and thus the allegations of this paragraph are denied.

72. The statute speaks for itself, and thus the allegations of this paragraph are denied.

73. The statute and the comments of the members of the Legislature speak for themselves, and thus the allegations of this paragraph are denied.

74. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

75. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

76. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

77. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

78. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

79. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

80. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

81. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

82. The Indian River County Supervisor is without knowledge as to the hearings, and the case speaks for itself, and thus the allegations of this paragraph are denied.

83. The Indian River County Supervisor is without knowledge as to the knowledge of the members of the Legislature Legislative, and the case speaks for itself, and thus the allegations of this paragraph are denied.

84. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

85. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

86. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

87. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

88. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

89. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

90. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

CLAIMS FOR RELIEF

COUNT ONE

Fourteenth Amendment to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Violation of Fundamental Fairness

91. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

92. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

93. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

94. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

95. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

96. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

97. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

98. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT TWO

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Discrimination in Violation of Equal Protection**

99. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

100. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

101. The cases speak for themselves, and thus the allegations in this paragraph are denied.

102. The cases speak for themselves, and thus the allegations in this paragraph are denied.

103. The cases speak for themselves, and thus the allegations in this paragraph are denied.

104. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

105. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

106. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

107. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

108. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

109. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

110. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

111. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

COUNT THREE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Burden on the Fundamental Right to Vote**

112. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

113. The cases speak for themselves, and thus the allegations in this paragraph are denied.

114. The cases speak for themselves, and thus the allegations in this paragraph are denied.

115. The Indian River County Supervisor admits that Ms. Wright is a registered voter, but otherwise is without knowledge as to whether the other Plaintiffs are, thus the remaining allegations of this paragraph are denied.

116. The Indian River County Supervisor admits that Ms. Wright is a registered voter, but otherwise is without knowledge as to whether the other Plaintiffs are, thus the remaining allegations of this paragraph are denied.

117. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

118. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

119. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

120. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

121. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

122. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

123. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

124. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

125. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

126. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

127. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT FOUR

**Twenty-Fourth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Poll Tax**

128. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

129. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

130. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

131. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

132. SB 7066 and the Advisory Opinion speak for themselves, and thus the allegations of this paragraph are denied.

133. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT FIVE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Vagueness and Violation of Procedural Due Process**

134. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

135. The cases speak for themselves, and thus the allegations in this paragraph are denied.

136. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

137. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

138. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

139. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

140. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

141. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

142. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

143. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

144. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

145. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

146. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

147. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

148. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SIX

**First and Fourteenth Amendments to the U.S. Constitution,
as enforced by 42. U.S.C. §§ 1983
Burden on Core Political Speech and Associational Rights**

149. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

150. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

151. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

152. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

153. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

154. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

155. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SEVEN

Article I, § 10 of the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Retroactive Punishment in Violation of Ex Post Facto Clause

156. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

157. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

158. The Indian River County Supervisor admits that Ms. Wright was convicted of a crime prior to the passage of SB 7066, however is without knowledge as to the other Plaintiffs and thus the remaining allegation of this paragraph are denied.

159. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

160. The Indian River County Supervisor admits that Ms. Wright is a registered voter, but otherwise is without knowledge as to whether the other Plaintiffs are, thus the remaining allegations of this paragraph are denied.

161. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

162. The Indian River County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

163. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

164. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

165. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT EIGHT

Fourteenth and Fifteenth Amendments to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Intentional Race Discrimination

166. The Indian River County Supervisor incorporates each response contained in the proceeding paragraphs.

167. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

168. The case speaks for itself, and thus the allegations of this paragraph are denied.

169. The case speaks for itself, and thus the allegations of this paragraph are denied.

170. The case speaks for itself, and thus the allegations of this paragraph are denied.

171. The Indian River County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

172. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

AFFIRMATIVE DEFENSE

As an affirmative defense, Indian River County Supervisor alleges and states as follows:

1. **The Indian River County Supervisor's Duties are Ministerial.** The Supervisor had no role in the enactment of SB 7066. Per section 98.015, Florida Statutes, the Indian River County Supervisor is responsible for *inter alia* updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by the Supervisor related to the registration of electors and changes in voter registration status of electors in Indian River County. § 98.015, Fla. Stat. (2018).

The Indian River County Supervisor, therefore, is merely a neutral and ministerial position. Diaz v. Lopez, 167 So. 3d 455, 458 n.7 (Fla. 3d DCA 2015).

RESERVATION OF RIGHT TO SUPPLEMENT DEFENSES

Indian River County Supervisor reserves the right to assert any and all additional Affirmative Defenses that discovery or other evidence may reveal to be appropriate. Indian River County Supervisor further reserves the right to amend its Answer or otherwise plead in response to Plaintiffs' Complaint and to file other pleadings as it may deem advisable in defense of the case or as warranted by information add through disclosure.

WHEREFORE, Defendant, prays:

1. That a judgment be entered in favor of the Defendant against the Plaintiffs.
2. That Defendant be awarded the costs of its suit; including reasonable attorney fees.
3. This Court order such other and further relief in Defendant's favor as the Court may find just and proper.

Dated: August 29th, 2019.

/s/ Dylan Reingold
Dylan Reingold, County Attorney
Florida Bar No. 544701
Counsel for Defendant, Leslie Rossway Swan
1801 27th Street
Vero Beach, Florida 32960
Phone No. (772) 226-1427
Facsimile No. (772) 569-4317

Primary Email: dreingold@ircgov.com
Secondary Email: e-service@ircgov.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of August, 2019, a true and correct copy of the foregoing document was served via electronically upon all counsel of record in this case.

/s/ Dylan Reingold
Dylan Reingold, County Attorney
Florida Bar No. 544701
Counsel for Defendant, Leslie Rossway Swan
1801 27th Street
Vero Beach, Florida 32960
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Facsimile No. (772) 569-4317
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Secondary Email: e-service@ircgov.com

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
Tallahassee Division

KEVIN LEON JONES, *et al.*,

Petitioners,

vs. Consolidated Case No.: 4:19-cv-0300

RON DESANTIS, in his official capacity as the Governor of Florida, an Indispensable Party, et al,

Respondents.

DEFENDANT MARK S. EARLEY, SUPERVISOR OF ELECTIONS FOR LEON COUNTY'S ANSWER TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, MARK EARLEY, in his official capacity, as the Supervisor of Elections of Leon County ("the Supervisor"), by and through undersigned counsel, hereby answers Plaintiffs' Complaint for Injunctive and Declarative Relief.

As to the numbered paragraphs in the Complaint, the Supervisor answers as follows:

PRELIMINARY STATEMENT

1. The Supervisor admits that, at the November 6, 2018 general election, nearly 65 percent of Florida voters approved Amendment 4 which

revised the Florida Constitution. The amendment speaks for itself. Likewise, the cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 1; therefore denied.

2. The Supervisor admits that the State of Florida has a history of denying individuals the right to vote. The Supervisor admits, as stated by the United States Supreme Court that "[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 2; therefore denied.

3. The Supervisor admits that this action challenges SB 7066, which was signed by the Governor on June 28, 2019. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 3; therefore denied.

4. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 4; therefore denied.

5. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 5; therefore denied.

6. SB 7066 speaks for itself. The Supervisor admits that Florida has no unified system to accurately record data on LFOs, and no system to access data on federal or out-of-state financial obligations. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 6; therefore denied.

7. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 7; therefore denied.

8. The cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 8; therefore denied.

9. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 9; therefore denied.

PARTIES

10. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 10; therefore denied.

11. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 11; therefore denied.

12. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 12; therefore denied.

13. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 13; therefore denied.

14. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 14; therefore denied.

15. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 15; therefore denied.

16. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 16; therefore denied.

17. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 17; therefore denied.

18. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 18; therefore denied.

19. The Supervisor admits that Jermaine Miller registered to vote in Leon County, Florida, on January 8, 2019. Other than being aware of Mr. Miller's allegations and his declaration filed in this case, the Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 19; therefore denied.

20. The Supervisor admits that the Florida State Conference of Branches and Youth Units of the NAACP is a civil rights organization in Florida. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 20; therefore denied.

21. The Supervisor admits that units of the Florida NAACP have been involved in voter registration and voter education activities. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 21; therefore denied.

22. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 22; therefore denied.

23. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 23; therefore denied.

24. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 24; therefore denied.

25. The Supervisor admits that the League of Women Voters has been involved in registering citizens to vote. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 25; therefore denied.

26. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 26; therefore denied.

27. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 27; therefore denied.

28. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 28; therefore denied.

29. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 29; therefore denied.

30. The Supervisor admits that Defendant Laurel M. Lee is being sued in her official capacity as Secretary of State of the State of Florida. The cited statutes speak for themselves as does cited case. Any remaining factual allegations or legal conclusions contained in numbered paragraph 30 are denied.

31. The Supervisor admits Paragraph 31.

JURISDICTION

32. The Supervisor admits that this action was brought under 42 U.S.C. §§ 1983 and 1988. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 32.

33. The Supervisor admits that this Court has jurisdiction over matters arising under the Constitution and laws of the United States. The

Supervisor denies any remaining factual allegation or legal conclusions contained in numbered Paragraph 33.

34. The Supervisor admits that this Court has authority to enter declaratory or injunctive relief.

35. The Supervisor admits that venue is proper in this District.

36. The Supervisor admits this case was properly filed in the Gainesville Division of this District.

STATEMENT OF FACTS

I. Background on the Passage of Amendment 4

37. The Supervisor admits that, at the November 6, 2018 general election, nearly 65 percent of Florida voters approved Amendment 4 which revised the Florida Constitution. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 37; therefore denied.

38. The Supervisor admits Paragraph 38.

39. The language of the amendment speaks for itself as does the language of the cited cases. The Supervisor is otherwise without sufficient

information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 39; therefore denied.

40. The language of the cited cases and the cited provision of the United States Constitution speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 40; therefore denied.

41. The language of the cited cases speaks for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 41; therefore denied.

42. The Supervisor admits Paragraph 42.

43. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 43; therefore denied.

44. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 44; therefore denied.

45. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 45; therefore denied.

46. The Supervisor admits that the State of Florida has a history of denying individuals the right to vote. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 46; therefore denied.

47. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered paragraph 47; therefore denied.

48. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 48; therefore denied.

II. Florida's Voter Registration Process

49. The Supervisor admits Paragraph 49.

50. The cited statutes speak for themselves as does the referenced form; otherwise the Supervisor admits Paragraph 50.

51. The referenced form speaks for itself; otherwise the Supervisor admits Paragraph 51.

52. The cited statute speaks for itself; otherwise the Supervisor admits Paragraph 52.

53. SB 7066 speaks for itself as does the referenced Division of Elections advisory opinion speak for themselves; otherwise the Supervisor admits Paragraph 53.

54. The referenced Division of Elections advisory opinion speaks for themselves; otherwise the Supervisor admits Paragraph 54.

55. The cited statute speaks for itself; otherwise the Supervisor admits Paragraph 55.

56. The cited statutes speak for themselves; otherwise the Supervisor admits Paragraph 56.

57. The cited statute speaks for itself; otherwise the Supervisor admits Paragraph 57.

58. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 58; therefore denied.

III. Challenged Provisions of SB 7066

59. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 59; therefore denied.

60. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 60; therefore denied.

61. The cited statute speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 61; therefore denied.

62. The cited statutes speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 62; therefore denied.

63. The cited statutes speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 63; therefore denied.

64. The cited statute speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 64; therefore denied.

65. The cited statute speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 65; therefore denied.

66. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 66; therefore denied.

67. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 67; therefore denied.

68. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 68; therefore denied.

69. SB 7066 and the cited statute speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 69; therefore denied.

70. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 70; therefore denied.

71. SB 7066 and the cited statute speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 71; therefore denied.

72. SB 7066 and the cited statute speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 72; therefore denied.

73. SB 7066 and the cited statute speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 73; therefore denied.

74. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 74; therefore denied.

75. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 75; therefore denied.

IV. Legislative History of SB 7066

76. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 76; therefore denied.

77. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 77; therefore denied.

78. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 78; therefore denied.

79. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 79; therefore denied.

80. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 80; therefore denied.

81. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 81; therefore denied.

82. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 82; therefore denied.

83. The cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 83; therefore denied.

84. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 84; therefore denied.

85. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 85; therefore denied.

V. Specific Sequence of Events Leading to SB 7066's Passage

86. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 86; therefore denied.

87. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 87; therefore denied.

88. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 88; therefore denied.

89. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 89; therefore denied.

90. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 90; therefore denied.

CLAIMS FOR RELIEF

COUNT ONE
Fourteenth Amendment to the U.S. Constitution, as enforced by 42 U.S.C. § 1983
Violation of Fundamental Fairness

91. The Supervisor incorporates by reference the responses to numbered paragraphs 1-90 of the Complaint for Injunctive and Declaratory Relief.

92. Section 1 of the Fourteenth Amendment speaks for itself.

93. The cited cases speak for themselves. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 93.

94. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 94; therefore denied.

95. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 95; therefore denied.

96. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in

numbered Paragraph 96; therefore denied.

97. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 97; therefore denied.

98. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 98; therefore denied.

COUNT TWO
Fourteenth Amendment to the U.S. Constitution,
as enforced by 42 U.S.C. § 1983
Unconstitutional Discrimination in Violation of Equal Protection

99. The Supervisor incorporates by reference the responses to numbered paragraphs 1-98 of the Complaint for Injunctive and Declaratory Relief.

100. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 100; therefore denied.

101. The cited cases speak for themselves. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 101.

102. The cited cases speak for themselves. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 102.

103. The cited cases speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 103; therefore denied.

104. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 104; therefore denied.

105. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 105; therefore denied.

106. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 106; therefore denied.

107. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 107; therefore denied.

108. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 108; therefore denied.

109. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 109; therefore denied.

110. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 110; therefore denied.

111. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 111; therefore denied.

COUNT THREE
Fourteenth Amendment to the U.S. Constitution,
as enforced by 42 U.S.C. § 1983
Unconstitutional Burden on the Fundamental Right to Vote

112. The Supervisor incorporates by reference the responses to numbered paragraphs 1-111 of the Complaint for Injunctive and Declaratory Relief.

113. The cited cases speak for themselves. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 113.

114. The cited cases speak for themselves. The Supervisor denies any remaining factual allegations or legal conclusions contained in numbered Paragraph 114.

115. The Supervisor admits that Plaintiff Jermaine Miller registered to vote in Leon County on January 21, 2019. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual

allegations or legal conclusions contained in numbered Paragraph 115; therefore denied.

116. The Supervisor admits that he confirmed Plaintiff Jermaine Miller's eligibility to vote on or about January 21, 2019. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 116; therefore denied.

117. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 117; therefore denied.

118. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 118; therefore denied.

119. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 119; therefore denied.

120. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual

allegations or legal conclusions contained in numbered Paragraph 120; therefore denied.

121. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 121; therefore denied.

122. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 122; therefore denied.

123. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 123; therefore denied.

124. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 124; therefore denied.

125. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 125; therefore denied.

126. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 126; therefore denied.

127. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 127; therefore denied.

COUNT FOUR
Twenty-Fourth Amendment to the U.S. Constitution,
as enforced by 42 U.S.C. § 1983
Unconstitutional Poll Tax

128. The Supervisor incorporates by reference the responses to numbered paragraphs 1-127 of the Complaint for Injunctive and Declaratory Relief.

129. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 129; therefore denied.

130. The Twenty-Fourth Amendment speaks for itself.

131. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual

allegations or legal conclusions contained in numbered Paragraph 131; therefore denied.

132. SB 7066, the cited Rule of the Board of Executive Clemency, and the citedadvisory opinion for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 132; therefore denied.

133. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 133; therefore denied.

COUNT FIVE
Fourteenth Amendment to the U.S. Constitution,
as enforced by 42 U.S.C. § 1983
Vagueness and Violation of Procedural Due Process

134. The Supervisor incorporates by reference the responses to numbered paragraphs 1-133 of the Complaint for Injunctive and Declaratory Relief.

135. The cited cases speak for themselves. The Supervisor is otherwise without sufficient information and knowledge to admit or deny

the factual allegations or legal conclusions contained in numbered Paragraph 135; therefore denied.

136. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 136; therefore denied.

137. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 137; therefore denied.

138. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 138; therefore denied.

139. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 139; therefore denied.

140. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 140; therefore denied.

141. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 141; therefore denied.

142. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 142; therefore denied.

143. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 143; therefore denied.

144. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 144; therefore denied.

145. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 145; therefore denied.

146. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 146; therefore denied.

147. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 147; therefore denied.

148. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 148; therefore denied.

COUNT SIX
First and Fourteenth Amendments to the U.S. Constitution, as enforced by 42 U.S.C. § 1983
Burden on Core Political Speech and Associational Rights

149. The Supervisor incorporates by reference the responses to numbered paragraphs 1-148 of the Complaint for Injunctive and Declaratory Relief.

150. The Supervisor admits Paragraph 150.

151. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 151; therefore denied.

152. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 152; therefore denied.

153. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 153; therefore denied.

154. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 154; therefore denied.

155. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 155; therefore denied.

COUNT SEVEN
Article I, § 10 of the U.S. Constitution,
as enforced by 42 U.S.C. § 1983
Retroactive Punishment in Violation of Ex Post Facto Clause

156. The Supervisor incorporates by reference the responses to numbered paragraphs 1-155 of the Complaint for Injunctive and Declaratory Relief.

157. Article I, Section 10 of the United States Constitution speaks for itself.

158. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 158; therefore denied.

159. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 159; therefore denied.

160. The Supervisor admits that Jermaine Miller was registered to vote in Leon County, Florida, on January 8, 2019, prior to the enactment of SB 7066. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 160; therefore denied.

161. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 161; therefore denied.

162. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 162; therefore denied.

163. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 163; therefore denied.

164. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 164; therefore denied.

165. SB 7066 speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 165; therefore denied.

COUNT EIGHT
Fourteenth and Fifteenth Amendments to the U.S. Constitution, as enforced by 42 U.S.C. § 1983
Intentional Race Discrimination

166. The Supervisor incorporates by reference the responses to numbered paragraphs 1-165 of the Complaint for Injunctive and Declaratory Relief.

167. The Fourteenth Amendment and the cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 167; therefore denied.

168. The cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 168; therefore denied.

169. The cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 169; therefore denied.

170. The cited case speaks for itself. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 170; therefore denied.

171. The cited case speaks for itself as does SB 7066. The Supervisor is otherwise without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 171; therefore denied.

172. The Supervisor is without sufficient information and knowledge to admit or deny the factual allegations or legal conclusions contained in numbered Paragraph 172; therefore denied.

REQUEST FOR RELIEF

The Supervisor denies that Plaintiffs are entitled to the relief sought.

AFFIRMATIVE DEFENSES

By way of separate and distinct affirmative defenses to the Complaint, the Supervisor alleges and states as follows:

First Affirmative Defense

The Supervisor had no role in the enactment of SB 7066. Per section 98.015, Florida Statutes, the Supervisor is responsible for, among other things, updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by the Supervisor related to the registration of electors and changes in voter registration status of electors in Leon County. The Supervisor, therefore, is merely a neutral and ministerial position with no power to grant the relief Plaintiffs seek.

Defendants reserve the right to assert further affirmative defenses as they become apparent though discovery or investigation.

WHEREFORE, the Supervisor, prays:

1. That a judgment be entered in favor of the Supervisor against the Plaintiffs.

2. That the Supervisor be awarded the costs of its suit; including reasonable attorney fees.

3. That this Court grant such other and further relief in Supervisor's favor as the Court may find just and proper.

RESPECTFULLY SUBMITTED this 29th day of August, 2019.

s/ Mark Herron
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Attorneys for Defendant Mark Earley

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing using the Case Management/Electronic Case Filing ("CM/ECF") system on August 29, 2019, which will send a Notice of Electronic Filing to all counsel of record for the parties who have appeared.

s/ Mark Herron
Mark Herron

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19-cv-00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendants.
_____/

DEFENDANT, MIKE HOGAN,
SUPERVISOR OF ELECTIONS FOR DUVAL COUNTY'S
ANSWER AND AFFIRMATIVE DEFENSE TO *McCOY* COMPLAINT
FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant Mike Hogan, Supervisor of Elections for Duval County ("Duval County Supervisor"), by and through his undersigned counsel, answers the *McCoy* Plaintiffs' Complaint for Injunctive and Declaratory Relief (originally 4:19-cv-00304-RH-CAS, Doc. 1), and states:

1. Denied.

2. Denied.

3. The Duval County Supervisor admits that on November 6, 2018, Amendment 4 was approved by the voters of the State of Florida. All other allegations are denied.

4. Denied.

5. Without knowledge, therefore denied.

6. The Duval County Supervisor admits that this is an action challenging SB 7066, and denies the remaining allegations.

7. Denied.

8. The Duval County Supervisor admits that this is an action challenging SB 70866, and denies the remaining allegations.

9. The Duval County Supervisor admits this is an action under 42 U.S.C. §§ 1983 and 1988, and otherwise denies the remaining portions of this paragraph.

10. The Duval County Supervisor admits that this Court has jurisdiction, and otherwise denies the remaining portions of this paragraph.

11. Admitted.

12. Admitted.

13. Admitted.

14. Without knowledge, therefore denied.

15. Without knowledge, therefore denied.

16. Without knowledge, therefore denied.

17. Without knowledge, therefore denied.

18. Without knowledge, therefore denied.

19. Without knowledge, therefore denied.

20. Without knowledge, therefore denied.

21. Without knowledge, therefore denied.

22. Without knowledge, therefore denied.

23. Without knowledge, therefore denied.

24. Admitted the Defendant DeSantis is governor of Florida. The laws and duties affecting his office speak for themselves.

25. Admitted that Defendant Lee is the Secretary of State for Florida. The laws and duties affecting her office speak for themselves.

26. Admitted that Mike Hogan is the Supervisor of Elections for Duval County. The laws speak for themselves.

27. Denied.

28. Without knowledge, therefore denied.

29. The Florida Constitution speaks for itself.

30. The case cited speaks for itself.

31. The cases cited speak for themselves.

32. Admitted that Amendment 4 went into effect on January 8, 2019. The Amendment speaks for itself.

33. The article cited speaks for itself. Otherwise, without knowledge.

34. Without knowledge, therefore denied.

35. Florida's Election Code and application speak for themselves.

36. The statute cited speaks for itself.

37. The statute cited speaks for itself.

38. The statute cited speaks for itself.

39. Without knowledge, therefore denied.

40. Denied.

41. Without knowledge, therefore denied.

42. Without knowledge, therefore denied.

43. Without knowledge, therefore denied.

44. Without knowledge, therefore denied.

45. Without knowledge, therefore denied.

46. Senate Bill 7066 speaks for itself.

47. Senate Bill 7066 speaks for itself.

48. Amendment 4 and the statute cited speak for themselves.

49. Denied.

50. Denied.

51. Denied.

52. Senate Bill 7066 speaks for itself; otherwise denied.

53. Denied.

54. Denied.

55. The statues cited speak for themselves, otherwise denied.

56. Denied.

57. Without knowledge, therefore denied.

58. Without knowledge, therefore denied.

59. Without knowledge, therefore denied.

60. Without knowledge, therefore denied.

61. Without knowledge, therefore denied.

62. Denied.

63. Denied.

64. Defendant realleges and incorporate the answers to paragraphs one through 63 above.

65. The Fourteenth Amendment speaks for itself.

66. The case cited speaks for itself.

67. The case cited speaks for itself.

68. The Florida Constitution speaks for itself.

69. Without knowledge, therefore denied.

70. Without knowledge, therefore denied.

71. Without knowledge, therefore denied.

72. Without knowledge, therefore denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Defendant realleges and incorporates his answers to paragraphs one through 63 above.

79. The Twenty-Fourth Amendment speaks for itself.

80. The case cited speaks for itself.

81. The case cited speaks for itself; otherwise denied.

82. Denied.

83. Denied.

84. Denied.

85. Defendant realleges and incorporates by reference his answers to paragraphs one through 63 above.

86. The Fourteenth Amendment speaks for itself; otherwise denied.

87. The case cited speaks for itself.

88. The law cited speaks for itself.

89. Without knowledge, therefore denied.

90. Denied.

91. Denied.

92. Defendant realleges and incorporates by reference his answers to paragraphs one through 63 above.

93. The Fourteenth Amendment and law cited speak for themselves.

94. Without knowledge, therefore denied.

95. Denied.

96. Denied.

97. Denied.

98. Defendant realleges and incorporates by reference his answers to paragraphs one through 63 above.

99. The Eighth Amendment speaks for itself.

100. Denied.

101. Denied.

Denied that Plaintiffs are entitled to relief. All paragraphs herein not specifically admitted are denied.

AFFIRMATIVE DEFENSE

As an affirmative defense, Duval County Supervisor alleges and states as follows:

1. **The Duval County Supervisor's Duties are Ministerial.** The Supervisor had no role in the enactment of SB 7066. Per section 98.015, Florida Statutes, the Duval County Supervisor is responsible for *inter alia* updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by

the Supervisor related to the registration of electors and changes in voter registration status of electors in Duval County. § 98.015, Fla. Stat. (2018). The Duval County Supervisor, therefore, is merely a neutral and ministerial position. *Diaz v. Lopez*, 167 So. 3d 455, 458 n.7 (Fla. 3d DCA 2015).

RESERVATION OF RIGHT TO SUPPLEMENT DEFENSES

Duval County Supervisor reserves the right to assert any and all additional Affirmative Defenses that discovery or other evidence may reveal to be appropriate. Duval County Supervisor further reserves the right to amend this Answer or otherwise plead in response to Plaintiffs' Complaint and to file other pleadings as he may deem advisable in defense of the case or as warranted by information add through disclosure.

WHEREFORE, Defendant, prays:

1. That a judgment be entered in favor of the Defendant against the Plaintiffs.
2. That Defendant be awarded the costs of its suit; including reasonable attorney fees.
3. This Court order such other and further relief in Defendant's favor as the Court may find just and proper.

Dated: August 29th, 2019.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser
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Attorneys for the Defendant SOE Hogan

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 29, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will electronically serve all counsel for the Plaintiffs who have appeared in this case.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser
Craig D. Feiser

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendants.
_____/

DEFENDANT MIKE HOGAN, SUPERVISOR OF ELECTIONS FOR DUVAL COUNTY'S ANSWER AND AFFIRMATIVE DEFENSE TO *GRUVER* COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant Mike Hogan, Supervisor of Elections for Duval County ("Duval County Supervisor"), by and through her undersigned counsel, answers the *Gruver* Plaintiffs' Complaint for Injunctive and Declaratory Relief (originally 4:19-cv-00302-MW-MJF, Doc. 2), and states:

PRELIMINARY STATEMENT

1. The Duval County Supervisor admits that on November 6, 2018, Amendment 4 was approved by the voters of the State of Florida. All other allegations are denied.

2. Denied.

3. The Duval County Supervisor admits that this is an action challenging SB 7066, and denies the remaining allegations.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

11. The Duval County Supervisor is without knowledge, and thus his paragraph is denied.

12. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

13. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

14. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

15. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

16. The Duval County Supervisor is without knowledge, therefore denied.

17. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

18. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

19. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

20. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

21. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

22. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

23. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

24. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

25. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

26. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

27. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

28. Denied.

29. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

30. Admitted that Lee is the Secretary of State; otherwise, the laws and duties speak for themselves.

31. Duval County Supervisor admits that the named Supervisors, including himself, hold the positions as stated. Otherwise, the statute speaks for itself and so the remaining allegations of this paragraph are denied.

JURISDICTION

32. The Duval County Supervisor admits this is an action under 42 U.S.C. §§ 1983 and 1988, and otherwise denies the remaining portions of this paragraph.

33. The Duval County Supervisor admits that this Court has jurisdiction, and otherwise denies the remaining portions of this paragraph.

34. Admitted.

35. Admitted.

36. Admitted.

STATEMENT OF FACTS

37. The Duval County Supervisor admits that on November 6, 2018, Florida voters approved Amendment 4, and the remaining allegations are denied.

38. The Florida Constitution speaks for itself and thus the allegations of this paragraph are denied.

39. The Florida Constitution and the Advisory Opinion speak for themselves and thus the allegations of this paragraph are denied.

40. The cases speak for themselves, and thus the allegations of the paragraph are denied.

41. The cases speak for themselves, and thus the allegations of the paragraph are denied.

42. Admitted.

43. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

44. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

45. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

46. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

47. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

48. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

49. Admitted.

50. The statutes and rules speak for themselves.

51. Admitted.

52. The statute speaks for itself, and thus the allegations of this paragraph are denied.

53. The statute speaks for itself, and thus the allegations of this paragraph are denied.

54. The Advisory Opinion speaks for itself, and thus the allegations of this paragraph are denied.

55. The statute speaks for itself, and thus the allegations of this paragraph are denied.

56. The statute speaks for itself, and thus the allegations of this paragraph are denied.

57. The statute speaks for itself, thus the allegations of this paragraph are denied.

58. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

59. SB 7066 speaks for itself and thus the allegations of this paragraph are denied.

60. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

61. The statute speaks for itself, and thus the allegations of this paragraph are denied.

62. The statute speaks for itself, and thus the allegations of this paragraph are denied.

63. The statute and the case speak for themselves, and thus the allegations of this paragraph are denied.

64. The statute speaks for itself, and thus the allegations of this paragraph are denied.

65. The statute speaks for itself, and thus the allegations of this paragraph are denied.

66. The statute speaks for itself, and thus the allegations of this paragraph are denied.

67. The statute speaks for itself, and thus the allegations of this paragraph are denied.

68. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

69. The statute speaks for itself, and thus the allegations of this paragraph are denied.

70. The comments of the members of the Florida Legislature speak for themselves, and thus the allegations of this paragraph are denied.

71. The statute speaks for itself, and thus the allegations of this paragraph are denied.

72. The statute speaks for itself, and thus the allegations of this paragraph are denied.

73. The statute and the comments of the members of the Legislature speak for themselves, and thus the allegations of this paragraph are denied.

74. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

75. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

76. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

77. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

78. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

79. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

80. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

81. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

82. The Duval County Supervisor is without knowledge as to the hearings, and the case speaks for itself, and thus the allegations of this paragraph are denied.

83. The Duval County Supervisor is without knowledge as to the knowledge of the members of the Legislature, and the case speaks for itself, and thus the allegations of this paragraph are denied.

84. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

85. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

86. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

87. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

88. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

89. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

90. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

CLAIMS FOR RELIEF

COUNT ONE

Fourteenth Amendment to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Violation of Fundamental Fairness

91. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

92. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

93. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

94. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

95. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

96. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

97. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

98. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT TWO

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Discrimination in Violation of Equal Protection**

99. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

100. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

101. The cases speak for themselves, and thus the allegations in this paragraph are denied.

102. The cases speak for themselves, and thus the allegations in this paragraph are denied.

103. The cases speak for themselves, and thus the allegations in this paragraph are denied.

104. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

105. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

106. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

107. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

108. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

109. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

110. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

111. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

COUNT THREE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Burden on the Fundamental Right to Vote**

112. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

113. The cases speak for themselves, and thus the allegations in this paragraph are denied.

114. The cases speak for themselves, and thus the allegations in this paragraph are denied.

115. The Duval County Supervisor is without knowledge, therefore the allegations in this paragraph are denied.

116. The Duval County Supervisor is without knowledge, therefore allegations of this paragraph are denied.

117. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

118. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

119. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

120. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

121. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

122. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

123. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

124. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

125. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

126. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

127. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT FOUR

**Twenty-Fourth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Poll Tax**

128. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

129. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

130. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

131. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

132. SB 7066 and the Advisory Opinion speak for themselves, and thus the allegations of this paragraph are denied.

133. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT FIVE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Vagueness and Violation of Procedural Due Process**

134. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

135. The cases speak for themselves, and thus the allegations in this paragraph are denied.

136. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

137. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

138. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

139. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

140. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

141. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

142. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

143. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

144. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

145. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

146. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

147. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

148. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SIX

**First and Fourteenth Amendments to the U.S. Constitution,
as enforced by 42. U.S.C. §§ 1983
Burden on Core Political Speech and Associational Rights**

149. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

150. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

151. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

152. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

153. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

154. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

155. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SEVEN

Article I, § 10 of the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Retroactive Punishment in Violation of Ex Post Facto Clause

156. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

157. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

158. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

159. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

160. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

161. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

162. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

163. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

164. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

165. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT EIGHT

Fourteenth and Fifteenth Amendments to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Intentional Race Discrimination

166. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

167. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

168. The case speaks for itself, and thus the allegations of this paragraph are denied.

169. The case speaks for itself, and thus the allegations of this paragraph are denied.

170. The case speaks for itself, and thus the allegations of this paragraph are denied.

171. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

172. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

Defendant denies that Plaintiffs are entitled to relief. Any allegation herein not specifically admitted is denied.

AFFIRMATIVE DEFENSE

As an affirmative defense, Duval County Supervisor alleges and states as follows:

1. **The Duval County Supervisor's Duties are Ministerial.** The Supervisor had no role in the enactment of SB 7066. Per section 98.015, Florida Statutes, the Duval County Supervisor is responsible for *inter alia* updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by the Supervisor related to the registration of electors and changes in voter registration status of electors in Duval County. § 98.015, Fla. Stat. (2018). The

Duval County Supervisor, therefore, is merely a neutral and ministerial position. *Diaz v. Lopez*, 167 So. 3d 455, 458 n.7 (Fla. 3d DCA 2015).

RESERVATION OF RIGHT TO SUPPLEMENT DEFENSES

Duval County Supervisor reserves the right to assert any and all additional Affirmative Defenses that discovery or other evidence may reveal to be appropriate. Duval County Supervisor further reserves the right to amend this Answer or otherwise plead in response to Plaintiffs' Complaint and to file other pleadings as he may deem advisable in defense of the case or as warranted by information add through disclosure.

WHEREFORE, Defendant, prays:

1. That a judgment be entered in favor of the Defendant against the Plaintiffs.
2. That Defendant be awarded the costs of its suit; including reasonable attorney fees.
3. This Court order such other and further relief in Defendant's favor as the Court may find just and proper.

Dated: August 28th, 2019.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser
Craig D. Feiser
Assistant General Counsel
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Jason R. Teal
Deputy General Counsel
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cfeiser@coj.net
jteal@coj.net
Attorneys for the Defendant SOE Hogan

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 29, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will electronically serve all counsel for the Plaintiffs who have appeared in this case.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser
Craig D. Feiser

No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME II

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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Counsel for Defendants-Appellants

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN JONES,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.,

Defendants.

_____/

CONSOLIDATED
Case No.: 4:19-cv-00300-RH/MJF
(Lead Case)

BONNIE RAYSOR, et al.,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as Secretary of State of Florida,

Defendant.

_____/

Case No.: 4:19-cv-00301-RH/MJF

JEFF GRUVER, et al.,

Plaintiffs,

v.

KIM BARTON, et al.,

Defendants.

_____/

Case No.: 4:19-cv-00302-RH/MJF

LUIS MENDEZ,

Plaintiff,

v.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.,

Defendants.

_____/

Case No: 4:19-cv-00272-RH/MJF

CHRISTINA WHITE, SUPERVISOR OF ELECTIONS OF MIAMI-DADE COUNTY'S ANWER AND AFFIRMATIVE DEFENSES TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Christina White, Supervisor of Elections of Miami-Dade County ("Defendant" or Supervisor White"), through undersigned counsel answers Plaintiffs' Complaint as follows:

1. Defendant admits the allegations to the extent that Amendment 4 passed and denies in all other respects the allegations contained in Paragraph 1 of the Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the Complaint.

3. Defendant denies the allegations contained in Paragraph 3 of the Complaint.

4. Defendant denies the allegations contained in Paragraph 4 of the Complaint.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint.

10. Defendant is without knowledge as to the allegations contained in Paragraph 10 of the Complaint

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the Complaint.

13. Defendant admits to the allegations with respect to Plaintiff Leicht being a registered Miami-Dade voter, denies with respect to when Plaintiff Leicht registered to vote, and is without knowledge as to all other respects/allegations contained in Paragraph 13 of the Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the Complaint.

20. Defendant is without knowledge as to the allegations contained in

Paragraph 20 of the Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the Complaint.

30. Defendant admits the allegations contained in Paragraph 30 of the Complaint.

31. Defendant admits the allegations contained in Paragraph 31 of the Complaint.

32. Defendant is without knowledge as to the allegations contained in Paragraph 32 of the Complaint.

33. Defendant is without knowledge as to the allegations contained in Paragraph 33 of the Complaint.

34. Defendant is without knowledge as to the allegations contained in Paragraph 34 of the Complaint.

35. Defendant is without knowledge as to the allegations contained in Paragraph 35 of the Complaint. .

36. Defendant is without knowledge as to the allegations contained in Paragraph 36 of the Complaint.

37. Defendant admits to the allegations contained in Paragraph 37 of the Complaint.

38. Defendant admits the allegations contained in Paragraph 38 of the Complaint.

39. Defendant admits the allegations contained in Paragraph 39 of the Complaint.

40. Defendant admits to the allegations contained in Paragraph 40 of the Complaint.

41. Defendant admits the allegations contained in Paragraph 41 of the Complaint.

42. Defendant admits the allegations contained in Paragraph 42 of the Complaint.

43. Defendant is without knowledge as to the allegations contained in

Paragraph 43 of the Complaint.

44. Defendant is without knowledge as to the allegations contained in Paragraph 44 of the Complaint.

45. Defendant is without knowledge as to the allegations contained in Paragraph 45 of the Complaint.

46. Defendant is without knowledge as to the allegations contained in Paragraph 46 of the complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the Complaint.

49. Defendant admits the allegations contained in Paragraph 49 of the Complaint.

50. Defendant admits the allegations contained in Paragraph 50 of the Complaint.

51. Defendant admits the allegations contained in Paragraph 51 of the Complaint.

52. Defendant admits the allegations contained in Paragraph 52 of the Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the Complaint.

58. Defendant is without knowledge as to the allegations contained in Paragraph 58 of the Complaint.

59. Defendant is without knowledge as to the allegations contained in Paragraph 59 of the Complaint.

60. Defendant is without knowledge as to the allegations contained in Paragraph 60 of the Complaint.

61. Defendant is without knowledge as to the allegations contained in Paragraph 61 of the Complaint.

62. Defendant is without knowledge as to the allegations contained in Paragraph 62 of the Complaint.

63. Defendant is without knowledge as to the allegations contained in Paragraph 63 of the Complaint.

64. Defendant is without knowledge as to the allegations contained in Paragraph 64 of the Complaint.

65. Defendant is without knowledge as to the allegations contained in Paragraph 65 of the Complaint.

66. Defendant admits the allegations contained in Paragraph 66 of the

Complaint.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the Complaint.

71. Defendant is without knowledge as to the allegations contained in Paragraph 71 of the Complaint.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the Complaint.

77. Defendant is without knowledge as to the allegations contained in Paragraph 77 of the Complaint.

78. Defendant is without knowledge as to the allegations contained in Paragraph 78 of the Complaint.

79. Defendant is without knowledge as to the allegations contained in Paragraph 79 of the Complaint.

80. Defendant is without knowledge as to the allegations contained in Paragraph 80 of the Complaint.

81. Defendant is without knowledge as to the allegations contained in Paragraph 81 of the Complaint.

82. Defendant is without knowledge as to the allegations contained in Paragraph 82 of the Complaint.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the Complaint.

85. Defendant is without knowledge as to the allegations contained in Paragraph 85 of the Complaint.

86. Defendant is without knowledge as to the allegations contained in Paragraph 86 of the Complaint.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the Complaint.

89. Defendant is without knowledge as to the allegations contained in

Paragraph 89 of the Complaint.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the Complaint.

91. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

92. Defendant admits the allegations contained in Paragraph 92 of the Complaint.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the Complaint.

94. Defendant is without knowledge as to the allegations contained in Paragraph 94 of the Complaint.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the Complaint.

96. Defendant is without knowledge as to the allegations contained in Paragraph 96 of the Complaint.

97. Defendant is without knowledge as to the allegations contained in Paragraph 97 of the Complaint.

98. Defendant is without knowledge as to the allegations contained in Paragraph 98 of the Complaint.

99. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the Complaint.

101. Defendant admits the allegations contained in Paragraph 101 of the Complaint.

102. Defendant is without knowledge as to the allegations contained in Paragraph 102 of the Complaint.

103. Defendant is without knowledge as to the allegations contained in Paragraph 103 of the Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the Complaint.

108. Defendant is without knowledge as to the allegations contained in Paragraph 108 of the Complaint.

109. Defendant is without knowledge as to the allegations contained in Paragraph 109 of the Complaint.

110. Defendant is without knowledge as to the allegations contained in Paragraph 110 of the Complaint.

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the Complaint.

112. Defendant re-allege all responses to preceding paragraphs as though fully

set forth herein.

113. Defendant admits the allegations contained in Paragraph 113 of the Complaint.

114. Defendant admits the allegations contained in Paragraph 114 of the Complaint.

115. Defendant is without knowledge as to the allegations contained in Paragraph 115 of the Complaint.

116. Defendant denies the allegations contained in Paragraph 116 of the Complaint.

117. Defendant is without knowledge as to the allegations contained in Paragraph 117 of the Complaint.

118. Defendant is without knowledge as to the allegations contained in Paragraph 118 of the Complaint.

119. Defendant is without knowledge as to the allegations contained in Paragraph 119 of the Complaint.

120. Defendant is without knowledge as to the allegations contained in Paragraph 120 of the Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the Complaint.

128. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

129. Defendant is without knowledge as to the allegations contained in Paragraph 129 of the Complaint.

130. Defendant admits the allegations contained in Paragraph 130 of the Complaint.

131. Defendant admits the allegations contained in Paragraph 131 of the Complaint.

132. Defendant is without knowledge as to the allegations contained in Paragraph 132 of the Complaint.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the Complaint.

134. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

135. Defendant admits the allegations contained in Paragraph 135 of the

Complaint.

136. Defendant is without knowledge as to the allegations contained in Paragraph 136 of the Complaint.

137. Defendant is without knowledge as to the allegations contained in Paragraph 137 of the Complaint.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the Complaint.

143. Defendant is without knowledge as to the allegations contained in Paragraph 143 of the Complaint.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the Complaint.

149. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the Complaint.

152. Defendant is without knowledge as to the allegations contained in Paragraph 152 of the Complaint.

153. Defendant is without knowledge as to the allegations contained in Paragraph 153 of the Complaint.

154. Defendant is without knowledge as to the allegations contained in Paragraph 154 of the Complaint.

155. Defendant is without knowledge as to the allegations contained in Paragraph 155 of the Complaint.

156. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

157. Defendant admits the allegations contained in Paragraph 157 of the Complaint.

158. Defendant is without knowledge as to the allegations contained in

Paragraph 158 of the Complaint.

159. Defendant is without knowledge as to the allegations contained in Paragraph 159 of the Complaint.

160. Defendant is without knowledge as to the allegations contained in Paragraph 160 of the Complaint.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the Complaint.

162. Defendant is without knowledge as to the allegations contained in Paragraph 162 of the Complaint.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the Complaint.

166. Defendant re-allege all responses to preceding paragraphs as though fully set forth herein.

167. Defendant admits the allegations contained in Paragraph 167 of the Complaint.

168. Defendant is without knowledge as to the allegations contained in Paragraph 168 of the Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the Complaint.

171. Defendant is without knowledge as to the allegations contained in Paragraph 171 of the Complaint.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the Complaint.

AFFIRMATIVE DEFENSES OF DEFENDANT CHRISTINA WHITE, SUPERVISOR OF ELECTIONS OF MIAMI-DADE COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Defendant Christina White has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the Complaint and she has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility and Fla. Stat. § 98.0755 provides appellate jurisdiction over such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any of these administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Defendant Christina White and therefore do not possess the requisite standing to bring this cause of action against Defendant Christina White.

4. Plaintiffs' Complaint does not state a cause of action against Defendant Christina White for which relief may be granted because the relief requested is not sought

from Defendant Christina White and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' Complaint does not state a cause of action against Defendant Christina White for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to … [o]btain and maintain uniformity in the interpretation and implementation of the election laws … [and] may … adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* § 97.012, Fla. Stat.

6. Plaintiffs' Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the Complaint is an improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Defendant Christina White is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. Plaintiff Karen Leicht's claims against Defendant Christina White are barred by waiver or estoppel because Ms. Leicht agreed in her plea agreement that restitution would be imposed as a term of her criminal sentence.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Defendant Christina White is entitled to immunity under the Eleventh Amendment of the United States Constitution.

10. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Defendant Christina White is not the proximate cause of those damages.

11. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

12. Defendant Christina White adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

13. Defendant Christina White reserves the right to assert additional defenses as appropriate.

Respectfully submitted,

ABIGAIL PRICE-WILLIAMS
MIAMI-DADE COUNTY ATTORNEY

By: *s/Oren Rosenthal*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on this 29th day of August, 2019.

s/Oren Rosenthal
Oren Rosenthal
Assistant County Attorney

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al.,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.,

Defendants.

_____/

Consolidated
Case No. 4:19cv300-RH/MJF

BONNIE RAYSOR, et al.,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as Secretary of State,

Defendant.

_____/

Case No. 4:19cv301-RH/MJF

JEFF GRUVER, et al.,

Plaintiffs,

v.

KIM A. BARTON, et al.,

Defendants.

_____/

Case No. 4:19cv302-RH/MJF

ROSEMARY OSBORNE McCOY, et al.,

Plaintiffs,

v.

RONALD DION DeSANTIS, in his official capacity as Governor of Florida, et al.,

Defendants.

_____/

Case No. 4:19cv304-RH-CAS

LUIS MENDEZ,

Case No. 4:19cv272-RH-MJF

v.
RON DeSANTIS, in his official capacity
as the Governor of Florida, et al.,

Defendants.
_____/

ANSWER AND DEFENSES OF KIM A. BARTON, SUPERVISOR OF ELECTIONS OF ALACHUA COUNTY, FLORIDA, TO THE COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF FILED IN THE *GRUVER* CASE

Defendant, Kim Barton, as Supervisor of Elections of Alachua County Florida, files her Answer and Defenses to the Complaint for Injunctive and Declaratory Relief filed in the case of *Jeff Gruver, et al., Plaintiffs, v. Kim A. Barton, et al., Defendants* (ECF #1 filed in Case No. 4:19cv302-RH/MJF), and in response to each consecutively numbered paragraph states as follows:

1. Admitted as to passage of Amendment 4, without knowledge as to the effect of the Amendment without further action by the Legislature or Secretary of State.
2. Without knowledge therefore denied.
3. Without knowledge therefore denied.
4. Without knowledge therefore denied.
5. Without knowledge therefore denied.
6. Without knowledge therefore denied.

7. Without knowledge therefore denied.

8. Without knowledge therefore denied.

9. Without knowledge therefore denied.

10. Admitted that Plaintiff Gruver is a voter in Alachua County, otherwise without knowledge.

11. Without knowledge therefore denied.

12. Without knowledge therefore denied.

13. Without knowledge therefore denied.

14. Without knowledge therefore denied.

15. Admitted that Plaintiff Wrench is a voter in Alachua County, otherwise without knowledge.

16. Without knowledge therefore denied.

17. Without knowledge therefore denied.

18. Without knowledge therefore denied.

19. Without knowledge therefore denied.

20. Admitted as to the existence of the organization, without knowledge as to the particulars of its membership structure.

21. Without knowledge therefore denied.

22. Without knowledge therefore denied.

23. Without knowledge therefore denied.

24. Admitted

25. Admitted.

26. Admitted that a role of the LWVF is to register voters, otherwise without knowledge.

27. Without knowledge therefore denied.

28. Without knowledge therefore denied.

29. Without knowledge therefore denied.

30. Admitted.

31. Admitted that the named are Constitutional Officers in the listed counties serving in their roles as Supervisors of Elections. Also admitted that at present no additional resources have been allocated by the State for any burdens which the changes in the law may require. Otherwise denied.

32. Admitted that jurisdiction has been raised.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. Admitted that Amendment 4 was approved by the electorate.

38. Admitted.

39. Admitted.

40. Admitted as a general proposition, otherwise denied.

41. Admitted as a general proposition, otherwise denied.

42. Admitted.

43. Admitted as to registration of returning citizens, unknown as to other, factual allegations.

44. Without knowledge therefore denied.

45. Without knowledge therefore denied.

46. Without knowledge therefore denied.

47. Without knowledge therefore denied.

48. Without knowledge therefore denied.

49. Admitted.

50. Admitted.

51. Admitted.

52. Admitted.

53. Admitted.

54. Admitted.

55. Admitted.

56. Admitted.

57. Admitted.

58. Without knowledge therefore denied.

59. Without knowledge therefore denied.

60. Without knowledge therefore denied.

61. Without knowledge therefore denied.

62. Admitted.

63. Admitted.

64. Admitted.

65. Admitted.

66. Admitted.

67. Denied, as this is an incomplete statement of the bill.

68. Without knowledge therefore denied.

69. Without knowledge therefore denied.

70. Admitted that Florida Courts have no jurisdiction to change the terms of an out of State or Federal sentence.

71. Denied as phrased.

72. Without knowledge therefore denied.

73. Without knowledge therefore denied.

74. Without knowledge therefore denied.

75. Without knowledge therefore denied.

76. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

77. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

78. Admitted.

79. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

80. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

81. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

82. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

83. Without knowledge.

84. Without knowledge.

85. Without knowledge.

86. Without knowledge.

87. Without knowledge.

88. Without knowledge.

89. Without knowledge.

90. Without knowledge.

91. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

92. Admitted.

93. Without knowledge.

94. Without knowledge.

95. Without knowledge.

96. Without knowledge.

97. Without knowledge.

98. Without knowledge.

99. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

100. Without knowledge.

101. Admitted to as a general proposition, without knowledge as to its application in this action.

102. Admitted to as a general proposition, without knowledge as to its application in this action.

103. Without knowledge.

104. Without knowledge.

105. Without knowledge.

106. Without knowledge, as this is the purview of the State Legislature and not this Defendant.

107. At present it is a requirement of the law passed by the Legislature, this Defendant is powerless to do anything about this.

108. Without knowledge.

109. Without knowledge as the determination of State interest is within the authority of the Legislature and not this Defendant.

110. Without knowledge.

111. Without knowledge.

112. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

113. Admitted that this is a general statement of the law.

114. Admitted that this is a statement of part of the law on the subject.

115. To the extent that the Plaintiffs meet the qualifications to be eligible to vote, admitted, otherwise denied.

116. To the extent voters in Alachua County are listed, their applications were processed in accordance with the procedure and forms at the time.

117. Without knowledge.

118. Without knowledge.

119. Without knowledge.

120. Without knowledge.

121. Without knowledge.

122. Without knowledge.

123. Without knowledge.

124. Without knowledge.

125. Without knowledge.

126. Without knowledge.

127. Without knowledge.

128. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

129. Denied.

130. Admitted.

131. Admitted, subject to the options available under the law.

132. Without knowledge.

133. Denied.

134. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

135. Admit that this is part of the jurisprudence on this issue.

136. Defendant is unaware of any.

137. Admitted to the extent discovery has been undertaken.

138. Defendant is not sure which returning citizens would be unaware of the amount they might owe or if this is a reasonable surmise.

139. Without knowledge.

140. Without knowledge.

141. Without knowledge.

142. Without knowledge.

143. Without knowledge.

144. Without knowledge.

145. Without knowledge.

146. Without knowledge.

147. Without knowledge.

148. Without knowledge.

149. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

150. Admitted.

151. Without knowledge.

152. Without knowledge.

153. Without knowledge.

154. Without knowledge.

155. Without knowledge.

156. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

157. Admitted this is a partial quote from the Constitution.

158. Without knowledge.

159. While this was the impression of this Defendant, given the Legislative action she is in doubt as to the accuracy of her initial impression.

160. Admitted as to the individuals claiming to have been registered in Alachua County.

161. Without knowledge.

162. To the extent these hearings have been recorded and are part of the public record, admitted; otherwise without knowledge, therefore denied.

163. Without knowledge.

164. Without knowledge.

165. Denied.

166. Defendant Barton realleges and incorporates by reference her responses to the Plaintiff's complaint as outlined above.

167. Admitted that this is a general statement of the law.

168. Admitted that this is a general statement of the law.

169. Admitted that this is a general statement of the law

170. Admitted that was a holding in that case.

171. Without knowledge.

172. Without knowledge.

AFFIRMATIVE DEFENSE - MISJOINDER

As her affirmative defense, Defendant Kim A. Barton asserts that Plaintiffs have improperly named her as a party to this litigation and states as follows:

1. Defendant Barton is the Supervisor of Elections of Alachua County.

2. Although the office of supervisor of elections is established under the Florida Constitution, the rights, obligations, and authority of the supervisor of elections are not. Fla. Const., Art. VIII, § 1(d). Instead, Florida Statutes provide the extent and limitations of the powers granted to the supervisors of elections throughout the State of Florida.

3. In Florida, the supervisor of elections for each county is responsible for updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by the Supervisor and related to the registration of electors in her respective county. Fla. Stat. § 98.015(3).

4. Florida Statutes also provide that, despite their status as constitutional officers, supervisors of elections are not the chief elections officer in the State of Florida. Fla. Stat. § 97.012. That power and responsibility belongs solely to the Florida Secretary of State. *Id.*

5. The Secretary of State is authorized and obligated to "[c]reate and administer a statewide voter registration system..." Fla. Stat. § 97.012(11). This responsibility is maintained at the State level to "obtain and maintain uniformity in the interpretation and implementation of the election laws." Fla. Stat. § 97.012(1).

6. In processing voter registrations and maintaining voter lists, Defendant Barton is required to administer her duties utilizing procedures and systems that are in compliance with the applicable requirements prescribed through rule by the Florida Secretary of State. Fla. Stat. § 98.015(10)-(11). Defendant Barton is effectively preempted from taking any action, or adopting an alternative voter registration system, that is not in conformance with the process and rules established at the state level, either by the legislature in enacting legislation or the Department of State in adopting regulations to implement the legislation.

7. If Defendant Barton were to take any action or implement a registration system that did not conform to state statute of the rules of the Department of State, then the Secretary of State may "[b]ring and maintain such actions at law or in equity by mandamus or injunction to enforce the performance of any duties of a county supervisor of elections...or to enforce compliance with a rule of the Department of State adopted to interpret" the elections laws of Florida. Fla. Stat. § 97.012(14).

8. Therefore, Defendant Barton does not have the authority to take the remedial action requested by Plaintiffs and was improperly named as a party to this litigation.

RESERVATION OF RIGHT TO SUPPLEMENT DEFENSES

Kim Barton, as the Alachua County Supervisor of Elections, reserves the right to assert any and all additional Affirmative Defenses that discovery or other evidence may reveal to be appropriate. Defendant Barton further reserves the right to amend her Answer or otherwise plead in response to Plaintiffs' Complaint and to file other pleadings as it may deem advisable in defense of the case or as warranted by information made available through disclosure.

WHEREFORE, Defendant Barton prays this Court deny the Plaintiffs the relief they seek and send them hence without day.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES

I HEREBY CERTIFY that this Response complies with the size, font, and formatting requirements of N.D. Fla. Local Rule 5.1(C).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed with the U.S. District Court, Northern District of Florida, via the

CM/ECF portal, which will also serve a copy to the attached Service List, on this 29th day of August, 2019.

Respectfully submitted,

ALACHUA COUNTY ATTORNEY'S OFFICE

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Florida Bar No. 366961
/s/ Corbin F. Hanson
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Senior Assistant County Attorney
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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN JONES,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.,

Defendants.
_____/

CONSOLIDATED
Case No.: 4:19-cv-00300-RH/MJF
(Lead Case)

BONNIE RAYSOR, et al.,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as Secretary of State of Florida,

Defendant.
_____/

Case No.: 4:19-cv-00301-RH/MJF

JEFF GRUVER, et al.,

Plaintiffs,

v.

KIM BARTON, et al.,

Defendants.
_____/

Case No.: 4:19-cv-00302-RH/MJF

LUIS MENDEZ,

Plaintiff,

v.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.,

Defendants.
_____/

Case No: 4:19-cv-00272-RH/MJF

BILL COWLES, SUPERVISOR OF ELECTIONS OF ORANGE COUNTY'S ANSWER TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Bill Cowles, Supervisor of Elections of Orange County ("Defendant" or "Supervisor Cowles"), through undersigned counsel answers Plaintiffs' Complaint as follows:

1. Defendant admits the material allegations within Paragraph 1 regarding passage or effect of Amendment 4.

2 The descriptions contained within Paragraph 2 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

3. The descriptions contained within Paragraph 3 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

4. The descriptions contained within Paragraph 4 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

5. The descriptions contained within Paragraph 5 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

6. The descriptions contained within Paragraph 6 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

7. The descriptions contained within Paragraph 7 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

8. The descriptions contained within Paragraph 8 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

9. The descriptions contained within Paragraph 9 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

10. Defendant is without knowledge as to the material allegations of Paragraph 10.

11. Defendant is without knowledge as to the material allegations of Paragraph 11.

12. Defendant is without knowledge as to the material allegations of Paragraph 12..

13. Defendant is without knowledge as to the material allegations of Paragraph 13.

14. Defendant is without knowledge as to the material allegations of Paragraph 14.

15. Defendant is without knowledge as to the material allegations of Paragraph 15.

16. Defendant is without knowledge as to the material allegations of Paragraph 16.

17. Defendant is without knowledge as to the material allegations of Paragraph 17.

18. Defendant is without knowledge as to the material allegations of Paragraph 18.

19. Defendant is without knowledge as to the material allegations of Paragraph 19.

20. Defendant admits that a local branch of the Florida NAACP is located in Orange County, and does not dispute the material allegations of Paragraph 20.

21. The descriptions contained within Paragraph 21 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

22. Defendant is without knowledge as to the material allegations of Paragraph 22.

23. Defendant is without knowledge as to the material allegations of Paragraph 23.

24. While Defendant is without knowledge regarding organizational allegations, Defendant does not dispute the material allegations of Paragraph 24.

25. While Defendant is without knowledge regarding organizational allegations, Defendant does not dispute the material allegations of Paragraph 25.

26. Defendant is without knowledge as to the material allegations of Paragraph 26.

27. While Defendant is without knowledge regarding organizational allegations, Defendant does not dispute the material allegations of Paragraph 27.

28. Defendant is without knowledge as to the material allegations of Paragraph 28.

29. Defendant is without knowledge as to the material allegations of Paragraph 29.

30. Defendant admits the material allegations within Paragraph 30.

31. Defendant admits the material allegations within Paragraph 31.

32. Defendant is without knowledge as to the material allegations of Paragraph 32.

33. Defendant admits the material allegations within Paragraph 33 for purposes of jurisdiction or venue.

34. Defendant admits the material allegations within Paragraph 34 for purposes of jurisdiction or venue.

35. Defendant admits the material allegations within Paragraph 35 for purposes of jurisdiction or venue.

36. Defendant admits the material allegations within Paragraph 36 for purposes of jurisdiction or venue.

37. Defendant admits the material allegations within Paragraph 37.

38. Defendant admits the material allegations within Paragraph 38.

39. Defendant admits the material allegations within Paragraph 39.

40. Defendant admits the material allegations within Paragraph 40.

41. Defendant admits the material allegations within Paragraph 41.

42. Defendant admits the material allegations within Paragraph 42.

43. Defendant is without knowledge as to the material allegations of Paragraph 43.

44. Defendant is without knowledge as to the material allegations of Paragraph 44.

45. Defendant is without knowledge as to the material allegations of Paragraph 45.

46. Defendant is without knowledge as to the material allegations of Paragraph 46.

47. Defendant is without knowledge as to the material allegations of Paragraph 47.

48. Defendant is without knowledge as to the material allegations of Paragraph 48.

49. Defendant admits the material allegations within Paragraph 49.

50. Defendant admits the material allegations within Paragraph 50.

51. Defendant admits the material allegations within Paragraph 51.

52. Defendant admits the material allegations within Paragraph 52.

53. Defendant admits the material allegations within Paragraph 53.

54. Defendant admits the material allegations within Paragraph 54.

55. Defendant admits the material allegations within Paragraph 55.

56. Defendant admits the material allegations within Paragraph 56.

57. Defendant admits the material allegations within Paragraph 57.

58. Defendant is without knowledge as to the material allegations of Paragraph 58.

59. The descriptions contained within Paragraph 59 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

60. The descriptions contained within Paragraph 60 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

61. Defendant is without knowledge as to the material allegations of Paragraph 61.

62. Defendant is without knowledge as to the material allegations of Paragraph 62.

63. Defendant is without knowledge as to the material allegations of Paragraph 63.

64. Paragraph 64 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

65. Paragraph 65 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

66. Defendant admits the material allegations within Paragraph 66.

67. Paragraph 67 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

68. Defendant is without knowledge as to the material allegations of Paragraph 68.

69. Defendant is without knowledge as to the material allegations of Paragraph 69.

70. Defendant is without knowledge as to the material allegations of Paragraph 70.

71. Defendant is without knowledge as to the material allegations of Paragraph 71.

72. Defendant is without knowledge as to the material allegations of Paragraph 72.

73. Defendant is without knowledge as to the material allegations of Paragraph 73.

74. Defendant is without knowledge as to the material allegations of Paragraph 74.

75. Defendant is without knowledge as to the material allegations of Paragraph 75.

76. The descriptions contained within Paragraph 76 are political in nature and not subject to either admission or denial. To the extent a response is required, Defendant is without knowledge.

77. Defendant is without knowledge as to the material allegations of Paragraph 77.

78. Defendant is without knowledge as to the material allegations of Paragraph 78.

79. Defendant is without knowledge as to the material allegations of Paragraph 79.

80. Defendant is without knowledge as to the material allegations of Paragraph 80.

81. Defendant is without knowledge as to the material allegations of Paragraph 81.

82. Defendant is without knowledge as to the material allegations of Paragraph 82.

83. Defendant is without knowledge as to the material allegations of Paragraph 83.

84. Defendant is without knowledge as to the material allegations of Paragraph 84.

85. Defendant is without knowledge as to the material allegations of Paragraph 85.

86. Defendant is without knowledge as to the material allegations of Paragraph 86.

87. Defendant is without knowledge as to the material allegations of Paragraph 87.

88. Defendant is without knowledge as to the material allegations of Paragraph 88.

89. Defendant is without knowledge as to the material allegations of Paragraph 89.

90. Defendant is without knowledge as to the material allegations of Paragraph 90.

91. Defendant re-alleges all responses to preceding paragraphs as though restated here.

92. Defendant admits the material allegations within Paragraph 92.

93. Paragraph 93 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

94. Defendant is without knowledge as to the material allegations of Paragraph 94.

95. Defendant is without knowledge as to the material allegations of Paragraph 95.

96. Defendant is without knowledge as to the material allegations of Paragraph 96.

97. Defendant is without knowledge as to the material allegations of Paragraph 97.

98. Paragraph 98 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

99. Defendant re-alleges all responses to preceding paragraphs as though restated here.

100. Defendant is without knowledge as to the material allegations of Paragraph 100.

101. Defendant admits the material allegations within Paragraph 101.

102. Paragraph 102 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

103. Paragraph 103 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

104. Paragraph 104 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

105. Defendant is without knowledge as to the material allegations of Paragraph 105.

106. Paragraph 106 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

107. Paragraph 107 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

108. Defendant is without knowledge as to the material allegations of Paragraph 108.

109. Paragraph 109 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

110. Defendant is without knowledge as to the material allegations of Paragraph 110.

111. Defendant is without knowledge as to the material allegations of Paragraph 111.

112. Defendant re-alleges all responses to preceding paragraphs as though restated here.

113. Defendant admits the material allegations within Paragraph 113.

114. Defendant admits the material allegations within Paragraph 114.

115. Defendant is without knowledge as to the material allegations of Paragraph 115.

116. Defendant denies the material allegations of Paragraph 116.

117. Defendant is without knowledge as to the material allegations of Paragraph 117.

118. Defendant is without knowledge as to the material allegations of Paragraph 118.

119. Defendant is without knowledge as to the material allegations of Paragraph 119.

120. Defendant is without knowledge as to the material allegations of Paragraph 120.

121. Defendant is without knowledge as to the material allegations of Paragraph 121.

122. Defendant is without knowledge as to the material allegations of Paragraph 122.

123. Defendant is without knowledge as to the material allegations of Paragraph 123.

124. Defendant is without knowledge as to the material allegations of Paragraph 124.

125. Defendant is without knowledge as to the material allegations of Paragraph 125.

126. Defendant is without knowledge as to the material allegations of Paragraph 126.

127. Paragraph 127 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

128. Defendant re-alleges all responses to preceding paragraphs as though restated here.

129. Paragraph 129 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

130. Defendant admits the material allegation within Paragraph 130.

131. Defendant admits the material allegations within Paragraph 131.

132. Paragraph 132 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

133. Paragraph 133 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge..

134. Defendant re-alleges all responses to preceding paragraphs as though restated here.

135. Defendant admits the material allegations within Paragraph 135.

136. Defendant is without knowledge as to the material allegations of Paragraph 136.

137. Defendant is without knowledge as to the material allegations of Paragraph 137.

138. Defendant is without knowledge as to the material allegations of Paragraph 138.

139. Defendant is without knowledge as to the material allegations of Paragraph 139.

140. Defendant is without knowledge as to the material allegations of Paragraph 140.

141. Defendant is without knowledge as to the material allegations of Paragraph 141.

142. Defendant is without knowledge as to the material allegations of Paragraph 142.

143. Defendant is without knowledge as to the allegations contained in Paragraph 143 of the Complaint.

144. Paragraph 144 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge

145. Paragraph 145 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

146. Paragraph 146 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

147. Paragraph 147 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

148. Paragraph 148 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

149. Defendant re-alleges all responses to preceding paragraphs as though restated here.

150. Paragraph 150 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

151. Defendant is without knowledge as to the material allegations of Paragraph 151.

152. Defendant is without knowledge as to the material allegations of Paragraph 152.

153. Defendant is without knowledge as to the material allegations of Paragraph 153.

154. Defendant is without knowledge as to the material allegations of Paragraph 154.

155. Paragraph 155 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

156. Defendant re-alleges all responses to preceding paragraphs as though restated here.

157. Defendant admits the material allegations within Paragraph 157.

158. Defendant is without knowledge as to the material allegations of Paragraph 158.

159. Paragraph 159 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

160. Defendant is without knowledge as to the material allegations of Paragraph 160.

161. Defendant is without knowledge as to the material allegations of Paragraph 161.

162. Defendant is without knowledge as to the material allegations of Paragraph 162.

163. Defendant is without knowledge as to the material allegations of Paragraph 163.

164. Defendant is without knowledge as to the material allegations of Paragraph 164.

165. Paragraph 165 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

166. Defendant re-alleges all responses to preceding paragraphs as though restated here.

167. Defendant admits the material allegations within Paragraph 167.

168. Paragraph 168 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

169. Paragraph 169 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

170. Paragraph 170 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

171. Paragraph 171 appears to be a legal statement for which no response is required. To the extent the paragraph requests a legal determination, Defendant is without knowledge.

172. Defendant is without knowledge as to the material allegations of Paragraph 172.

AFFIRMATIVE DEFENSES OF DEFENDANT SUPERVISOR OF ELECTIONS OF ORANGE COUNTY, BILL COWLES

1. Supervisor Cowles adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

2. Supervisor Cowles reserves the right to assert additional defenses as appropriate.

Respectfully submitted,

/s/ Nicholas A. Shannin

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing using the Case Management/Electronic Case Filing ("CM/ECF") system on August 29, 2019, which will send a Notice of Electronic Filing to all counsel of record for the parties who have appeared.

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/s/ Nicholas A. Shannin

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES,

Plaintiff,

Case No.: 4:19-cv-00300-RH-MJF

v.

RON DESANTIS, in his Official Capacity as the Governor of Florida, et al.

Defendants.
_____/

BONNIE RAYSOR, et al.,

Plaintiffs,

Case No.: 4:19-cv-00301-RH-MJF

v.

LAUREL M. LEE, in her Official Capacity as Secretary of State of the State of Florida,

Defendant.
_____/

JEFF GRUVER, et al.,

Plaintiffs,

Case No.: 4:19-cv-00302-RH-MJF

v.

KIM A. BARTON, in her Official Capacity as Supervisor of Elections for Alachua County, et al.

Defendants.
_____/

ROSEMARY OSBORNE MCCOY, et al.,

Plaintiffs,

Case No.: 4:19-cv-00304-RH-CAS

v.

RONALD DION DESANTIS, in his Official Capacity as Governor of Florida, et al.

Defendants.
_____/

LUIS MENDEZ,

Plaintiff,

Case No.: 4:19-cv-00272-RH-CAS

v.

RON DESANTIS, in his Official Capacity as the Governor of Florida, et al.

Defendants.

_____/

SUPERVISOR OF ELECTIONS FOR BROWARD COUNTY PETER ANTONACCI'S ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Peter Antonacci, Supervisor of Elections of Broward County ("Defendant" or Supervisor Antonacci"), through undersigned counsel answers Plaintiffs' Complaint for Injunctive and Declaratory Relief, Case No. 4:19-cv-302, as follows:

1. Defendant admits the allegations to the extent that Amendment 4 was

approved by the voters on November 6, 2018 and denies in all other respects the allegations contained in Paragraph 1 of the Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the Complaint.

3. Defendant denies the allegations contained in Paragraph 3 of the Complaint.

4. Defendant denies the allegations contained in Paragraph 4 of the Complaint.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint.

10. Defendant is without knowledge as to the allegations contained in Paragraph 10 of the Complaint.

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the Complaint.

13. Defendant is without knowledge as to the allegations contained in Paragraph 13 of the Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the Complaint.

20. Defendant is without knowledge as to the allegations contained in Paragraph 20 of the Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the Complaint.

30. Defendant admits that Laurel M. Lee is the Secretary of State and that the statutes and cases speak for themselves, and otherwise denies the remaining

allegations contained in Paragraph 30 of the Complaint.

31. Defendant admits the allegations as to the identification of the named Supervisors of Elections contained in Paragraph 31 of the Complaint and otherwise denies the remaining allegations.

32. Defendant is without knowledge as to the allegations contained in Paragraph 32 of the Complaint.

33. Defendant is without knowledge as to the allegations contained in Paragraph 33 of the Complaint.

34. Defendant is without knowledge as to the allegations contained in Paragraph 34 of the Complaint.

35. Defendant is without knowledge as to the allegations contained in Paragraph 35 of the Complaint.

36. Defendant is without knowledge as to the allegations contained in Paragraph 36 of the Complaint.

37. Defendant admits that the voters on November 6, 2018 approved Amendment 4 and is without knowledge as to the remaining allegations contained in Paragraph 37 of the Complaint.

38. Defendant admits the allegations contained in Paragraph 38 of the Complaint.

39. Defendant admits that Amendment 4 and the Florida Supreme Court's

opinion speak for themselves and is without knowledge as to all other allegations contained in Paragraph 39 of the Complaint, including footnote 3.

40. Defendant admits that the cases speak for themselves and denies all remaining allegations in Paragraph 40.

41. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 41 of the Complaint.

42. Defendant admits the allegations contained in Paragraph 42 of the Complaint.

43. Defendant is without knowledge as to the allegations contained in Paragraph 43 of the Complaint.

44. Defendant is without knowledge as to the allegations contained in Paragraph 44 of the Complaint.

45. Defendant is without knowledge as to the allegations contained in Paragraph 45 of the Complaint.

46. Defendant is without knowledge as to the allegations contained in Paragraph 46 of the complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the Complaint.

49. Defendant admits the allegations contained in Paragraph 49 of the Complaint.

50. Defendant admits the allegations contained in Paragraph 50 of the Complaint.

51. Defendant admits the allegations contained in Paragraph 51 of the Complaint.

52. Defendant admits the allegations contained in Paragraph 52 of the Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the Complaint.

58. Defendant is without knowledge as to the allegations contained in Paragraph 58 of the Complaint.

59. Defendant is without knowledge as to the allegations contained in Paragraph 59 of the Complaint.

60. Defendant is without knowledge as to the allegations contained in Paragraph 60 of the Complaint.

61. Defendant is without knowledge as to the allegations contained in Paragraph 61 of the Complaint.

62. Defendant is without knowledge as to the allegations contained in Paragraph 62 of the Complaint.

63. Defendant is without knowledge as to the allegations contained in Paragraph 63 of the Complaint.

64. Defendant is without knowledge as to the allegations contained in Paragraph 64 of the Complaint.

65. Defendant is without knowledge as to the allegations contained in Paragraph 65 of the Complaint.

66. Defendant admits the allegations contained in Paragraph 66 of the Complaint.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the Complaint.

71. Defendant is without knowledge as to the allegations contained in Paragraph 71 of the Complaint.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the Complaint.

77. Defendant is without knowledge as to the allegations contained in Paragraph 77 of the Complaint.

78. Defendant denies the allegations contained in Paragraph 78 of the Complaint.

79. Defendant is without knowledge as to the allegations contained in Paragraph 79 of the Complaint.

80. Defendant is without knowledge as to the allegations contained in Paragraph 80 of the Complaint.

81. Defendant is without knowledge as to the allegations contained in Paragraph 81 of the Complaint.

82. Defendant is without knowledge as to the allegations contained in Paragraph 82 of the Complaint.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the Complaint.

85. Defendant is without knowledge as to the allegations contained in Paragraph 85 of the Complaint.

86. Defendant is without knowledge as to the allegations contained in Paragraph 86 of the Complaint.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the Complaint.

89. Defendant is without knowledge as to the allegations contained in Paragraph 89 of the Complaint.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the Complaint.

91. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

92. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 92 of the Complaint.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the Complaint.

94. Defendant is without knowledge as to the allegations contained in Paragraph 94 of the Complaint.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the Complaint.

96. Defendant is without knowledge as to the allegations contained in Paragraph 96 of the Complaint.

97. Defendant is without knowledge as to the allegations contained in Paragraph 97 of the Complaint.

98. Defendant is without knowledge as to the allegations contained in Paragraph 98 of the Complaint.

99. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the Complaint.

101. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 101 of the Complaint.

102. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 102 of the Complaint.

103. Defendant admits the case speaks for itself and otherwise denies the allegations contained in Paragraph 103 of the Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the Complaint.

108. Defendant is without knowledge as to the allegations contained in Paragraph 108 of the Complaint.

109. Defendant is without knowledge as to the allegations contained in Paragraph 109 of the Complaint.

110. Defendant is without knowledge as to the allegations contained in Paragraph 110 of the Complaint.

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the Complaint.

112. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

113. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 113 of the Complaint.

114. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 114 of the Complaint.

115. Defendant is without knowledge as to the allegations contained in Paragraph 115 of the Complaint.

116. Defendant denies the allegations contained in Paragraph 116 of the Complaint.

117. Defendant is without knowledge as to the allegations contained in Paragraph 117 of the Complaint.

118. Defendant is without knowledge as to the allegations contained in Paragraph 118 of the Complaint.

119. Defendant is without knowledge as to the allegations contained in Paragraph 119 of the Complaint.

120. Defendant is without knowledge as to the allegations contained in Paragraph 120 of the Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the Complaint.

128. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

129. Defendant is without knowledge as to the allegations contained in Paragraph 129 of the Complaint.

130. Defendant admits the allegations contained in Paragraph 130 of the Complaint.

131. Defendant denies the allegations contained in Paragraph 131 of the Complaint.

132. Defendant is without knowledge as to the allegations contained in Paragraph 132 of the Complaint.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the Complaint.

134. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

135. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 135 of the Complaint.

136. Defendant is without knowledge as to the allegations contained in Paragraph 136 of the Complaint.

137. Defendant is without knowledge as to the allegations contained in Paragraph 137 of the Complaint.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the Complaint.

143. Defendant is without knowledge as to the allegations contained in Paragraph 143 of the Complaint.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the Complaint.

149. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the Complaint.

152. Defendant is without knowledge as to the allegations contained in Paragraph 152 of the Complaint.

153. Defendant is without knowledge as to the allegations contained in Paragraph 153 of the Complaint.

154. Defendant is without knowledge as to the allegations contained in Paragraph 154 of the Complaint.

155. Defendant is without knowledge as to the allegations contained in Paragraph 155 of the Complaint.

156. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

157. Defendant admits that the Constitution speaks for itself and otherwise denies the remaining allegations contained in Paragraph 157 of the Complaint.

158. Defendant is without knowledge as to the allegations contained in Paragraph 158 of the Complaint.

159. Defendant is without knowledge as to the allegations contained in Paragraph 159 of the Complaint.

160. Defendant is without knowledge as to the allegations contained in Paragraph 160 of the Complaint.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the Complaint.

162. Defendant is without knowledge as to the allegations contained in Paragraph 162 of the Complaint.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the Complaint.

166. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

167. Defendant admits that the Constitution and case speak for themselves and otherwise denies the remaining allegations contained in Paragraph 167 of the Complaint.

168. Defendant is without knowledge as to the allegations contained

in Paragraph 168 of the Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the Complaint.

171. Defendant is without knowledge as to the allegations contained in Paragraph 171 of the Complaint.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the Complaint.

Supervisor Antonacci denies that Plaintiffs are entitled to any relief. Any allegation herein not specifically admitted is denied.

AFFIRMATIVE DEFENSES OF DEFENDANT PETER ANTONACCI, SUPERVISOR OF ELECTIONS OF BROWARD COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Supervisor Antonacci has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the Complaint and he has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility, and Fla. Stat. § 98.0755 provides appellate jurisdiction over

such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Supervisor Antonacci and therefore do not possess the requisite standing to bring this cause of action against Supervisor Antonacci.

4. Plaintiffs' Complaint does not state a cause of action against Supervisor Antonacci for which relief may be granted because the relief requested is not sought from Supervisor Antonacci and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' Complaint does not state a cause of action against Supervisor Antonacci for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to . . . [o]btain and maintain uniformity in the interpretation and implementation of the election laws . . . [and] may . . . adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* Fla. Stat. § 97.012.

6. Plaintiffs' Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the Complaint is an

improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Supervisor Antonacci is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Antonacci is entitled to immunity under the Eleventh Amendment of the United States Constitution.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Antonacci is not the proximate cause of those damages.

10. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

11. Supervisor Antonacci adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

12. Supervisor Antonacci reserves the right to assert additional defenses as appropriate.

Dated: August 29, 2019

Respectfully submitted,

HOLLAND & KNIGHT LLP

/s/ George N. Meros, Jr.
George N. Meros, Jr.
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Attorneys for Defendant, Peter Antonacci, in his official capacity as Supervisor of Elections for Broward County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on this 29th day of August, 2019.

s/ George N. Meros, Jr.
George N. Meros, Jr.

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JEFF GRUVER, et al.,

Plaintiffs,
v.

CONSOLIDATED
Case No.: 4:19-cv-00300-RH-MJF

KIM BARTON, et al.,

Defendants.
_____/

DEFENDANT CRAIG LATIMER, HILLSBOROUGH COUNTY SUPERVISOR OF ELECTIONS' ANSWERS AND AFFIRMATIVE DEFENSES RESPONSIVE TO THE COMPLAINT (Doc. 1)

Defendant Craig Latimer, the Hillsborough County Supervisor of Elections (herein, "the SOE") files his Answers and Affirmative Defenses responsive to the Complaint (Doc. 1) and responds as follows to each allegation therein:

1. The SOE takes no position regarding the argument and characterizations presented in paragraph 1. The SOE admits that Amendment 4 passed as alleged.

2. The SOE agrees that "no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live…" Otherwise the SOE takes no position regarding the argument and characterizations presented in paragraph 2.

3. The SOE takes no position regarding the argument and characterizations presented in paragraph 3.

4. The SOE takes no position regarding the argument and characterizations presented in paragraph 4.

5. The SOE takes no position regarding the argument and characterizations presented in paragraph 5.

6. The SOE takes no position regarding the argument and characterizations presented in paragraph 6.

7. The SOE takes no position regarding the argument and characterizations presented in paragraph 7.

8. The SOE takes no position regarding the argument and characterizations presented in paragraph 8.

9. The SOE takes no position regarding the argument and characterizations presented in paragraph 9.

10. Without knowledge, therefore denied.

11. Without knowledge, therefore denied.

12. Without knowledge, therefore denied.

13. Without knowledge, therefore denied.

14. Without knowledge, therefore denied.

15. Without knowledge, therefore denied.

16. Without knowledge, therefore denied.

17. Without knowledge, therefore denied.

18. Without knowledge, therefore denied.

19. Without knowledge, therefore denied.

20. The Florida NAACP is a well-known and respected organization; the SOE admits the assertions in paragraph 20 except the SOE is without knowledge as to the last two sentences of paragraph 20.

21. The SOE admits the allegations of the first sentence of paragraph 21. The SOE is without knowledge as to the remaining allegations in paragraph 21, so those allegations are denied.

22. Without knowledge, therefore denied.

23. Without knowledge, therefore denied.

24. Admitted.

25. Admitted.

26. Admitted that the LWVF seeks to increase political participation. Otherwise without knowledge and therefore denied.

27. Admitted.

28. The SOE takes no position regarding the argument and characterizations presented in paragraph 28.

29. Without knowledge, therefore denied.

30. The cited statutes and references to case law speak for themselves.

31. Admitted that Craig Latimer is the Supervisor of Elections for Hillsborough County. Admitted that the SOE is responsible for conducting elections and voter registration in Hillsborough County. The language of SB 7066 speaks for itself.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. The SOE takes no position regarding the argument and characterizations presented in paragraph 37. Admitted that Amendment 4 passed.

38. The language of the cited Constitutional reference speaks for itself.

39. The SOE takes no position regarding the argument and characterizations presented in paragraph 39. The references to Amendment 4 and to the cited Supreme Court opinion speak for themselves.

40. The references to the cited case law speak for themselves.

41. The references to the cited case law speak for themselves. The SOE takes no position regarding the argument and characterizations presented in paragraph 41.

42. Admitted.

43. The SOE takes no position regarding the argument and characterizations presented in paragraph 43.

44. The SOE takes no position regarding the argument and characterizations presented in paragraph 44.

45. The SOE takes no position regarding the argument and characterizations presented in paragraph 45.

46. The SOE takes no position regarding the argument and characterizations presented in paragraph 46.

47. The SOE takes no position regarding the argument and characterizations presented in paragraph 47.

48. The SOE takes no position regarding the argument and characterizations presented in paragraph 48.

49. Admitted.

50. Admitted.

51. Admitted.

52. The cited statutory language speaks for itself.

53. The cited "three options" speak for themselves.

54. The SOE takes no position regarding the argument and characterizations presented in paragraph 54. The cited Advisory Opinion speaks for itself.

55. The cited statutory language speaks for itself.

56. The cited statutory language speaks for itself.

57. The cited statutory language speaks for itself.

58. The SOE takes no position regarding the argument and characterizations presented in paragraph 58.

59. The SOE takes no position regarding the argument and characterizations presented in paragraph 59.

60. The SOE takes no position regarding the argument and characterizations presented in paragraph 60.

61. The SOE takes no position regarding the argument and characterizations presented in paragraph 61.

62. The SOE takes no position regarding the argument and characterizations presented in paragraph 62.

63. The SOE takes no position regarding the argument and characterizations presented in paragraph 63.

64. The SOE takes no position regarding the argument and characterizations presented in paragraph 64.

65. The SOE takes no position regarding the argument and characterizations presented in paragraph 65.

66. The cited statutory language speaks for itself.

67. The SOE takes no position regarding the argument and characterizations presented in paragraph 67.

68. The SOE takes no position regarding the argument and characterizations presented in paragraph 68.

69. The SOE takes no position regarding the argument and characterizations presented in paragraph 69.

70. The SOE takes no position regarding the argument and characterizations presented in paragraph 70.

71. The SOE takes no position regarding the argument and characterizations presented in paragraph 71.

72. The SOE takes no position regarding the argument and characterizations presented in paragraph 72.

73. The SOE takes no position regarding the argument and characterizations presented in paragraph 73.

74. The SOE takes no position regarding the argument and characterizations presented in paragraph 74.

75. The SOE takes no position regarding the argument and characterizations presented in paragraph 75.

76. The SOE takes no position regarding the argument and characterizations presented in paragraph 76.

77. The SOE takes no position regarding the argument and characterizations presented in paragraph 77.

78. The SOE takes no position regarding the argument and characterizations presented in paragraph 78.

79. The SOE takes no position regarding the argument and characterizations presented in paragraph 79.

80. The SOE takes no position regarding the argument and characterizations presented in paragraph 80.

81. The SOE takes no position regarding the argument and characterizations presented in paragraph 81.

82. The SOE takes no position regarding the argument and characterizations presented in paragraph 82.

83. The cited language from case law speaks for itself. The SOE takes no position regarding the argument and characterizations presented in paragraph 83.

84. The SOE takes no position regarding the argument and characterizations presented in paragraph 84.

85. Without knowledge, therefore denied.

86. Without knowledge, therefore denied.

87. The SOE takes no position regarding the argument and characterizations presented in paragraph 87.

88. The SOE takes no position regarding the argument and characterizations presented in paragraph 88.

89. The SOE takes no position regarding the argument and characterizations presented in paragraph 89.

90. The SOE takes no position regarding the argument and characterizations presented in paragraph 90.

COUNT ONE

91. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

92. Admitted; the cited language speaks for itself.

93. The SOE takes no position regarding the argument and characterizations presented in paragraph 93.

94. Without knowledge, therefore denied.

95. Without knowledge, therefore denied.

96. Without knowledge, therefore denied.

97. The SOE takes no position regarding the argument and characterizations presented in paragraph 97.

98. The SOE takes no position regarding the argument and characterizations presented in paragraph 98.

COUNT TWO

99. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

100. The SOE takes no position regarding the argument and characterizations presented in paragraph 100.

101. Admitted; the cited language speaks for itself.

102. The cited language speaks for itself.

103. The cited language speaks for itself.

104. The SOE takes no position regarding the argument and characterizations presented in paragraph 104.

105. Without knowledge, therefore denied.

106. The SOE takes no position regarding the argument and characterizations presented in paragraph 106.

107. The SOE takes no position regarding the argument and characterizations presented in paragraph 107.

108. The SOE takes no position regarding the argument and characterizations presented in paragraph 108.

109. The SOE takes no position regarding the argument and characterizations presented in paragraph 109.

110. The SOE takes no position regarding the argument and characterizations presented in paragraph 110.

111. The SOE takes no position regarding the argument and characterizations presented in paragraph 111.

COUNT THREE

112. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

113. Admitted.

114. The cited language speaks for itself.

115. Without knowledge, therefore denied.

116. Denied that the SOE "confirmed Plaintiffs' eligibility to vote and added Plaintiffs to the registration rolls," with the exception of Plaintiff Clifford Tyson.

117. Without knowledge, therefore denied.

118. Without knowledge, therefore denied.

119. Admitted.

120. The SOE takes no position regarding the argument and characterizations presented in paragraph 120.

121. The SOE takes no position regarding the argument and characterizations presented in paragraph 121.

122. The SOE takes no position regarding the argument and characterizations presented in paragraph 122.

123. The SOE takes no position regarding the argument and characterizations presented in paragraph 123.

124. The SOE takes no position regarding the argument and characterizations presented in paragraph 124.

125. Without knowledge, therefore denied.

126. Without knowledge, therefore denied.

127. The SOE takes no position regarding the argument and characterizations presented in paragraph 127.

COUNT FOUR

128. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

129. The SOE takes no position regarding the argument and characterizations presented in paragraph 129.

130. Admitted.

131. The SOE takes no position regarding the argument and characterizations presented in paragraph 131.

132. The SOE takes no position regarding the argument and characterizations presented in paragraph 132.

133. The SOE takes no position regarding the argument and characterizations presented in paragraph 133.

COUNT FIVE

134. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

135. The cited language speaks for itself.

136. Without knowledge, therefore denied.

137. Without knowledge, therefore denied.

138. Without knowledge, therefore denied.

139. Without knowledge, therefore denied.

140. Without knowledge, therefore denied.

141. Without knowledge, therefore denied.

142. Without knowledge, therefore denied.

143. Without knowledge, therefore denied. The SOE takes no position regarding the argument and characterizations presented in paragraph 143.

144. The SOE takes no position regarding the argument and characterizations presented in paragraph 144.

145. The SOE takes no position regarding the argument and characterizations presented in paragraph 145.

146. The SOE takes no position regarding the argument and characterizations presented in paragraph 146.

147. The SOE takes no position regarding the argument and characterizations presented in paragraph 147.

148. The SOE takes no position regarding the argument and characterizations presented in paragraph 148.

COUNT SIX

149. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

150. Admitted.

151. Without knowledge, therefore denied.

152. The SOE takes no position regarding the argument and characterizations presented in paragraph 152.

153. The SOE takes no position regarding the argument and characterizations presented in paragraph 153.

154. The SOE takes no position regarding the argument and characterizations presented in paragraph 154.

155. The SOE takes no position regarding the argument and characterizations presented in paragraph 155.

COUNT SEVEN

156. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

157. Admitted.

158. Without knowledge, therefore denied.

159. Without knowledge, therefore denied.

160. Without knowledge, except as to Plaintiff Clifford Tyson. Admitted as to Clifford Tyson.

161. The SOE takes no position regarding the argument and characterizations presented in paragraph 161.

162. The SOE takes no position regarding the argument and characterizations presented in paragraph 162.

163. The SOE takes no position regarding the argument and characterizations presented in paragraph 163.

164. The SOE takes no position regarding the argument and characterizations presented in paragraph 164.

165. The SOE takes no position regarding the argument and characterizations presented in paragraph 165.

COUNT EIGHT

166. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

167. Admitted.

168. Admitted; the cited language speaks for itself.

169. Admitted.

170. The cited language speaks for itself.

171. The SOE takes no position regarding the argument and characterizations presented in paragraph 171.

172. The SOE takes no position regarding the argument and characterizations presented in paragraph 172.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs lack Article III standing to sue the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges "he fears he might be removed from the voter registration rolls" (paragraph 18). This allegation of "fear" is not concrete and particularized, as Mr. Tyson does not allege he has

suffered an "injury in fact" which may be traceable to the SOE. His alleged "fear" is simply hypothetical or speculative.

Second Affirmative Defense

Plaintiffs' claims are not ripe for review as to the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges "he fears he might be removed from the voter registration rolls" (paragraph 18). Moreover, the the state has not provided credible and reliable information as the basis for an initial finding of ineligibility. Mr. Tyson's alleged "fear" is simply hypothetical or speculative, therefore, his claims have not ripened to the point where he can seek redress for a constitutional violation against the SOE.

Third Affirmative Defense

Plaintiffs have failed to exhaust their administrative remedies. 52 U.S.C. §§ 21111, 21112.

Fourth Affirmative Defense

Plaintiffs fail to state a cause of action for which relief may be granted against the SOE.

Fifth Affirmative Defense

Pursuant to 52 U.S.C. § 20507(a)(3), Congress places an affirmative legal duty upon each state with respect to administration of voter registration. The cited statute further provides that the state *may* cause to be removed a registrant from the

official list of eligible voters, "(2) as provided by State law, by reason of criminal conviction." Bellitto v. Snipes, ___ F.3d ____, 2019 WL 3955692 (11th Cir. August 22, 2019). Federal law thus places upon the State of Florida the duty to ensure that any eligible applicant is registered to vote, and allows the State to cause to be removed eligible voters from the list "as provided by State law, by reason of criminal conviction." The SOE reasonably relies upon the State of Florida to exercise its federal statutory duty as to requirements with respect to administration of voter registration, which complies with the above-cited statute, so that the SOE may discharge his duty to register voters and to conduct elections in Hillsborough County.

/s/ Stephen M. Todd
Stephen M. Todd, Esquire
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(813) 272-5670 – Fax: (813) 272-5758
Attorney for Defendant, Craig Latimer as Supervisor of Elections for Hillsborough County
Service Emails:
ToddS@hillsboroughcounty.org
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ConnorsA@hillsboroughcounty.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 30, 2019, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to all Parties/Counsel of Record.

/s/ Stephen M. Todd
Stephen M. Todd, Esquire

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendant.

_____/

DEFENDANT, MICHAEL BENNETT, MANATEE COUNTY SUPERVISOR OF ELECTIONS ANSWER TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Michael Bennett, Manatee County Supervisor of Elections, answers the Plaintiff's Complaint for Injunctive and Declaratory Relief, and says:

1. Defendant admits the allegations to the extent that Amendment 4 was approved by the voters on November 6, 2018, and denies in all other respects the allegations contained in Paragraph 1 of the Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the Complaint.

3. The paragraph is a conclusory allegation to which no response is required.

4. Without knowledge and therefore denied.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint.

9. Without knowledge and therefore denied.

10. Defendant is without knowledge as to the allegations contained in Paragraph 10 of the Complaint.

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the Complaint.

13. Defendant is without knowledge as to the allegations contained in Paragraph 13 of the Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the Complaint.

20. Defendant is without knowledge as to the allegations contained in Paragraph 20 of the Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the Complaint.

30. Defendant admits that Laurel M. Lee is the Secretary of State and that the statutes and cases speak for themselves, and otherwise denies the remaining allegations contained in Paragraph 30 of the Complaint.

31. Defendant admits the allegations as to the identification of the named Supervisors of Elections contained in Paragraph 31 of the Complaint and otherwise denies the remaining allegations.

32. Admitted for jurisdictional purposes only.

33. Admitted for jurisdictional purposes only.

34. Admitted for jurisdictional purposes only.

35. Denied.

36. Denied.

37. Defendant admits that the voters on November 6, 2018 approved Amendment 4 and is without knowledge as to the remaining allegations contained in Paragraph 37 of the Complaint.

38. Defendant admits the text of the Amendment speaks for itself; otherwise denied.

39. Defendant admits that Amendment 4 and the Florida Supreme Court's opinion speak for themselves and is without knowledge as to all other allegations contained in Paragraph 39 of the Complaint, including footnote 3.

40. Defendant admits that the cases speak for themselves and denies all remaining allegations in Paragraph 40.

41. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 41 of the Complaint.

42. Defendant admits the allegations contained in Paragraph 42 of the Complaint.

43. Defendant is without knowledge as to the allegations contained in Paragraph 43 of the Complaint.

44. Defendant is without knowledge as to the allegations contained in Paragraph 44 of the Complaint.

45. Defendant is without knowledge as to the allegations contained in Paragraph 45 of the Complaint.

46. Defendant is without knowledge as to the allegations contained in Paragraph 46 of the complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the Complaint.

49. Defendant admits the allegations contained in Paragraph 49 of the Complaint.

50. Defendant admits the allegations contained in Paragraph 50 of the Complaint.

51. Defendant admits the allegations contained in Paragraph 51 of the Complaint.

52. Defendant admits the allegations contained in Paragraph 52 of the Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the Complaint.

58. Defendant is without knowledge as to the allegations contained in Paragraph 58 of the Complaint.

59. Defendant is without knowledge as to the allegations contained in Paragraph 59 of the Complaint.

60. Defendant is without knowledge as to the allegations contained in Paragraph 60 of the Complaint.

61. Defendant is without knowledge as to the allegations contained in Paragraph 61 of the Complaint.

62. Defendant is without knowledge as to the allegations contained in Paragraph 62 of the Complaint.

63. Defendant is without knowledge as to the allegations contained in Paragraph 63 of the Complaint.

64. Admitted that §775.089(3)(b) speaks for itself; otherwise denied.

65. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

66. Defendant admits that SB 7066 speaks for itself; otherwise denied.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the Complaint.

71. Admitted that SB7066 speaks for itself; otherwise denied.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the Complaint.

77. Admitted that the referenced hearing transcript speaks for itself; otherwise denied.

78. Admitted SB7066 speaks for itself; otherwise denied.

79. Admitted the hearing transcript speaks for itself; otherwise denied.

80. Admitted the hearing transcript speaks for itself; otherwise denied.

81. Admitted the hearing transcript speaks for itself; otherwise denied.

82. Admitted the hearing transcript speaks for itself; otherwise denied.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the Complaint.

85. Admitted that the referenced hearing transcripts speak for itself; otherwise denied.

86. Defendant is without knowledge as to the allegations contained in Paragraph 86 of the Complaint.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the Complaint.

89. Defendant is without knowledge as to the allegations contained in Paragraph 89 of the Complaint.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the Complaint.

91. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

92. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 92 of the Complaint.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the Complaint.

94. Defendant is without knowledge as to the allegations contained in Paragraph 94 of the Complaint.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the Complaint.

96. Defendant is without knowledge as to the allegations contained in Paragraph 96 of the Complaint.

97. Defendant is without knowledge as to the allegations contained in Paragraph 97 of the Complaint.

98. Defendant is without knowledge as to the allegations contained in Paragraph 98 of the Complaint.

99. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the Complaint.

101. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 101 of the Complaint.

102. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 102 of the Complaint.

103. Defendant admits the case speaks for itself and otherwise denies the allegations contained in Paragraph 103 of the Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the Complaint.

108. Defendant is without knowledge as to the allegations contained in Paragraph 108 of the Complaint.

109. Defendant is without knowledge as to the allegations contained in Paragraph 109 of the Complaint.

110. Defendant is without knowledge as to the allegations contained in Paragraph 110 of the Complaint.

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the Complaint.

112. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

113. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 113 of the Complaint.

114. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 114 of the Complaint.

115. Defendant is without knowledge as to the allegations contained in Paragraph 115 of the Complaint.

116. Defendant denies the allegations contained in Paragraph 116 of the Complaint.

117. Defendant is without knowledge as to the allegations contained in Paragraph 117 of the Complaint.

118. Defendant is without knowledge as to the allegations contained in Paragraph 118 of the Complaint.

119. Defendant is without knowledge as to the allegations contained in Paragraph 119 of the Complaint.

120. Defendant is without knowledge as to the allegations contained in Paragraph 120 of the Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the Complaint.

128. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

129. Defendant is without knowledge as to the allegations contained in Paragraph 129 of the Complaint.

130. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

131. Defendant admits SB7066 speaks for itself; otherwise denied.

132. Defendant admits SB7066 speaks for itself; otherwise denied.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the Complaint.

134. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

135. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 135 of the Complaint.

136. Defendant is without knowledge as to the allegations contained in Paragraph 136 of the Complaint.

137. Defendant is without knowledge as to the allegations contained in Paragraph 137 of the Complaint.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the Complaint.

143. Defendant admits SB7066 speaks for itself; otherwise denied.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the Complaint.

149. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the Complaint.

152. Defendant is without knowledge as to the allegations contained in Paragraph 152 of the Complaint.

153. Defendant is without knowledge as to the allegations contained in Paragraph 153 of the Complaint.

154. Defendant is without knowledge as to the allegations contained in Paragraph 154 of the Complaint.

155. Defendant is without knowledge as to the allegations contained in Paragraph 155 of the Complaint.

156. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

157. Defendant admits that the Constitution speaks for itself and otherwise denies the remaining allegations contained in Paragraph 157 of the Complaint.

158. Defendant is without knowledge as to the allegations contained in Paragraph 158 of the Complaint.

159. Defendant admits Amendment 4 speaks for itself; otherwise denied.

160. Defendant is without knowledge as to the allegations contained in Paragraph 160 of the Complaint.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the Complaint.

162. Defendant admits the referenced hearing transcript speaks for itself; otherwise denied.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the Complaint.

166. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

167. Defendant admits that the Constitution and case speak for themselves and otherwise denies the remaining allegations contained in Paragraph 167 of the Complaint.

168. Defendant is without knowledge as to the allegations contained in Paragraph 168 of the Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the Complaint.

171. Defendant is without knowledge as to the allegations contained in Paragraph 171 of the Complaint.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the Complaint.

AFFIRMATIVE DEFENSES OF DEFENDANT MICHAEL BENNETT, SUPERVISOR OF ELECTIONS OF MANATEE COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Supervisor Bennett has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the Complaint and he has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility, and Fla. Stat. § 98.0755 provides appellate jurisdiction over such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Supervisor Bennett and therefore do not possess the requisite standing to bring this cause of action against Supervisor Bennett.

4. Plaintiffs' Complaint does not state a cause of action against Supervisor Bennett for which relief may be granted because the relief requested is not sought from Supervisor Bennett and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' Complaint does not state a cause of action against Supervisor Bennett for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to . . . [o]btain and maintain uniformity in the interpretation and implementation of the election laws . . . [and] may . . . adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* Fla. Stat. § 97.012.

6. Plaintiffs' Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the Complaint is an improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Supervisor Bennett is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for

failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Bennett is entitled to immunity under the Eleventh Amendment of the United States Constitution.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Bennett is not the proximate cause of those damages.

10. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

11. The Complaint incorporates all preceding counts into each count and therefore fails to state a claim as a matter of law.

12. Plaintiffs have failed to state a basis for attorneys' fees and costs against Supervisor Bennett.

13. Supervisor Bennett adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

14. Supervisor Bennett reserves the right to assert additional defenses as appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail upon counsel of record for all parties in the above-captioned mater this 6th day of September, 2019.

MORGAN R. BENTLEY, ESQ.
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendant.

_____/

DEFENDANT, RON TURNER, SARASOTA COUNTY SUPERVISOR OF ELECTIONS ANSWER TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Ron Turner, Sarasota County Supervisor of Elections, answers the Plaintiff's Complaint for Injunctive and Declaratory Relief, and says:

1. Defendant admits the allegations to the extent that Amendment 4 was approved by the voters on November 6, 2018, and denies in all other respects the allegations contained in Paragraph 1 of the Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the Complaint.

3. The paragraph is a conclusory allegation to which no response is required.

4. Without knowledge and therefore denied.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint.

9. Without knowledge and therefore denied.

10. Defendant is without knowledge as to the allegations contained in Paragraph 10 of the Complaint.

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the Complaint.

13. Defendant is without knowledge as to the allegations contained in Paragraph 13 of the Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the Complaint.

20. Defendant is without knowledge as to the allegations contained in Paragraph 20 of the Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the Complaint.

30. Defendant admits that Laurel M. Lee is the Secretary of State and that the statutes and cases speak for themselves, and otherwise denies the remaining allegations contained in Paragraph 30 of the Complaint.

31. Defendant admits the allegations as to the identification of the named Supervisors of Elections contained in Paragraph 31 of the Complaint and otherwise denies the remaining allegations.

32. Admitted for jurisdictional purposes only.

33. Admitted for jurisdictional purposes only.

34. Admitted for jurisdictional purposes only.

35. Denied.

36. Denied.

37. Defendant admits that the voters on November 6, 2018 approved Amendment 4 and is without knowledge as to the remaining allegations contained in Paragraph 37 of the Complaint.

38. Defendant admits the text of the Amendment speaks for itself; otherwise denied.

39. Defendant admits that Amendment 4 and the Florida Supreme Court's opinion speak for themselves and is without knowledge as to all other allegations contained in Paragraph 39 of the Complaint, including footnote 3.

40. Defendant admits that the cases speak for themselves and denies all remaining allegations in Paragraph 40.

41. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 41 of the Complaint.

42. Defendant admits the allegations contained in Paragraph 42 of the Complaint.

43. Defendant is without knowledge as to the allegations contained in Paragraph 43 of the Complaint.

44. Defendant is without knowledge as to the allegations contained in Paragraph 44 of the Complaint.

45. Defendant is without knowledge as to the allegations contained in Paragraph 45 of the Complaint.

46. Defendant is without knowledge as to the allegations contained in Paragraph 46 of the complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the Complaint.

49. Defendant admits the allegations contained in Paragraph 49 of the Complaint.

50. Defendant admits the allegations contained in Paragraph 50 of the Complaint.

51. Defendant admits the allegations contained in Paragraph 51 of the Complaint.

52. Defendant admits the allegations contained in Paragraph 52 of the Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the Complaint.

58. Defendant is without knowledge as to the allegations contained in Paragraph 58 of the Complaint.

59. Defendant is without knowledge as to the allegations contained in Paragraph 59 of the Complaint.

60. Defendant is without knowledge as to the allegations contained in Paragraph 60 of the Complaint.

61. Defendant is without knowledge as to the allegations contained in Paragraph 61 of the Complaint.

62. Defendant is without knowledge as to the allegations contained in Paragraph 62 of the Complaint.

63. Defendant is without knowledge as to the allegations contained in Paragraph 63 of the Complaint.

64. Admitted that §775.089(3)(b) speaks for itself; otherwise denied.

65. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

66. Defendant admits that SB 7066 speaks for itself; otherwise denied.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the Complaint.

71. Admitted that SB7066 speaks for itself; otherwise denied.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the Complaint.

77. Admitted that the referenced hearing transcript speaks for itself; otherwise denied.

78. Admitted SB7066 speaks for itself; otherwise denied.

79. Admitted the hearing transcript speaks for itself; otherwise denied.

80. Admitted the hearing transcript speaks for itself; otherwise denied.

81. Admitted the hearing transcript speaks for itself; otherwise denied.

82. Admitted the hearing transcript speaks for itself; otherwise denied.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the Complaint.

85. Admitted that the referenced hearing transcripts speak for itself; otherwise denied.

86. Defendant is without knowledge as to the allegations contained in Paragraph 86 of the Complaint.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the Complaint.

89. Defendant is without knowledge as to the allegations contained in Paragraph 89 of the Complaint.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the Complaint.

91. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

92. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 92 of the Complaint.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the Complaint.

94. Defendant is without knowledge as to the allegations contained in Paragraph 94 of the Complaint.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the Complaint.

96. Defendant is without knowledge as to the allegations contained in Paragraph 96 of the Complaint.

97. Defendant is without knowledge as to the allegations contained in Paragraph 97 of the Complaint.

98. Defendant is without knowledge as to the allegations contained in Paragraph 98 of the Complaint.

99. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the Complaint.

101. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 101 of the Complaint.

102. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 102 of the Complaint.

103. Defendant admits the case speaks for itself and otherwise denies the allegations contained in Paragraph 103 of the Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the Complaint.

108. Defendant is without knowledge as to the allegations contained in Paragraph 108 of the Complaint.

109. Defendant is without knowledge as to the allegations contained in Paragraph 109 of the Complaint.

110. Defendant is without knowledge as to the allegations contained in Paragraph 110 of the Complaint.

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the Complaint.

112. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

113. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 113 of the Complaint.

114. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 114 of the Complaint.

115. Defendant is without knowledge as to the allegations contained in Paragraph 115 of the Complaint.

116. Defendant denies the allegations contained in Paragraph 116 of the Complaint.

117. Defendant is without knowledge as to the allegations contained in Paragraph 117 of the Complaint.

118. Defendant is without knowledge as to the allegations contained in Paragraph 118 of the Complaint.

119. Defendant is without knowledge as to the allegations contained in Paragraph 119 of the Complaint.

120. Defendant is without knowledge as to the allegations contained in Paragraph 120 of the Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the Complaint.

128. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

129. Defendant is without knowledge as to the allegations contained in Paragraph 129 of the Complaint.

130. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

131. Defendant admits SB7066 speaks for itself; otherwise denied.

132. Defendant admits SB7066 speaks for itself; otherwise denied.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the Complaint.

134. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

135. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 135 of the Complaint.

136. Defendant is without knowledge as to the allegations contained in Paragraph 136 of the Complaint.

137. Defendant is without knowledge as to the allegations contained in Paragraph 137 of the Complaint.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the Complaint.

143. Defendant admits SB7066 speaks for itself; otherwise denied.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the Complaint.

149. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the Complaint.

152. Defendant is without knowledge as to the allegations contained in Paragraph 152 of the Complaint.

153. Defendant is without knowledge as to the allegations contained in Paragraph 153 of the Complaint.

154. Defendant is without knowledge as to the allegations contained in Paragraph 154 of the Complaint.

155. Defendant is without knowledge as to the allegations contained in Paragraph 155 of the Complaint.

156. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

157. Defendant admits that the Constitution speaks for itself and otherwise denies the remaining allegations contained in Paragraph 157 of the Complaint.

158. Defendant is without knowledge as to the allegations contained in Paragraph 158 of the Complaint.

159. Defendant admits Amendment 4 speaks for itself; otherwise denied.

160. Defendant is without knowledge as to the allegations contained in Paragraph 160 of the Complaint.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the Complaint.

162. Defendant admits the referenced hearing transcript speaks for itself; otherwise denied.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the Complaint.

166. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

167. Defendant admits that the Constitution and case speak for themselves and otherwise denies the remaining allegations contained in Paragraph 167 of the Complaint.

168. Defendant is without knowledge as to the allegations contained in Paragraph 168 of the Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the Complaint.

171. Defendant is without knowledge as to the allegations contained in Paragraph 171 of the Complaint.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the Complaint.

AFFIRMATIVE DEFENSES OF DEFENDANT RON TURNER, SUPERVISOR OF ELECTIONS OF SARASOTA COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Supervisor Turner has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the Complaint and he has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility, and Fla. Stat. § 98.0755 provides appellate jurisdiction over such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Supervisor Turner and therefore do not possess the requisite standing to bring this cause of action against Supervisor Turner.

4. Plaintiffs' Complaint does not state a cause of action against Supervisor Turner for which relief may be granted because the relief requested is not sought from Supervisor Turner and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' Complaint does not state a cause of action against Supervisor Turner for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to . . . [o]btain and maintain uniformity in the interpretation and implementation of the election laws . . . [and] may . . . adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* Fla. Stat. § 97.012.

6. Plaintiffs' Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the Complaint is an improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Supervisor Turner is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for

failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Turner is entitled to immunity under the Eleventh Amendment of the United States Constitution.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the Complaint, Supervisor Turner is not the proximate cause of those damages.

10. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

11. The Complaint incorporates all preceding counts into each count and therefore fails to state a claim as a matter of law.

12. Plaintiffs have failed to state a basis for attorneys' fees and costs against Supervisor Turner.

13. Supervisor Turner adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

14. Supervisor Turner reserves the right to assert additional defenses as appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail upon counsel of record for all parties in the above-captioned mater this 30th day of September, 2019.

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148-1

Exhibit 1

PHIPPS REPORTING

Raising the Bar!

AUDIO TRANSCRIPTION OF:

Advisory Opinion to the Attorney General

Re: Voting Restoration Amendment,

SC16-1785 and Advisory Opinion to the Attorney General

Re: Voting Restoration Amendment (FIS), SC16-1981

Florida Supreme Court Oral Arguments

Monday, March 6, 2017

Pages 1 - 20

STENOGRAPHICALLY TRANSCRIBED BY: JUDY LYNN MARTIN

APPEARANCES:

Chief Justice Jorge Labarga

Justice Peggy A. Quince

Justice Barbara J. Pariente

Justice Ricky Polston

Justice Alan Lawson

Amit Agarwal, Solicitor General

Jon L. Mills, Esquire

Andrew Starling

P R O C E E D I N G S

THE DEPUTY CLERK: All rise. Hear ye, hear ye, hear ye, the Supreme Court of Florida is now in session. All who have cause to plea, draw near give attention. You shall be heard. God save these United States, the great state of Florida and this Honorable Court.

Ladies and gentlemen, the Supreme Court of Florida. Please be seated.

CHIEF JUSTICE LABARGA: Good morning. Welcome to the Florida Supreme Court. The first case on the docket this morning will be the Advisory Opinion to the Attorney General.

Sir.

MR. AGARWAL: Good morning, Mr. Chief Justice, and may it please the Court. My name is Amit Agarwal. I'm appearing on behalf of the Attorney General.

We're here this morning on the Attorney General's petition for an advisory opinion concerning a ballot initiative entitled "Voting Restoration Amendment."

Only one party will be presenting argument this morning. Mr. Jon L. Mills will argue in support of ballot placement on behalf of the

initiative's sponsor, Floridians For a Fair Democracy. Thank you very much.

CHIEF JUSTICE LABARGA: Has the Attorney General taken a position on this?

MR. AGARWAL: No, Your Honor.

CHIEF JUSTICE LABARGA: Thank you.

MR. MILLS: May it please the Court, my name is Jon Mills, counsel for the proponent. Joining me at counsel table is Andrew Starling.

The mission of the Court in reviewing of the initiatives is one overarching issue, and that is presenting a fair question to the voters of Florida.

That question is directed to the Court in two parts. First is the initiative, does it constitute a single subject and, secondly, is the title and summary a clear explanation of the overall purpose of the initiative.

The single subject is divided into two parts itself; that is, is the initiative -- does it constitute log rolling; that is, putting together two disparate issues in order to try to encourage voters unfairly to vote for a proposition, say if proposition included increasing sentences for drug dealers and increasing salaries for teachers.

Those are disparate subjects that shouldn't be put together.

The second component of the single-subject rule is does the proposal have a substantial impact on multiple functions of government, which, again, would create an unfair question.

In the past, an example of this was an allocation of 40 percent of general revenue to education, and the consequence of that would be to have an impact on multiple functions of government. This initiative is rather narrow.

It actually simply provides that -- restores the right to vote to individuals with felony convictions, excluding convictions for murder and felony sexual offenses, upon the completion of all terms of the criminal offense.

JUSTICE QUINCE: So let me just ask you this, that means that the convicted person would not have to do anything about restoring rights. This would be an automatic provision.

Are there other rights that they would have to do something about to have restored?

MR. MILLS: This only relates to voting. So it doesn't restore the right to hold office, doesn't restore the right to be on a jury or to own

a gun, so it's simply voting.

A very good explanation of the process was done by the fiscal -- Financial Estimating Conference that went through specifically how this would work in comparison to how it works now.

If you are registering to vote, you go to the Supervisor of Elections and you fill out a form. One of the issues on that form is do you have a felony conviction. So now, given if this passes, it would have do you have a felony conviction and have you fulfilled all terms of the sentence.

And at that point, the Supervisors of Election send those forms to the Secretary of State who verifies it. So it's -- that process does not change and the process statewide would be identical. So it doesn't, as the fiscal impact -- Financial Impact Conference said, it doesn't change the statutory process at all.

JUSTICE PARIENTE: Well, it would probably, just from the financial part -- since there was all of this effort several years ago to make sure all felons were removed from the role, so this would be anyone wanting to vote would have to affirmatively reapply?

MR. MILLS: Yes, that's right. It doesn't --

there isn't an automatic right to go in and vote. You have to register to vote. And the Financial Estimating Conference reviewed the number of individuals to whom that might apply, and it might be as many as 700,000 to whom it would apply.

They did an evaluation of how this process works in other states. Most other states do allow people to vote after they've fulfilled their sentences. And about 20 percent of the people who are eligible do that.

So their estimate was it would be -- about 270,000 people would be eligible and would probably come in. So the Financial Estimating Conference suggests there will be a bump in expenses, but it would actually level out over time.

JUSTICE POLSTON: This includes the completion of the terms of probation; right?

MR. MILLS: Yes, sir. It specifically includes all matters included in the sentence, including probation and parole. So that means all matters -- anything that a judge puts into a sentence.

JUSTICE POLSTON: So it would also include the full payment of any fines?

MR. MILLS: Yes, sir. All terms means all

terms within the four corners. So the applicant would have to indicate that they have indicated that they have completed all terms, and the Secretary of State would -- would verify that.

JUSTICE QUINCE: So the Secretary of State would verify that. So once a person pays all their fines, completes their parole, completes their probation, that information is sent to the Secretary of State?

MR. MILLS: The Secretary of State actually gathers it. The Secretary of State talks to FDLE, Corrections, et cetera. So they collect the information and then they verify it back to the Supervisor of Elections. The Supervisor of Elections makes that judgment.

Ultimately, if the applicant does not agree with the Supervisor of Elections, they can go to the -- to the circuit court.

JUSTICE QUINCE: So that's -- and that's the process they could do right now?

MR. MILLS: That process exists because right now you will be checking the box to say I am not a felon. So if it's sent in and the Secretary of State in verification shows that you are, then you are not qualified, and then they would not qualify

you.

JUSTICE QUINCE: So everyone who registers to vote, the Secretary of State says whether you are or not, I didn't --

MR. MILLS: Yes. The Secretary of State verifies the voting rules, so that doesn't change and it's -- that's why the voting rules are consistent and they're verified.

Currently if you do have a felony conviction, then you enter the process for -- you enter the process to go to the governor and cabinet for clemency and that -- that process would still be required for the exceptions here, which would be murder or sexual felony offense.

JUSTICE QUINCE: Now, the portion that -- about people who are convicted of sexual battery and murder, they -- this says that they would not be qualified until the restoration of their rights, so they would still have to go through the process of --

MR. MILLS: That's correct, they still go through the same clemency process. So they would apply to the clemency board for review and for ultimate -- ultimate approval and review. So actually both those -- the parallel processes as

they exist would continue, but the significant change is that someone who's fulfilled their sentence --

JUSTICE PARIENTE: Nobody has said -- nobody has said that anything about what's written here is -- on the other side is ambiguous. And as you said, most states have the restoration of voting rights. I mean, in fact, some states they never lose it even when they're in jail. So this is really nothing different than most other states have?

MR. MILLS: That's correct. Most other -- other states do. Florida is in a small minority where it's -- basically all -- all felons must go through the clemency process.

CHIEF JUSTICE LABARGA: Is there a time limit in which the Secretary of State has to make this investigation to see whether a person's qualified to vote or can they just take as long as they want?

MR. MILLS: I'm not aware of a time limit, so -- I'm also not aware that there's been a particular problem. There are certainly disputes about who is removed and on what basis, but -- in this case you can see where the Secretary of State will have some important work to do.

CHIEF JUSTICE LABARGA: If there's a dispute as to whether a person is qualified to regain his right to vote or not, where would I go?

MR. MILLS: That person goes to circuit court. So you -- if you are turned down by the Supervisor of Elections, you go to circuit court and you object to that conclusion. But you ultimately -- as an applicant to vote, you get the -- you are turned down or accepted by the Supervisor of Elections.

CHIEF JUSTICE LABARGA: I just wonder, what kind of -- what kind of action would the person have to file in circuit court; is that a dec action or --

MR. MILLS: I think it's described as an appeal, you're appealing the decision. So that probably puts you in a difficult --

CHIEF JUSTICE LABARGA: Yeah.

MR. MILLS: -- position because the Supervisor is simply reflecting what the Secretary of State has told them. And if it's factually -- if you don't qualify, it would appear you don't qualify --

JUSTICE PARIENTE: I suspect with, depending if it passes or not, that those who are felons who have served their sentence, that there are other

documents, you know, certified copy of whatever occurs at the end of fulfilling your probation, the Department of Corrections has this information.

So that's what -- I mean, we're talking about things that really -- the details are not part of what anyone's saying are -- is confusing or that this is going to be a financial burden.

So we're asking you, I guess, some questions that maybe still have to be ironed out, which is not unusual with these ballot initiatives.

MR. MILLS: Right. The initiatives, as long as they provide a fair question and they notify the voter as to the principal question, they fulfill the mission.

And in terms of the financial impact statement, that's further to inform the voter if there is a substantial impact and what the impact is. It is interesting. The financial impact statement said, in fact, it may reduce financial obligations of the clemency board ultimately, because there'd be fewer people going through clemency, but obviously --

JUSTICE PARIENTE: Also, I guess, if they have to -- I guess they'll still -- will they still have to check every person registering to see if they

are a felon or how --

MR. MILLS: Yes.

JUSTICE PARIENTE: That will still happen?

MR. MILLS: I mean, that doesn't change. So the form -- actually the current form is really quite simple. It's one page. And it would be changed by -- the Secretary of State would be uniform and --

JUSTICE QUINCE: The form you're talking about is a form that anyone would fill out --

MR. MILLS: Anyone fills out.

JUSTICE QUINCE: -- in order to register to vote?

MR. MILLS: Correct. So you would -- you go in and fill out a form to register to vote and it now asks you if you are a felon. So if you check yes, you will not be qualified to vote. So now --

JUSTICE QUINCE: But there's no follow-up question that says and -- if you answer yes, have your rights been restored?

MR. MILLS: Well, there isn't that question yet. So now the question would have to be: Have you fulfilled all terms of your sentence, including probation, parole, and all terms that are part of your sentence.

And if you check that, you need to be correct, because -- well, currently if you check -- you don't check that you are a felon and you are, that itself is a felony.

CHIEF JUSTICE LABARGA: I mean, the question will have to be has the Secretary of State certified --

MR. MILLS: Yes.

CHIEF JUSTICE LABARGA: -- that you have -- instead of going have you all those things, because then who's going to make that decision below at the Voters Registration Office, so it would have to be the Secretary of State. And if you check yes to that, then I guess it's a probationary ballot so they can double check?

MR. MILLS: Well, you don't -- you're not yet registered until you're certified.

CHIEF JUSTICE LABARGA: I see, this is a register to vote. Okay.

JUSTICE LAWSON: I have a question. You said that terms of sentence includes fines and costs and it's -- that's the way it's generally pronounced in criminal court.

Would it also include restitution when it was ordered to the victim --

MR. MILLS: Yes.

JUSTICE LAWSON: -- as part of the sentence?

In preparing the financial impact statement, did anyone -- I assume that the Secretary of State can contact the Department of Corrections to determine whether someone -- or do a criminal history to see if someone's a felon. But with respect to cost, that information might need to come from 67 different local clerks --

MR. MILLS: Clerks of Court.

JUSTICE LAWSON: Was that considered in determining the financial impact?

MR. MILLS: They did and they -- they actually assess cost that was X number of dollars that it takes them to -- to check. So they did assess that and they did expect that this would be -- there would be a bump in cost.

JUSTICE LAWSON: Then do we know whether all the clerks keep track of restitution in criminal cases when there's not probation imposed?

MR. MILLS: Well, if it is within the four corners of the sentence, it should be in the record. That's my understanding.

JUSTICE LAWSON: The fact that it's imposed would be in the record. I'm wondering whether the

clerk would even know whether it had been paid in all cases.

MR. MILLS: Well, that's --

JUSTICE LAWSON: Did they check that?

MR. MILLS: That's a reasonable question.

JUSTICE PARIENTE: That brings up, just since we're asking these questions, that you're hoping will be details if this passes, but it would seem that could the Department of State or the Secretary of State require more of the registrant who has been convicted of a felony to actually themselves certify I've done this, I've done this, and -- with certified copies, number one.

And number two, I'm thinking maybe this would actually help the State because if fines, costs, and restitution are a requirement, there's -- for those that want to vote, there's a big motivation to pay unpaid costs, fines, and restitution.

So two things: One, could -- without burdening the voter, if there's an answer have you ever been convicted of a felony, yes, and then -- I think Justice Quince was saying, well, have your voting rights been restored, which civil rights under the current statute, but if the next question is and have you completed all requirements, give us

the date and whatever, so that there's some obligation on the voter, are --

MR. MILLS: I --

JUSTICE PARIENTE: -- or the potential voter.

MR. MILLS: There's no reason that the Secretary of State couldn't do that --

JUSTICE PARIENTE: So that's in the details.

MR. MILLS: -- because the scope of this clearly says that that's what's required. So if they think that process would be the best way to determine that result, then they could.

JUSTICE QUINCE: Who actually promulgates that form, who makes up that form, is that the Secretary of State's form or the Supervisor?

MR. MILLS: It is the Secretary of State's form. So, yes, every Supervisor of Elections has that form for -- for them to fill out.

CHIEF JUSTICE LABARGA: It would seem like the Secretary of State once he or she conducts the background investigation and confirms that the person has done everything he was supposed to do, would issue some type of certificate, official certificate, that the voter -- potential voter could take to the registration office and show them the certificates and that would take care of it

instead of just having the registration person go back and check with the Secretary of State and that's just more delay, more bureaucracy.

MR. MILLS: So that if you're saying the individual would have a path to themselves to demonstrate that they have completed all terms?

CHIEF JUSTICE LABARGA: Right. An official certificate from the Secretary of State showing that -- the clerk when you go to register, here it is, everybody recognizes it, and it's done instead of, again, having to call back or check back with the Secretary of State, and that would --

MR. MILLS: To establish a policy proactively.

CHIEF JUSTICE LABARGA: Right.

MR. MILLS: Yeah, which makes complete sense. So overall, Your Honor, this -- the purpose is clearly articulated. It is a restoration of voting rights under these specific conditions. It's clear to the voter both in terms of meeting the single subject test and the ballot title and summary are clear.

Thank you, Your Honor.

CHIEF JUSTICE LABARGA: Thank you for your argument.

Solicitor General.

MR. AGARWAL: Yes, Your Honor.

CHIEF JUSTICE LABARGA: Would you like to introduce yourself to the Court?

MR. AGARWAL: Your Honor, thank you so much. It's such a great honor to be appearing in front of this Court for my first time. I was appointed Solicitor General last year and --

CHIEF JUSTICE LABARGA: We're looking forward to hearing you.

MR. AGARWAL: Thank you so much. Pleasure to meet all of you.

CHIEF JUSTICE LABARGA: Thank you.

(The hearing concluded.)

STENOGRAPHER CERTIFICATE

STATE OF FLORIDA

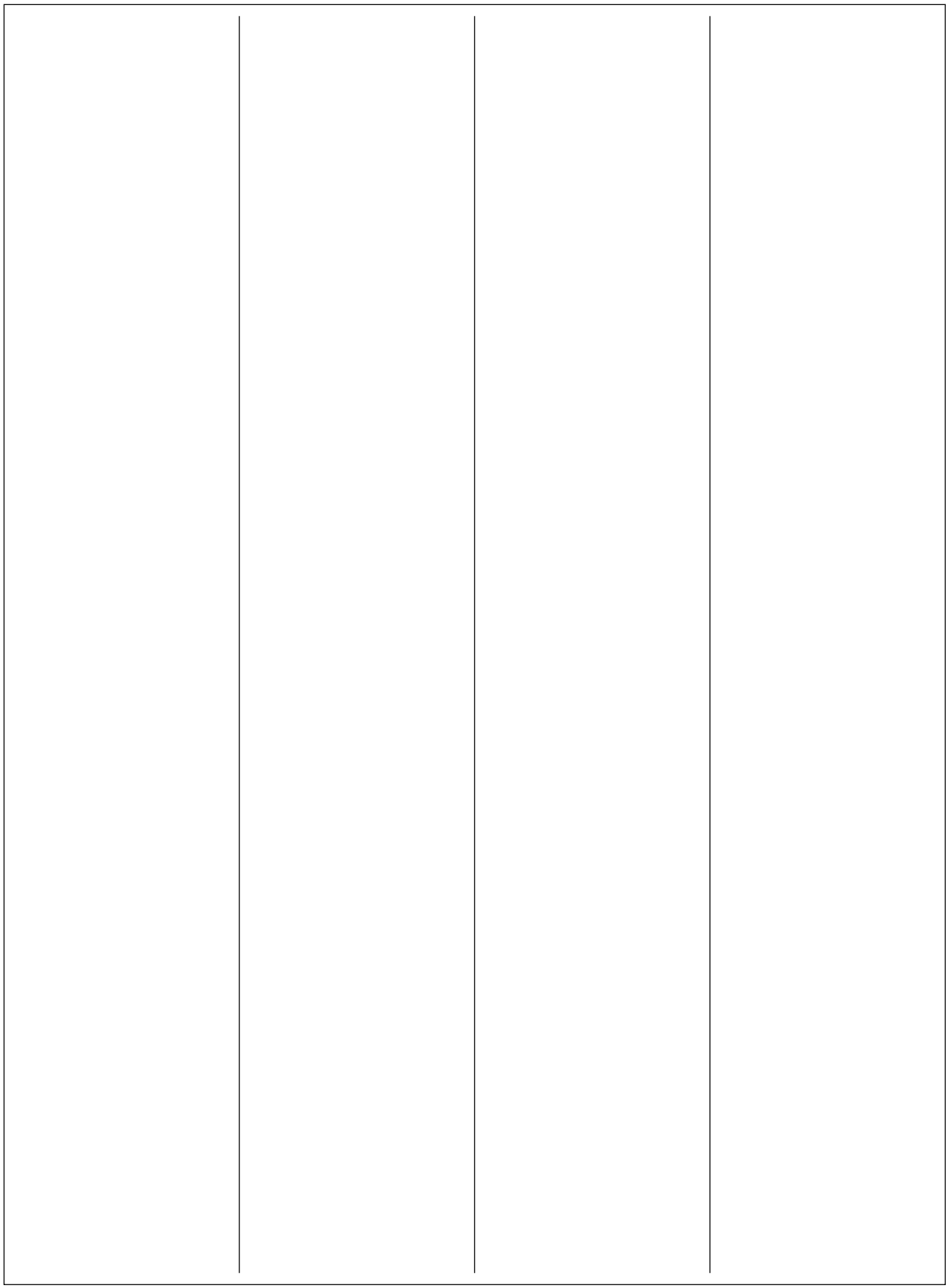
COUNTY OF LEON

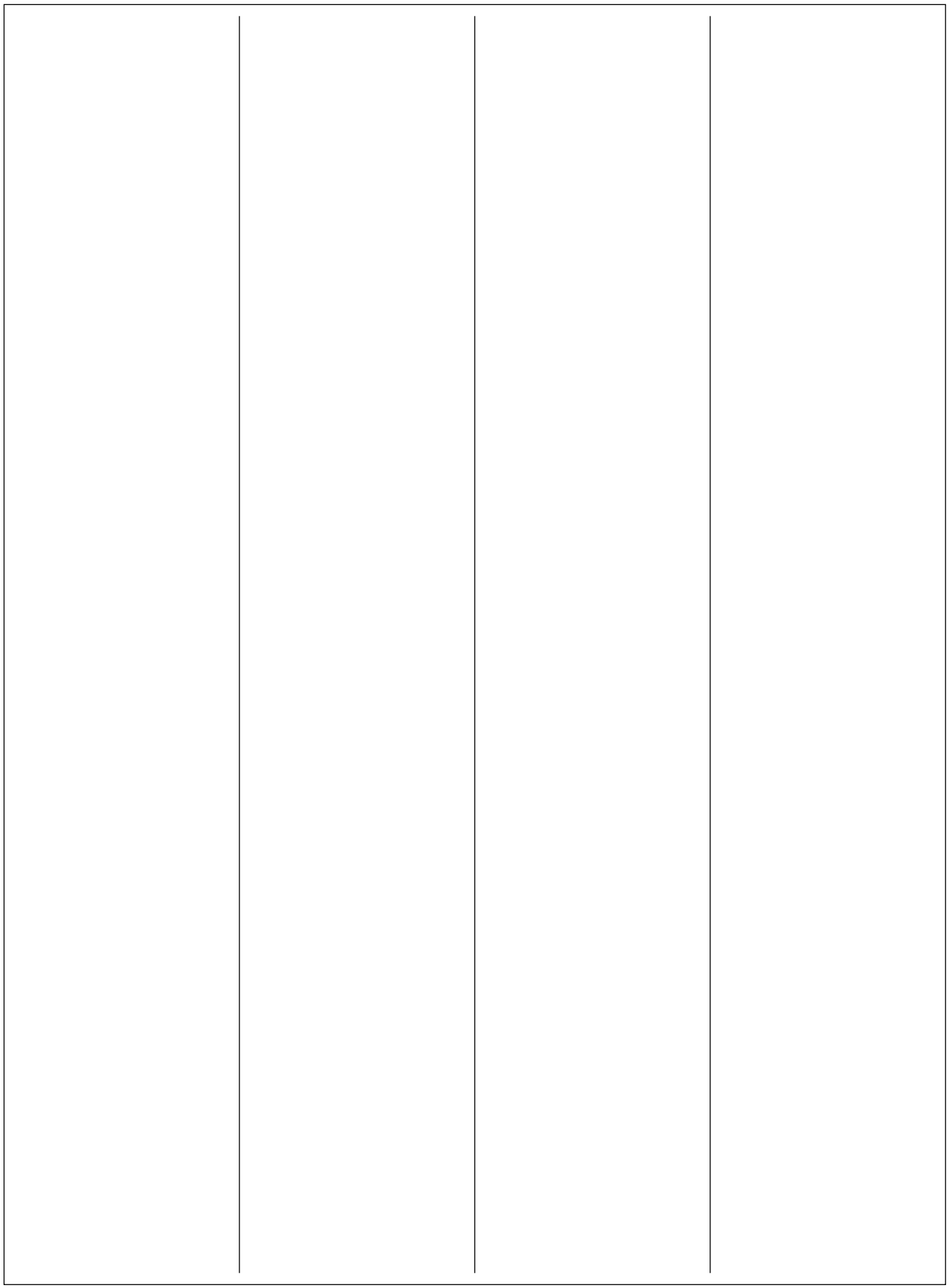
I, JUDY LYNN MARTIN, certify that I was authorized to and did stenographically transcribe the foregoing audio-taped proceedings, and that the transcript is a true and complete record of my stenographic notes.

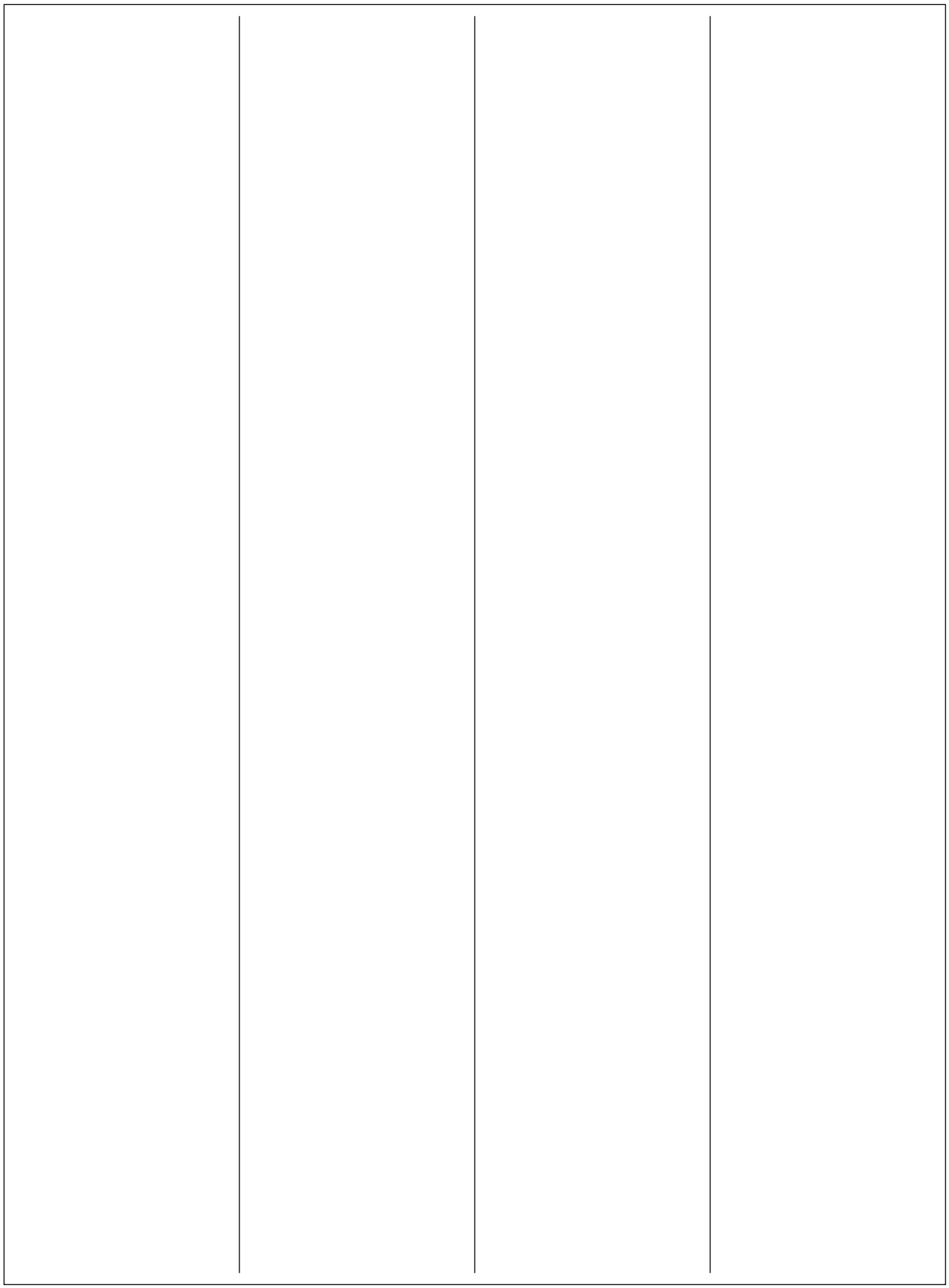
Dated this 2nd day of August, 2019.

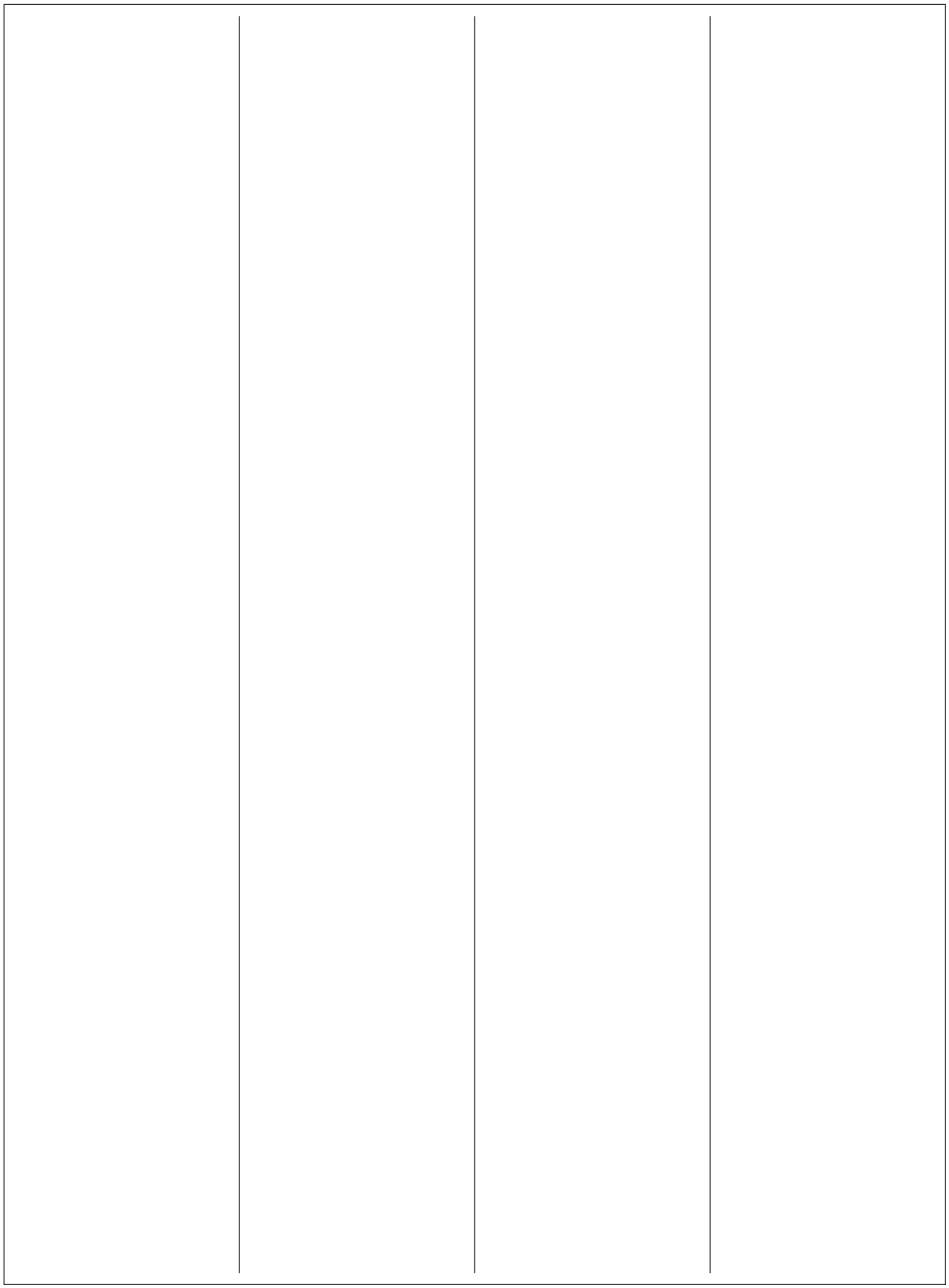
Judy Lynn Martin

JUDY LYNN MARTIN









148-2

Exhibit 2

December 13, 2018

The Honorable Ken Detzner
Secretary of State
State of Florida
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Re: Implementation of Amendment 4, the Voting Restoration Amendment

Dear Secretary Detzner:

On November 6, 2018, Florida voters approved Amendment 4, the Voting Restoration Amendment with a vote of 64.55 % in support, reflecting the clear will of the people of Florida that those individuals with felony convictions who have paid their debt to society have their eligibility to vote restored to them. We write to request that you take immediate administrative action to coordinate with relevant state and local agencies as required by Chapter 98 Florida Statues and to provide guidance to relevant state and local agencies on the proper administration of voting registration for this newly enfranchised population of Florida's citizens as soon as possible. To that end, we would like to take this opportunity to share our analysis and views on various provisions of the Amendment and corresponding issues.

Amendment 4 is Self-Executing

Amendment 4 is self-executing in that the mandatory provisions of the amendment are effective on the implementation date (Jan. 8, 2019). This is the very position that the State of Florida has

acknowledged in its own legal filings in the *Hand v. Scott* case. The Amendment alters Florida Constitution Article VI, Section 4. Disqualifications, to state as follows:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights. [...].

That language is specific and unambiguous. As the Florida Supreme Court stated in its unanimous opinion approving the amendment for placement on the ballot, "Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to ***automatically restore voting rights to felony offenders***, except those convicted of murder or felony sexual offences, upon completion of all terms of their sentence. (emphasis added.) *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So. 2d 1202,1208 (Fla. 2017).

Since these mandatory provisions will now be in the Florida constitution, the Legislature does not need to pass implementing legislation in order for the amendment to go into effect. That said, the Legislature should exercise its normal and proper oversight function of relevant state agencies to ensure that they implement the amendment in accordance with the will of Florida's voters and without delay.

The burden is on the state, not the individual, to establish whether a voter is ineligible utilizing current administrative practices, databases and resources as defined in Chapter 98 and other relevant provisions of the Florida Statutes.

The plain language of the Amendment makes clear that it restores the voting rights of Floridians with felony convictions after they complete "all terms of their sentence including parole or probation." The Amendment does not apply to those who have completed a sentence for murder or a felony sex offense. Individuals in those categories can only have their right to vote restored by the Governor and the Board of Executive Clemency.

Pursuant to Article XI, Section 5 (3), the Amendment goes into effect on January 8, 2019. Thus, starting January 8th, any individual with a felony conviction who has completed all the terms of

their sentence should register to vote by completing a voter registration form.

Completion of all terms of Sentence

The phrase "completion of all terms of sentence" includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual's sentence. These financial obligations may include restitution and fines, imposed as part of a sentence or a condition of probation under existing Florida statute. Fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register. We urge the Department to take this view in reviewing the eligibility of individuals registered to vote as outlined in Chapter 98, Florida Statutes.

Existing Voter Registration Forms are Sufficient

We assert that the uniform stateside voter registration application is sufficient to immediately register individuals impacted by the Amendment's provisions. Question #2 of that form asks individuals to "*affirm that I am not a convicted felon, or if I am, my right to vote has been restored."* The responsibility of the citizen is to honestly affirm that, by completing the terms of their sentence, their voting rights have been restored. Individuals may also register via the Florida Online Voter Registration System at https://registertovoteflorida.gov/.

Process to Confirm Eligibility is Already in Place

The existing provisions of Chapter 98 of the Florida Statutes provide the Department with sufficient authority to coordinate across state and local agency databases to identify impacted individuals, to promptly and efficiently register to vote those individuals who wish to do so, and to confirm their eligibility in the same way the Department confirms the eligibility of all other Florida residents when they complete a voter registration application.

We understand that the current registration process includes the following steps:

- An individual returns a completed voter registration form to the Supervisor of Elections;
- The Supervisor transmits an electronic copy of the application to the Department of State Division of Elections;
- The individual who completed the form is at that time considered registered and will receive a voter ID card in the mail;
- The Department of State then has the duty to review the voter's registration to determine if there is credible information that the voter is ineligible;

This is the very same process that should be used to register those impacted by Amendment 4.

In closing, we appreciate the difficult task you face in administering elections in Florida. We hope that the discussion above will help you ensure that Amendment 4 is implemented in a timely and smooth fashion, without delay or undue burden on individual eligible voters. Florida's citizens spoke clearly on election day and we look forward to working with you to ensure their will is carried out.

Thank you for your attention to this important matter.

Sincerely,

Desmond Meade,
Executive Director, Florida Rights Restoration Coalition

Melba Pearson,
Interim Executive Director
ACLU of Florida

Patricia Brigham,
President
League of Women Voters of Florida

Kira Romero-Craft,
Managing Attorney
LatinoJustice PRLDEF

cc: Maria Matthews, Director, Division of Elections
Florida State Association of Supervisor of Elections

148-32

EXHIBIT O

ACLU of Florida

ACLU OF FLORIDA 2018 VOTER GUIDE ON SELECT CONSTITUTIONAL AMENDMENTS

When Floridians vote in November of 2018, there will be as many as 13 proposed constitutional amendments on their ballots. The ACLU of Florida has taken positions on four of those initiatives to ensure that civil rights and civil liberties prevail in Florida.

Amendment 4 - Vote YES

- The ACLU of Florida supports Amendment 4, which would return the eligibility to vote to Floridians who have completed the terms of their sentences, including any probation, parole, fines, or restitution.

- Florida is one of only four states that still has a system that prevents people from earning back the eligibility to vote for life, and our current system for restoring a person's eligibility to vote is broken. Amendment 4 would allow roughly 1.4 million people who have
- People who are allowed to earn back their eligibility to vote are less likely to commit crimes in the future, meaning Amendment 4 will also make communities safer.

Amendment 6 – Vote NO

- The ACLU of Florida opposes Amendment 6, which is misleadingly referred to as a "rights of victims" amendment, but in fact provides victims with no new meaningful justice while undermining due process for people accused of crimes.
- Amendment 6 would give huge corporations a new right to inject themselves into criminal proceedings and appear in court with their high-powered lawyers to have a say in sentencing and bail hearings when they accuse people of even relatively minor crimes such as shoplifting.
- The amendment would upset the balance between the rights of victims and people accused of crimes by permanently deleting the part of the constitution that ensures balancing the rights of all involved in a criminal case

Amendment 8 – Vote NO

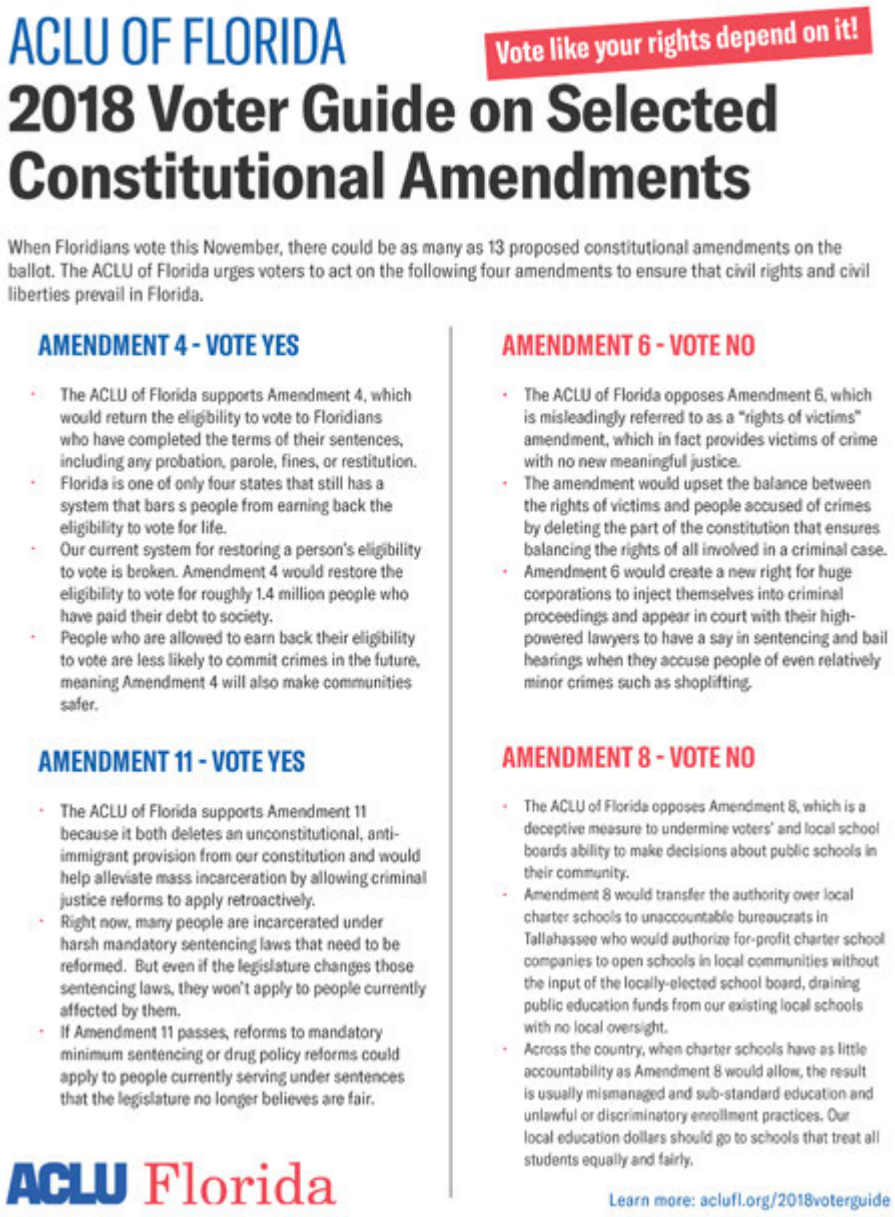
- The ACLU of Florida opposes Amendment 8, which is a deceptive measure to undermine voters' ability to make decisions about public schools in their community and give that power to unaccountable bureaucrats in Tallahassee.
- Amendment 8 would allow an unaccountable state agency to authorize for-profit charter school companies to open schools in local communities without the input of the locally-elected school

board, draining public education funds from our existing local schools with no local oversight.

- Across the country, when charter schools have as little accountability as Amendment 8 would allow, there is increased incidence of unlawful or discriminatory enrollment practices. Our local education dollars should go to schools that treat all students equally and fairly.

Amendment 11 – Vote YES

- The ACLU of Florida supports Amendment 11 because it both deletes an unconstitutional, anti-immigrant provision from our constitution and would address mass incarceration by allowing criminal justice reforms to apply retroactively.
- Right now, many people are incarcerated under harsh sentencing laws that could soon be reformed, but even if the legislature changes those sentencing laws, they won't apply to people currently affected by them.
- If Amendment 11 passes, reforms to mandatory minimum sentencing or drug policy reform could apply to people currently serving under sentences that the legislature no longer believes are fair.



ACLU OF FLORIDA

Vote like your rights depend on it!

2018 Voter Guide on Selected Constitutional Amendments

When Floridians vote this November, there could be as many as 13 proposed constitutional amendments on the ballot. The ACLU of Florida urges voters to act on the following four amendments to ensure that civil rights and civil liberties prevail in Florida.

AMENDMENT 4 - VOTE YES

- The ACLU of Florida supports Amendment 4, which would return the eligibility to vote to Floridians who have completed the terms of their sentences, including any probation, parole, fines, or restitution.
- Florida is one of only four states that still has a system that bars s people from earning back the eligibility to vote for life.
- Our current system for restoring a person's eligibility to vote is broken. Amendment 4 would restore the eligibility to vote for roughly 1.4 million people who have paid their debt to society.
- People who are allowed to earn back their eligibility to vote are less likely to commit crimes in the future, meaning Amendment 4 will also make communities safer.

AMENDMENT 11 - VOTE YES

- The ACLU of Florida supports Amendment 11 because it both deletes an unconstitutional, anti-immigrant provision from our constitution and would help alleviate mass incarceration by allowing criminal justice reforms to apply retroactively.
- Right now, many people are incarcerated under harsh mandatory sentencing laws that need to be reformed. But even if the legislature changes those sentencing laws, they won't apply to people currently affected by them.
- If Amendment 11 passes, reforms to mandatory minimum sentencing or drug policy reforms could apply to people currently serving under sentences that the legislature no longer believes are fair.

ACLU Florida

AMENDMENT 6 - VOTE NO

- The ACLU of Florida opposes Amendment 6, which is misleadingly referred to as a "rights of victims" amendment, which in fact provides victims of crime with no new meaningful justice.
- The amendment would upset the balance between the rights of victims and people accused of crimes by deleting the part of the constitution that ensures balancing the rights of all involved in a criminal case.
- Amendment 6 would create a new right for huge corporations to inject themselves into criminal proceedings and appear in court with their high-powered lawyers to have a say in sentencing and bail hearings when they accuse people of even relatively minor crimes such as shoplifting.

AMENDMENT 8 - VOTE NO

- The ACLU of Florida opposes Amendment 8, which is a deceptive measure to undermine voters' and local school boards ability to make decisions about public schools in their community.
- Amendment 8 would transfer the authority over local charter schools to unaccountable bureaucrats in Tallahassee who would authorize for-profit charter school companies to open schools in local communities without the input of the locally-elected school board, draining public education funds from our existing local schools with no local oversight.
- Across the country, when charter schools have as little accountability as Amendment 8 would allow, the result is usually mismanaged and sub-standard education and unlawful or discriminatory enrollment practices. Our local education dollars should go to schools that treat all students equally and fairly.

Learn more: aclufl.org/2018voterguide

(https://www.aclufl.org/sites/default/files/aclufl_2018voterguide_onepager.pdf)

Download our ACLU of Florida 2018 Voter Guide One Pager.
(https://www.aclufl.org/sites/default/files/aclufl_2018voterguide_onepager.pdf)

For other resources on how to make your voice heard, visit our **Let Me Vote 2018** (https://www.aclufl.org/en/let-me-vote-2018) online guide.

ACLU of Florida

Deltona - Yes on Amendment 4 Phone Bank

JUNE 12, 2018 @ 5:00 PM

The ACLU of Florida is holding a phone bank to reach Florida voters and tell them why voting yes on Amendment 4 is so important.

Nearly 1.4 million people in Florida are permanently excluded from voting despite completing the terms of their sentences. Now is the time to return the eligibility to vote to Floridians who have done their time and paid their debts. We are spreading the word far and wide across Florida, and we need your help!

Please sign up today to join us for this phone bank session to educate Floridians on the significance of voting YES on 4 in November.

RSVP (HTTPS://GO.PEOPLEPOWER.ORG/EVENT/ACTION/14305)

Boston Coffeehouse
1573 Saxon Blvd #105
Deltona, FL 32725
United States

GET DIRECTIONS (HTTP://MAPS.GOOGLE.COM/?DADDR=1573%20SAXON%20BLVD%20%23105%2C%20DELTONA%2C%20FL%20327

ACLU of Florida

Jacksonville - Phone Bank Training for Amendment 4

MAY 21, 2018 @ 6:30 PM –
@ 8:00 PM

We need your help to educate Floridians about the importance of voting YES on Amendment 4. Join us to get an update on the Second Chances campaign, and participate in a phone bank training and phone bank session.

Nearly 1.4 million people in Florida are permanently excluded from voting despite completing the terms of their sentences. Florida is one of only four states with a lifetime ban on voting. Now is the time to return the eligibility to vote to Floridians who have completed their sentences and paid their debts. Let's give our neighbors a second chance and restore their eligibility to vote.

See you there!

RSVP (HTTPS://GO.PEOPLEPOWER.ORG/EVENT/ACTION_ATTEND/13626)

ACLU of Florida office / Schultz Building

118 West Adams Street
Suite 510
Jacksonville, FL 32202
United States

GET DIRECTIONS (HTTP://MAPS.GOOGLE.COM/?DADDR=118%20WEST%20ADAMS%20STREET%2C%20SUITE%20510%2C%20JACKS

ACLU of Florida

RETIRED GENERAL URGES A 'YES' VOTE ON AMENDMENT 4: TOO MANY FLORIDA VETERANS DENIED THE ABILITY TO VOTE

By John Lantigua (/en/biographies/john-lantigua), Investigative Writer, Communications
NOVEMBER 2, 2018 - 1:15PM

MIAMI – A retired US Air Force general, who also served as assistant secretary of the Navy, today added his voice to other Florida veterans who have pledged their support for Amendment 4 to the Florida Constitution, on the ballot in this midterm election.

Retired General John Douglass of Cocoa Beach, a native Floridian, announced that he had voted early, including a vote in favor of Amendment 4. If it passes, the amendment will return eligibility to vote to some 1.4 million Floridians who were convicted of crimes, have completed their sentences and probation and made all restitution, but are still denied the ability to vote under Florida's 150-year-old, Jim Crow-era clemency laws. Persons convicted of homicide and sexual felonies are not covered by the amendment.

Among those currently unable to vote in Florida are thousands of military veterans.

"I want to urge my fellow Floridians to vote yes on the proposed amendment to the Florida constitution that would restore voting rights to individuals who have served their sentences and remained within the law," Douglass said in a statement.

"I am especially concerned for the thousands of Florida veterans who have lost their voting privileges," Douglass said. "Today our military services are an all-volunteer force. Our veterans have made a commitment to risk their lives to preserve our freedoms and our democracy."

"Some of our veterans come home from the constant deployments of recent years with severe emotional and physical problems," Douglass continued. "Far too often these veterans fall through the cracks in our state and federal support programs. When this happens these veterans often rely on drugs and other ways to relieve their mental or physical pain. This in turn often results in their becoming part of the penal system."

Currently, a person in Florida who finishes his or her sentence and probation and makes restitution must wait 5 to 7 years before they can apply to have their eligibility to vote restored. The waiting list to have a case heard by the governor and members of his cabinet, who form the Clemency Board, is about 10 years long.

Florida prisons currently hold some 98,000 persons, 6 percent of who are veterans. Ten years ago, the rate was 8 percent; 20 years ago, it was 11 percent veterans. Many of those have never gotten back their eligibility to vote despite avoiding trouble with the law, meaning that thousands of veterans have been disenfranchised in Florida.

Douglass, who also served as a director of defense programs on the National Security Council during the Reagan Administration, urged support for Amendment 4.

"I believe we owe our veterans a chance to renew their participation in American citizenship and democracy," he said. "Renewing their voting rights is a small, but important step in their journey to become full members of our democracy.

"Voting yes on this amendment gives us all a chance to welcome these veterans back to our democracy," Douglass concluded. "They fought for us now we need to fight for them."

Florida is one of only four states that decrees returning citizens must petition the governor for a return of their ability to vote. More such persons are disenfranchised in Florida than any other state.

Do the right thing. Vote YES on Amendment 4!

ACLU of Florida

THE ABILITY TO VOTE IS NOT A PARTISAN ISSUE – JUST ASK THE KOCH BROTHERS.

By John Lantigua (/en/biographies/john-lantigua), Investigative Writer, Communications
OCTOBER 12, 2018 - 7:00AM

A business organization founded by the ultra-conservative Koch Brothers recently announced its support for Florida's Amendment 4. That measure – on the ballot in November – will return the eligibility to vote to people with past felonies who have completed all terms of their sentences–including any probation, parole, and restitution. It excludes those convicted of homicide or felonies sexual in nature.

Mark Holden, chairman of Freedom Partners Chamber of Commerce and senior vice president of Koch Industries, announced the endorsement in September. It surprised some political observers, but

maybe it shouldn't have. As part of a platform of libertarian and conservative causes, the Koch Brothers have worked toward reducing mass incarceration – a plague that costs our country billions of dollars in corrections spending and in the lost productivity of those who are incarcerated.

The Florida Parole Commission has said that people who have paid their debt to society and then proceed to vote are three times less likely to re-offend. So, Amendment 4 makes perfect sense for the Koch Brothers.

That announcement also punctures the idea that Amendment 4 is a purely partisan issue. While it is true that GOP gubernatorial candidate Ron DeSantis has spoken out against the measure, a recent University of North Florida poll revealed that 62 percent of Florida Republicans favor it. Among Democrats, 83 percent are backing it, including candidate for governor Andrew Gillum.

Another major conservative political organization, the Christian Coalition, has also endorsed Amendment 4. In announcing Freedom Partners' support, Holden said:

"We believe that when individuals have served their sentences and paid their debts as ordered by a judge, they should be eligible to vote. If we want people returning to society to be productive, law abiding citizens, we need to treat them like full-fledged citizens.... This will make our society safer, our system more just, and provide for real second chances for returning citizens."

Florida is one of only four states in the Union that permanently bans "returning citizens" from voting until they petition state leaders and are formally returned the ability to vote. In Florida, due to a backlog of thousands of cases, this process will currently take about 15 years –and even then, an applicant can be denied. About 1.4 million people

would regain the ability to vote, if Amendment 4 passes this November.

Among those currently banned from voting are thousands of military veterans who encountered problems with the law after leaving the armed forces. And many more thousands of disenfranchised persons have been working and paying taxes for years. They are suffering from "taxation without representation" and that has always been wrong—no matter what party you belong to.

Desmond Meade, president of Florida Rights Restoration Coalition, a group spearheading the Amendment 4 effort, is a returning citizen. Early in life, Meade was convicted of various non-violent crimes related to drug addiction but turned his life around and graduated from Florida International University Law School. He thanked Holden and the Koch Brothers:

"There is a simple reason why this measure has strong, broad support across the ideological spectrum: because Americans believe that when a debt is paid, it's paid," Meade said. "It fixes a broken system for our family members, friends, and neighbors that have paid their debt in full and have earned the opportunity to participate in and give back to their communities."

Neil Volz, political director of the Florida Rights Restoration Coalition, was convicted of fraud in Washington, D.C., where he was an attorney. Volz moved to Florida after completing probation and spent years trying to regain his ability to vote. The process was so long and onerous he eventually gave up.

Volz, like the Koch Brothers, labels himself an ideological conservative. He says a common misconception about Amendment 4 is the belief that most of the people who will benefit are African-Americans and Hispanics. Since those demographic groups tend to vote Democrat, some people believe passing the amendment would

benefit the Democratic Party. But the truth, Volz says, is most people disenfranchised by current clemency rules are white, like him.

"This is an everybody issue," Volz says. "We have people from all races, all walks of life, all political persuasions, impacted by this."

The ability to vote is not, and should never be, a partisan issue. Vote "Yes" on Amendment 4!

John Lantigua is the staff investigative journalist for the ACLU of Florida.

ACLU of Florida

In November, 64.55% of Florida voters from all walks of life and political persuasions approved **Amendment 4, the Voting Restoration Amendment.** This reflects a shared belief that when a debt is paid, its paid. **On January 8, 2019, Amendment 4 goes into effect.**

Eligible returning citizens can register to vote starting on January 8, 2019.

With voter approval for Amendment 4, Florida has eliminated a 150-year-old Jim Crow-era law that disenfranchised more people in the state of Florida than the total population of many other states. The amended Constitution restores the voting rights of Floridians with felony convictions, excluding murder or sexual offenses, after they complete all terms of their sentence including parole or probation.

If you or a loved one is planning to register to vote, below is a list of helpful information. If you want to get involved in voter registration efforts, more information is available below.

1. Frequently Asked Questions
2. Helpful information for eligible voters

5. Getting involved in voter registration

Frequently Asked Questions

1. **When does Amendment 4 go into effect?**
   The amendment goes into effect on January 8th.

2. **If I am a returning citizen who has completed all portions of my sentence, can I register to vote on January 8th?**
   Yes.

3. **What organization can I contact if I need help getting registered?**
   If you have questions about registering to vote, you can contact 877-698-6830
   1. *Florida Rights Restoration Coalition:* https://floridarrc.com/ (https://web.archive.org/web/20190408151432/https://floridarrc.com/)
   2. *League of Women Voters of Florida:* *https://www.lwvfl.org/* *(https://web.archive.org/web/20190408151432/https://www.lwvfl.org/)*

4. (https://web.archive.org/web/20190408151432/https://www.lwvfl.org/)**Does the legislature need to write rules to implement Amendment 4?**
   No. The legislature does not need to write enabling legislation. The amendment is self-executing. The State has conceded this point in its filing in the Hand v. Scott case. This means that, unlike what we may have seen after Fair Districts or medical marijuana were

5. **What is the legislature's role in Amendment 4 implementation?**
The legislature is responsible for oversight and funding of the government agencies responsible for administering the implementation of Amendment 4.

6. **Do returning citizens register through the normal voter registration process?**
Yes. The existing voter registration form is adequate and sufficient to immediately register individuals impacted by Amendment 4. Question #2 of that form asks individuals to "affirm that I am not a convicted felon, or if I am, my right to vote has been restored." Individuals can check this box in the same way that they affirm they are U.S. Citizens (see Question #1 on the State's Voter Registration Application Form). Individuals may also register via the Florida Online Voter Registration System at https://registertovoteflorida.gov/ (https://web.archive.org/web/20190408151432/https://registertovoteflorida.gov/)

7. **Do returning citizens need to bring proof of a completed sentence before registering?**
No. The responsibility of the citizen is to honestly affirm that, by completing the terms of their sentence, their voting rights have been restored – because, if they have completed their sentence, the voters' rights have been restored.

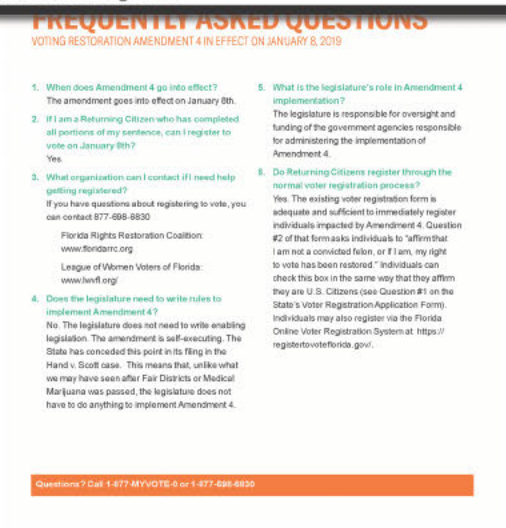
8. **What does it mean to complete all portions of my sentence?**
We believe that "completion of all terms of sentence" includes any period of incarceration, probation, parole and financial obligations

of a sentence or a condition of probation under existing Florida statute. That said, fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register. These are the policies used by the Office of Offender Review to determine "completion of sentence" and therefore consistent with current state practices.

9. **Where can I find more information online about whether I've completed the terms of my sentence?**
For more information, you can contact a number of state organizations including:

- *Florida Department of Law Enforcement:*
http://www.fdle.state.fl.us/
(https://web.archive.org/web/20190408151432/http://www.fdle.state.fl.us/)
- *Florida Commission on Offender Review:*
https://www.fcor.state.fl.us/
(https://web.archive.org/web/20190408151432/https://www.fcor.state.fl.us/)
- *Florida Clerks of County Courts:*
https://www.stateofflorida.com/clerks-of-court.aspx
(https://web.archive.org/web/20190408151432/https://www.stateofflorida.com/clerks-of-court.aspx)
- *Florida Supervisors of Election:*
https://dos.myflorida.com/elections/
(https://web.archive.org/web/20190408151432/https://dos.myflorida.com/elections/)

- Florida Department of Corrections:
http://www.dc.state.fl.us/
(https://web.archive.org/web/20190408151432/http://www.dc.state.fl.us/)



FREQUENTLY ASKED QUESTIONS

VOTING RESTORATION AMENDMENT 4 IN EFFECT ON JANUARY 8, 2019

1. When does Amendment 4 go into effect?
The amendment goes into effect on January 8th.
2. If I am a Returning Citizen who has completed all portions of my sentence, can I register to vote on January 8th?
Yes.
3. What organization can I contact if I need help getting registered?
If you have questions about registering to vote, you can contact 877-698-8830.
Florida Rights Restoration Coalition: www.floridarrc.org
League of Women Voters of Florida: www.lwvfl.org/
4. Does the legislature need to write rules to implement Amendment 4?
No. The legislature does not need to write enabling legislation. The amendment is self-executing. The State has conceded this point in its filing in the Hand v. Scott case. This means that, unlike what we may have seen after Fair Districts or Medical Marijuana was passed, the legislature does not have to do anything to implement Amendment 4.
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Questions? Call 1-877-MYVOTE-0 or 1-877-698-6830

(https://web.archive.org/web/20190408151432/https://www.aclufl.org/sites/default/files/faqs_

Download a printable PDF for the Frequently Asked Questions on Amendment 4

(https://web.archive.org/web/20190408151432/https://www.aclufl.org/sites/default/files/faqs_

Helpful Information for Eligible Voters

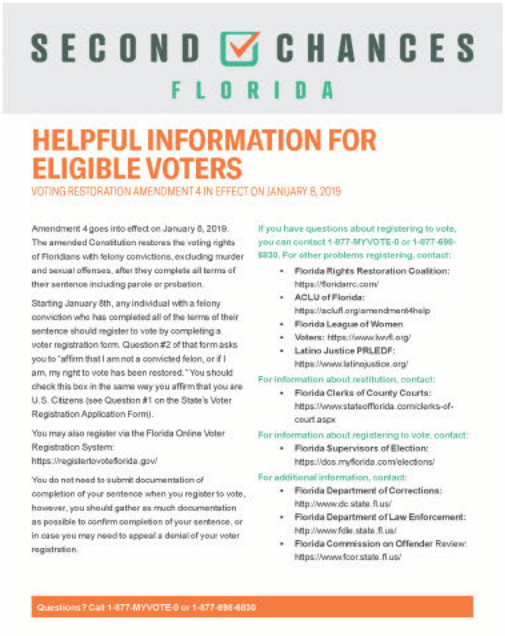
1. Amendment 4 goes into effect on January 8, 2019. The amended Constitution restores the voting rights of Floridians with felony convictions, exluding murder or sexual offenses, after they complete all terms of their sentence including parole or probation.

2. Starting January 8th, any individual with a felony conviction who has completed all of the terms of their sentence should register to vote by completing a voter registration form. Question #2 of that form asks you to "affirm that I am not a convicted felon, or if I am, my right to vote has been restored." You should check this box in the same way you affirm that you are U.S. Citizens (see Question #1 on the State's Voter Registration Application Form).

(https://web.archive.org/web/20190408151432/https://registertovoteflorida.gov/)

3. You do not need to submit documentation of completion of your sentence when you register to vote, however, you should gather as much documentation as possible to confirm completion of your sentence, or in case you may need to appeal a denial of your voter registration.

4. If you experience problems registering to vote, please contact ACLU of Florida using this link: https://action.aclu.org/legal-intake/fl-amendment4-barrier (https://web.archive.org/web/20190408151432/https://action.aclu.org/legal-intake/fl-amendment4-barrier)


SECOND CHANCES
FLORIDA

HELPFUL INFORMATION FOR ELIGIBLE VOTERS

VOTING RESTORATION AMENDMENT 4 IN EFFECT ON JANUARY 8, 2019

Amendment 4 goes into effect on January 8, 2019. The amended Constitution restores the voting rights of Floridians with felony convictions, excluding murder and sexual offenses, after they complete all terms of their sentence including parole or probation.

Starting January 8th, any individual with a felony conviction who has completed all of the terms of their sentence should register to vote by completing a voter registration form. Question #2 of that form asks you to "affirm that I am not a convicted felon, or if I am, my right to vote has been restored." You should check this box in the same way you affirm that you are U.S. Citizens (see Question #1 on the State's Voter Registration Application Form).

You may also register via the Florida Online Voter Registration System: https://registertovoteflorida.gov/

You do not need to submit documentation of completion of your sentence when you register to vote, however, you should gather as much documentation as possible to confirm completion of your sentence, or in case you may need to appeal a denial of your voter registration.

If you have questions about registering to vote, you can contact 1-877-MYVOTE-0 or 1-877-696-6830. For other problems registering, contact:

- Florida Rights Restoration Coalition: https://floridarrc.com/
- ACLU of Florida: https://aclufl.org/amendment4help
- Florida League of Women Voters: https://www.lwvfl.org/
- Latino Justice PRLEDF: https://www.latinojustice.org/

For information about restitution, contact:

- Florida Clerks of County Courts: https://www.stateofflorida.com/clerks-of-court.aspx

For information about registering to vote, contact:

- Florida Supervisors of Election: https://dos.myflorida.com/elections/

For additional information, contact:

- Florida Department of Corrections: http://www.dc.state.fl.us/
- Florida Department of Law Enforcement: http://www.fdle.state.fl.us/
- Florida Commission on Offender Review: https://www.fcor.state.fl.us/

Questions? Call 1-877-MYVOTE-0 or 1-877-696-6830

(https://web.archive.org/web/20190408151432/https://www.aclufl.org/sites/default/files/helpf

Download a printable PDF for the Helpful Information for Eligible Voters for Amendment 4

(https://web.archive.org/web/20190408151432/https://www.aclufl.org/sites/default/files/helpf

1. **In-person:** at your local Supervisor of Elections Office (https://web.archive.org/web/20190408151432/https://urldefense.proofpoint.com/v2/url?u=https-3A__u1584542.ct.sendgrid.net_mpss_c_GAE_ni0YAA_t.2o4_MtnMwghmTaq7oY6PWf-2DOUg_h9_2WJtAMbBRwIIhcHVEqsuOcDXuDh4LpNDsDUHavWNBY14-2D2BFIn9mqN5q3G25FN4oczmpN5cJYVgXzyKlcV1fYdzYR9eIHuvCrmJmJJlkBPvpHGgCi2D2Bk0fR48oEHuUQ8qp4QHkBnwSpTWarbVKscBYulWjlJ07Ef4JBOnU3u3QOsgE3Mgn-2D2Br9AYe4vNZXOfJ5JtFDHDSjEVroaVr4n5UegD0-2D2F9abSPxOyeoRgoFtrefzC8-2D2F-2D2BUriXfS6D-2D2Fe9Z87xOGZoV9EP9YUn1b9rp5CaQ-2D2FaiVYtRzWGdSbMJ8FnShi5O-2D2FRPGUOFh2OVUtjpD-2D2FENx&d=DwMFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=XeLj69M9wvMRdYn_IaBtXUqgiqWio6fu74xu8zUfIEw&m=fx7cilkOASuThbKKDExb9eFupdb-m85BmN7I7lPBw&s=y68WgKrkKh9ZlqEjWOfN1hYUmAaxnv3nZmYxJAmB7B4&e=)

2. **Online:** at the Florida Online Voter Registration System (https://web.archive.org/web/20190408151432/https://urldefense.proofpoint.com/v2/url?u=https-3A__u1584542.ct.sendgrid.net_mpss_c_GAE_ni0YAA_t.2o4_MtnMwghmTaq7oY6PWf-2DOUg_h11_n7TLkXcstsPW0Ccg4WWLgrbNS1NH55-2D2BJK4D90HTF3-2D2FIxeyYfvzSdg6uEj5hPndU1q6AedkuqbhzaZogNDzJDMUtiWDW8TnNXMT5dvIumv5692D2BtalI47GB-2D2Bf5535ru2TvkIkmA4odbG1pZK-2D2BJWZcOdmQuf5g8auEZY1rqAoJI4eo9CYXtDJB4jrxdO7vgnj5J7US3sfow8C8ObQPNbw2D3D&d=DwMFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=XeLj69M9wvMRdYn_IaBtXUqgiqWio6fu74xu8zUfIEw&m=fx7cilkOASuThbKKDExb9eFupdb-m85BmN7I7lPBw&s=Tc_GKRd-mq84VADR9BZFmYsaQ4qlmaJfrwn3G0sKLC0&e=)

3. **Print and mail the form:** The statewide voter registration application form is available for download (English PDF (https://web.archive.org/web/20190408151432/https://urldefense.proofpoint.com/v2/url?

2DOUg_h12_yWbqAeh5bfDZjgXer-2D2B-2D2BwVALZ5sk5Edwi0-2D2FEPnm1ACt1OAVjaFMHdIlfhOai2X2VK-2D2BVSSpgB817GF-2D2F5iIiopUnvGGmPWEPtrmyFKATsW4ED9lTM8spp2lJ4-2D2BlC3ZY-2D2FWfDOHV3IQrQP47XoDob5UVcaomJUIhGj9ZMim-2D2BpjsIIcmRW4UrEqPDTR8-2D2Fu6LloCnijMJQc2SDLf4vJqO-2D2F8nbahltY6o0gtZdtMVqddEAnGaKGn0oXrC-2D2FB4rIZ-2D2BoN-2D2FlO3FM29g6PYKSOL-2D2Bmoayqm9RQS2J1cN4fgRjxcr6m506zb1odAG5ZFDGEHhHuzEfKR7cB&d=DwMFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=XeLj69M9wvMRdYn_IaBtXUqgiqWio6fu74xu8zUfIEw&m=fx7cilkOASuThbKKDExb9eFupdb-m85BmN7I7lPBw&s=eIwDir1MGMSWo6jHsHqJMmGY7t2Xm797Zy5lRUdALYU&e=)/Español PDF (https://web.archive.org/web/20190408151432/https://urldefense.proofpoint.com/v2/url?u=https-3A__u1584542.ct.sendgrid.net_mpss_c_GAE_ni0YAA_t.2o4_MtnMwghmTaq7oY6PWf-2DOUg_h13_yWbqAeh5bfDZjgXer-2D2B-2D2BwVALZ5sk5Edwi0-2D2FEPnm1ACt0XJin0mxROxmLy9xV8A7nrurkFg6e00ZTPGo2RWYdfTrdsOpEuAppiNRI-2D2BbpC4SdQdMSa6qmnwZQVq3ko4LxDd5RIJhCmQK5kz4UzOu7rNeNHC4mDmV53S1d-2D2FkFq6Tdq2eicCZeMxOCUJm4kYGfPt3MMcrSM8COOAganT4Hy5N1Efm-2D2F4y-2D2Bmpcv7tJ00rG9mVLtEwt1Pk7yW-2D2BwUu-2D2FwGhIh5HsLmTkqjlr4JmO7scfZzulfr15172&d=DwMFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=XeLj69M9wvMRdYn_IaBtXUqgiqWio6fu74xu8zUfIEw&m=fx7cilkOASuThbKKDExb9eFupdb-m85BmN7I7lPBw&s=gN4QipEV5lZJqfmqPnXdz7tfCFda8uMSB2xwrEEnvQ0&e=)), or available at any county Supervisor of Elections, local library, or any entity authorized by the Florida Fish and Wildlife Conservation Commission to issue fishing, hunting, or trapping permits.

Call 1-877-MYVOTE-0 (1-877-698-6830) with any questions.

6830 (https://web.archive.org/web/20190408151432/tel:877-698-6830).

For other problems registering, contact:

1. Florida Rights Restoration Coalition: https://floridarrc.com/ (https://web.archive.org/web/20190408151432/https://floridarrc.com/)
2. ACLU of Florida: https://action.aclu.org/legal-intake/fl-amendment4-barrier (https://web.archive.org/web/20190408151432/https://action.aclu.org/legal-intake/fl-amendment4-barrier)
3. Florida League of Women Voters: https://www.lwvfl.org/ (https://web.archive.org/web/20190408151432/https://www.lwvfl.org/)
4. Latino Justice PRLEDF: https://www.latinojustice.org/ (https://web.archive.org/web/20190408151432/https://www.latinojustice.org/)

For more information you may contact:

1. Florida Department of Corrections: http://www.dc.state.fl.us/ (https://web.archive.org/web/20190408151432/http://www.dc.state.fl.us/)
2. Florida Department of Law Enforcement: http://www.fdle.state.fl.us/ (https://web.archive.org/web/20190408151432/http://www.fdle.state.fl.us/)
3. Florida Commission on Offender Review: https://www.fcor.state.fl.us/ (https://web.archive.org/web/20190408151432/https://www.fcor.state.fl.us/)
4. Florida Clerks of County Courts: https://www.stateofflorida.com/clerks-of-court.aspx (https://web.archive.org/web/20190408151432/https://www.stateofflorida.com/clerks-of-court.aspx)

(https://web.archive.org/web/20190408151432/https://dos.myflorida.com/elections/)

Getting involved in voter registration

Thank you for your interest in get out the vote efforts in Florida! Organizations across Florida will be working over the next several months to register all eligible Returning Citizens to VOTE.

If you are interested in getting involved in voter registration efforts, please contact:

1. Florida Rights Restoration Coalition: https://floridarrc.com/ (https://web.archive.org/web/20190408151432/https://floridarrc.com/)
2. Florida League of Women Voters: https://www.lwvfl.org/ (https://web.archive.org/web/20190408151432/https://www.lwvfl.org/)
3. Latino Justice PRLEDF: https://www.latinojustice.org/ (https://web.archive.org/web/20190408151432/https://www.latinojustice.org/)

For third-party voter registration, click here (https://web.archive.org/web/20190408151432/https://www.aclufl.org/sites/default/files/regis for resources from the League of Women Voters of Florida.

For other volunteer opportunities with the ACLU of Florida, please sign up by clicking this link: aclufl.org/volunteer (https://web.archive.org/web/20190408151432/http://aclufl.org/volunteer)

ACLU of Florida

West Palm Beach - Rally for Amendment 4

OCTOBER 21, 2018 @ 2:00 PM

Rally for Second Chances.

This November, we have the opportunity to restore the ability to vote to 1.4 million of our friends, loved ones, neighbors, and coworkers. It's a huge deal!

Join our Palm Beach County Chapter on Sunday, October 21, to rally for Amendment 4 and fix a 150 year-old broken system that permanently denies the vote to formerly incarcerated Floridians who have completed their sentence and paid their debt.

You'll hear from inspiring local activists and community leaders, music from PinkSlip Duo, named best folk band in Palm Beach and Broward County by the NewTimes, and get FREE Ben & Jerry's ice cream!

Speaker lineup:

- Dave Aronberg, state attorney, Palm Beach County
- Chuck Ridley, Unify
- Pastor J. R. Thicklin, Destiny by Choice
- Rabbi Cookie Olschein, Temple Israel
- Rev. Patti Aupperlee, UMC of Palm Beaches
- Nancy Cohen, Voting Rights Coalition of Palm Beach County

- Linda Gellar-Schwartz, National Council of Jewish Women
- Debra Chandler, PBC League of Women Voters and retired public defender
- Caren Ragan, directly impacted person
- Ken Schulte, directly impacted person
- Ed Meyer, directly impacted person
- Edwin Ferguson, Riviera Beach attorney and businessman

We can win in November, but your grassroots activism is more important now than ever. Join us to help spread the word about Florida's Voting Restoration Amendment and rally for Amendment 4 in Palm Beach County on October 21!

The event is co-sponsored by the Palm Beach County Chapter of the League of Women Voters, Palm Beach County Chapter of the National Council of Jewish Women, and the Palm Beach County National Organization of Women.

RSVP HERE
(HTTPS://GO.PEOPLEPOWER.ORG/EVENT/ACTION_ATTEND/17083)

Palm Beach County Historic Courthouse
300 N Dixie Hwy
West Palm Beach, FL 33401
United States

GET DIRECTIONS (HTTP://MAPS.GOOGLE.COM/?DADDR=300%20N%20DIXIE%20HWY%2C%20WEST%20PALM%20BEACH%2C%20F

No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME III

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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Counsel for Defendants-Appellants

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

ORDER DENYING THE MOTION TO DISMISS OR ABSTAIN AND GRANTING A PRELIMINARY INJUNCTION

These consolidated cases arise from a voter-initiated amendment to the Florida Constitution that automatically restores the right of most felons to vote, but only "upon completion of all terms of sentence including parole or probation." The Florida Supreme Court will soon decide whether "all terms of sentence" means not only terms of imprisonment and supervision but also fines, restitution, and other financial obligations imposed as part of a sentence. The Florida Legislature has enacted a statute that says the phrase *does* include these financial obligations.

The principal issue in these federal cases is whether the United States Constitution prohibits a state from requiring payment of financial obligations as a

condition of restoring a felon's right to vote, even when the felon is unable to pay. A secondary issue is whether the state's implementation of this system has been so flawed that it violates the Constitution.

I. Background: the Cases and the Pending Motions

The constitutional amendment at issue is popularly known as "Amendment 4" based on its placement on the November 2018 ballot. The amendment has given rise to state-law issues of interpretation and implementation and also to substantial federal constitutional issues. The statute that purports to interpret and implement Amendment 4 is often referred to as SB7066.

The plaintiffs in these five consolidated federal actions are 17 individuals and three organizations. The individuals have been convicted of felonies, have completed their terms of imprisonment and supervision, and would be entitled to vote based on Amendment 4 and SB7066 but for one thing: they have not paid financial obligations imposed when they were sentenced. All but two of the individual plaintiffs have sworn that they are unable to pay the financial

obligations; the other two have alleged, but not sworn, that they are unable to pay.[1] The organizational plaintiffs are the Florida State Conference of the NAACP, the Orange County Branch of the NAACP, and the League of Women Voters of Florida. They have associational standing to represent individuals whose eligibility to vote is affected by Amendment 4 and SB7066.

The plaintiffs assert that conditioning the restoration of a felon's right to vote on the payment of financial obligations violates the United States Constitution, both generally and in any event when the felon is unable to pay. The plaintiffs rely on the First Amendment, the Fourteenth Amendment's Equal Protection and Due Process Clauses, and the Twenty-Fourth Amendment, which says the right to vote in a federal election cannot be denied by reason of failure to pay "any poll tax or other tax." The plaintiffs also allege that the state's implementation of this system for restoring the right to vote has been so flawed that this, too, violates the Due Process Clause. The plaintiffs seek declaratory and injunctive relief.

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[1] *See* Gruver Decl., ECF No. 152-2; Mitchell Decl., ECF No. 152-3; Riddle Decl., ECF No. 152-4; Leitch Decl., ECF No. 152-5; Ivey Decl., ECF No. 152-6; Wrench Decl., ECF No. 152-7; Wright Decl., ECF No. 152-8; Phalen Decl., ECF No. 152-9; Miller Decl., ECF No. 152-10; Tyson Decl., ECF No. 152-11; McCoy Decl., ECF No. 152-12; Singleton Decl., ECF No. 152-13; Raysor Decl., ECF No. 152-14; Sherrill Decl., ECF No. 152-15; Hoffman Decl., ECF No. 152-16; Compl. in 4:19-cv-300, ECF No. 1 at 5-6 (plaintiff Kelvin Jones); Compl. in 4:19-cv-272, ECF No. 1 at 5-6 (plaintiff Luis Mendez).

The defendants, all in their official capacities, are the Secretary of State and Governor of Florida, the Supervisors of Elections of the counties where all but two of the individual plaintiffs reside, and the Supervisor of Elections of Orange County, where no individual plaintiff resides but one of the organizational plaintiffs is based. The counties where an individual plaintiff resides but the Supervisor is not a defendant are Broward and Pinellas.

The officials who are primarily responsible for administering the state's election system and registering voters are the Secretary at the state level and the Supervisors of Elections at the county level. They are proper defendants in an action of this kind. *See Ex parte Young*, 209 U.S. 123 (1908).

The Secretary and Governor are the defendants who speak for the state in this litigation. They have consistently taken the same positions. For convenience, and because the Secretary, not the Governor, has primary responsibility for elections and voting, this order usually refers to the Secretary as shorthand for both of these defendants, without also mentioning the Governor.

The Secretary has moved to dismiss or abstain. The plaintiffs have moved for a preliminary injunction. The motions have been fully briefed and orally argued. The record consists of live testimony given at an evidentiary hearing as well as deposition testimony, declarations, and a substantial number of exhibits.

II. Background: Felon Disenfranchisement, Amendment 4, and SB7066

Florida has disenfranchised felons going back to at least 1845. Its authority to do so is beyond question. In *Richardson v. Ramirez*, 418 U.S. 24 (1974), the Supreme Court read an apportionment provision in section 2 of the Fourteenth Amendment as authority for states to disenfranchise felons. As Justice O'Connor, speaking for the Ninth Circuit, later said, "it is not obvious" how the section 2 apportionment provision leads to this result. *Harvey v. Brewer*, 605 F.3d 1067, 1072 (9th Cir. 2010). But one way or the other, *Richardson* is the law of the land.

Recognizing this, in *Johnson v. Governor of Florida*, 405 F.3d 1214 (11th Cir. 2005) (en banc), the court explicitly upheld Florida's then-existing disenfranchisement provisions. The bottom line: Florida's longstanding practice of denying an otherwise-qualified citizen the right to vote on the ground that the citizen has been convicted of a felony is not, without more, unconstitutional.

Florida has long had an Executive Clemency Board with authority to restore an individual's right to vote. The Board has operated without articulated standards, *see Hand v. Scott*, 285 F. Supp. 3d 1289, 1293-94, 1306-08 (N.D. Fla. 2018), and, as shown by the testimony in this record, has moved at glacial speed. *See*, *e.g.*, Hr'g Tr., ECF No. 204 at 170-71. The issue in *Hand*, which is now on appeal, was whether the Executive Clemency Board was operating in an unconstitutional

manner. Both sides have told the Eleventh Circuit that Amendment 4 has rendered *Hand* moot because all the plaintiffs in that case are now eligible to vote.

Florida's Constitution allows voter-initiated amendments. To pass, a proposed amendment must garner 60% of the vote in a statewide election. Fla. Const. art XI, § 5(e). Amendment 4, which passed with 64.55% of the vote, added a provision automatically restoring the voting rights of some—not all—felons. The new provision became effective on January 8, 2019 and was codified as part of Florida Constitution article VI, section 4. SB7066 purports to implement the Amendment.

The full text of section 4, with the new language underlined, follows:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

Fla. Const. art. VI, § 4 (emphasis added). The exclusion of felons convicted of murder or sexual offenses is not at issue in these cases, and references in this order to "felons" should be read to mean felons convicted only of other offenses, when the context makes this appropriate.

SB7066 includes a variety of provisions. Two are the most important for purposes of this litigation. First, SB7066 explicitly provides that "all terms of sentence" within the meaning of Amendment 4 includes financial obligations imposed as part of the sentence—that is, "contained in the four corners of the sentencing document." Fla. Stat. § 98.0751(2)(a). Second, SB7066 explicitly provides that this also includes financial obligations that the sentencing court converts to a civil lien. *Id*. Conversion to a civil lien, usually at the time of sentencing, is a longstanding Florida procedure that courts often use for obligations a criminal defendant cannot afford to pay. *See* Fla. Stat. § 938.30(6)-(9); Hr'g Tr., ECF No. 204 at 94; Timmann Dep., ECF No. 194-1 at 31; Haughwout Decl., ECF No. 167-103 at 5-6; ECF No. 167-20 at 48.

III. The Motion to Dismiss: Redressability

The Secretary's motion to dismiss asserts that the plaintiffs lack standing. This is so, the Secretary says, because the plaintiffs' claims are not redressable in this action. The Secretary's theory is this: the plaintiffs explicitly challenge only SB7066, not Amendment 4, but if Amendment 4 is construed to require payment of financial obligations—an issue for the Florida Supreme Court, not this court—the plaintiffs will still be unable to vote, and no declaration or injunction could be entered in this action that would change this. The Secretary is of course correct that a plaintiff cannot pursue a claim in federal court that even if successful would

make no difference. *See, e.g.*, *Fla. Family Policy Council v. Freeman*, 561 F.3d 1246 (11th Cir. 2009).

The flaw in the Secretary's position is that she reads the plaintiffs' claims too narrowly. The individual plaintiffs assert, among other things, that the State cannot preclude them from voting just because they lack the financial resources to pay financial obligations. And the plaintiffs assert the State's process for restoring the right to vote is so flawed that it violates the Due Process Clause. The organizational plaintiffs make the same claims on behalf of felons whose rights they assert. If the plaintiffs are correct, the constitutional violations can be remedied through an appropriate injunction. Indeed, this order issues an injunction, though not one as broad as the plaintiffs request. That the plaintiffs do not assert Amendment 4 is itself unconstitutional on its face does not change this.

IV. Abstention

As an original matter, one could reasonably argue both sides of the question whether "all terms of sentence including parole or probation" includes fines, restitution, and other financial obligations imposed at the time of sentencing. This is an issue of Florida, not federal, law. And it is a question of Florida *constitutional* law. The Legislature's view, as set out in SB7066, is not controlling.

At least as against the Secretary of State and Governor, if not also the Supervisors of Elections, this court's jurisdiction to resolve the issue is subject to

doubt. *See, e.g.*, *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 121 (1984) (holding that the Eleventh Amendment bars any claim for injunctive relief based on state law against a state or against a state officer); *but see Harvey*, 605 F.3d at 1080-81 (resolving state-law felon-disenfranchisement issues on the merits). In any event, any resolution of this issue in these consolidated federal cases would be short-lived; the Florida Supreme Court, whose view on this will be controlling, has oral argument on this very issue scheduled just three weeks hence. *See* ECF No. 148-14 at 2.

The Secretary says the proper manner of dealing with this uncertainty in these federal cases is to abstain. The Secretary first invokes *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496 (1941), under which a federal court abstains from deciding a federal constitutional question when there exists an unclear issue of state law whose resolution might moot the federal constitutional question or present it in a substantially different light.

But for two circumstances, the Secretary would be correct. Indeed, but for the two circumstances, this is the very paradigm of a proper case for *Pullman* abstention. A decision by the Florida Supreme Court that Amendment 4 does not require payment of financial obligations as a condition of restoring voting rights would moot the constitutional questions presented in this case.

The first of the two countervailing circumstances is that this is a voting-rights case and elections are upcoming; delay would decrease the chance that this case can be properly resolved both in this court and on appeal in time for eligible voters—and only eligible voters—to be able to vote. There are local elections on November 5, almost surely before the Florida Supreme Court will rule, and a presidential primary in March, already leaving little time for a preliminary-injunction ruling in this court and appellate review before the voting begins.[2]

The Supreme Court has squarely held that a district court does not abuse its discretion by declining to abstain under *Pullman* in circumstances like these. *See Harman v. Forssenius*, 380 U.S. 528, 537 (1965) ("Given the importance and immediacy of the problem [the right to vote], and the delay inherent in referring questions of state law to state tribunals, it is evident that the District Court did not abuse its discretion in refusing to abstain.") (footnote omitted). The Eleventh Circuit en banc has reached the same conclusion. *See Siegel v. LePore*, 234 F.3d 1163, 1174 (11th Cir. 2000) (en banc) ("[V]oting rights cases are particularly inappropriate for abstention.").

[2] *See* Fla. Dep't of State, *Dates for Local Elections All 2019 Election Dates*, https://dos.elections.myflorida.com/calendar/. At least one named plaintiff wishes to vote in a local election on November 5. Wright Decl., ECF No. 152-8 at 6.

The Secretary says these decisions apply only in voting-rights cases and do not apply here because the plaintiffs are felons who have no right to vote—that this case involves only *restoration* of the right to vote, not an already-existing right to vote. But voting is no less important to these plaintiffs than to others, and a ruling on the plaintiffs' constitutional rights is no less urgent than it would be for individuals who have never been convicted. Moreover, the Secretary's proposed distinction assumes she is right on the merits—that, as she contends on the merits, the plaintiffs still have no right to vote. A court does not properly decide to abstain by first accepting a defendant's position on the merits.

The second circumstance that makes abstention inappropriate here is that the Florida Supreme Court's ruling on the most important part of the unclear issue of state law can be predicted with substantial confidence. This is addressed in the next section of this order.

The Secretary also invokes other abstention doctrines, but they are inapplicable based on these same two circumstances and for additional reasons. A preliminary injunction of proper scope will not interfere with a complex state regulatory scheme of the kind that sometimes makes abstention proper under *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943). The proceeding that is pending in the Florida Supreme Court was initiated by the Governor's request for an advisory opinion on state-law issues, but the Governor explicitly asked the court *not* to

address the federal constitutional issues pending in this court. *See* ECF No. 148-13 at 4-5. Because no proceeding is pending in state court that will address the constitutional issues in these consolidated cases, and for other reasons as well, abstention is not warranted under *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976). Finally, this case does not involve eminent domain, as did *Louisiana Power & Light Co. v. City of Thibodaux*, 360 U.S. 25 (1959), nor any similar prerogative of the sovereign.

For all these reasons, this order denies the Secretary's motion to abstain.

V. Does Amendment 4 Require Payment of Financial Obligations?

The Florida Supreme Court has said that construction of a voter-initiated constitutional amendment properly begins with the provision's text and takes into account the intent of both the framers and the voters. *See Zingale v. Powell*, 885 So. 2d 277, 282 (Fla. 2004). A court properly follows "principles parallel to those of statutory interpretation." *Id*.

Amendment 4 automatically restores voting rights "upon completion of all terms of sentence including parole or probation." As the Secretary emphatically notes, "all" means "all." But the question is not whether "all" means "all"; it obviously does. The question is all *of what*. This order divides the discussion of this issue into four parts: (a) fines and restitution; (b) other financial obligations

imposed at the time of sentencing; (c) amounts converted to civil liens; and (d) the bottom-line treatment of these issues for purposes of this order.

A. Fines and Restitution

Fines and restitution imposed at the time of sentencing—announced in open court or included in the sentencing document—are part of the sentence. On one reading, provisions that are part of a sentence are "terms" of the sentence.

This is consistent with one dictionary definition, under which "terms" are "provisions that determine the nature and scope of an agreement." "Term," *Merriam-Webster's Online Dictionary 2019*, available at https://www.merriam-webster.com/dictionary/term.[3] A sentence is not an agreement, but close enough. Other dictionaries probably articulate the same concept in ways more clearly applicable to a sentence. It is no stretch to suggest that the "terms" of a sentence are everything in the sentence, including fines and restitution.

On the other side, it is at least curious that Amendment 4 says "including parole or probation" but not "including fines and restitution." At least literally,

[3] The United States Supreme Court, the Eleventh Circuit, and the Florida Supreme Court have all cited Merriam-Webster's in construing texts. *See, e.g.*, *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 553-54 (2014); *Burlington N. & Santa Fe Ry. Co. v. United States*, 556 U.S. 599, 611 (2009); *United States v. Undetermined Quantities of All Articles of Finished & In-Process Foods*, 936 F.3d 1341, 1346 (11th Cir. 2019); *United States v. Zuniga-Arteaga*, 681 F.3d 1220, 1224 (11th Cir. 2012); *Arriaga v. Fla. Pac. Farms, LLC*, 305 F.3d 1228, 1242 (11th Cir. 2002); *Raymond James Fin. Servs., Inc. v. Phillips*, 126 So. 3d 186, 190 n.4 (Fla. 2013).

"including" means "including but not limited to." *See* "Include," *Black's Law Dictionary* (11th ed. 2019). The word is usually, but not always, construed this way. *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 132-33 (2012). Under the negative-implication canon of construction, listing one thing but not others sometimes suggests the others are not included. *See id*. at 107-11. There is even a Latin phrase for this, confirming it must be true, at least sometimes: "*expressio unius est exclusio alterius*." *See id*. at 107-11, 428.

In any event, another dictionary definition of "term" is "a limited or definite extent of time." "Term," *Merriam-Webster's Online Dictionary 2019*, available at https://www.merriam-webster.com/dictionary/term. A period of imprisonment is a "term," as is a period on parole or probation. But this meaning of "term" has no application to financial obligations imposed as part of a sentence. So "all terms of sentence including probation or parole" could mean only all "terms"—periods of time—in prison or under supervision. Not financial obligations.

This reading also fits more comfortably with Amendment 4's reference to "completion" of the terms of sentence. It is commonplace to say a prison term has been completed. So also a term of supervision. A fine or restitution, in contrast, may be *paid*, and one could say, rather inartfully, that a *payment* has been completed. But without a reference to payment, it is at least somewhat awkward to say a fine or other financial obligation has been "completed." Nobody would say,

"I completed my student loan" or "completed my car loan" or "completed my credit-card account."

In sum, Amendment 4's language, standing alone, could be read to include, or not to include, fines and restitution. This brings us to considerations beyond just the amendment's language.

Under Florida law, a voter-initiated constitutional amendment may go on the ballot only if its language and its ballot summary are approved in advance by the Florida Supreme Court. *See* Fla. Const. art. IV § 10; *see id.* art. X, § 3(b)(10). When the proponents of Amendment 4 sought the Florida Supreme Court's approval to place the amendment on the ballot, the issues of fines and restitution were explicitly addressed.

The only speaker at the oral argument in the Florida Supreme Court was the proponents'—that is, the framers'—attorney. He said the critical language "all terms of sentence" means "anything that a judge puts into a sentence." ECF No. 148-1 at 9. A justice asked, "So it would include the full payment of any fines"? *Id.* The attorney responded, "Yes, sir." *Id.* Another justice asked, "Would it also include restitution when it was ordered to the victim . . . as part of the sentence?" *Id.* at 17-18. The attorney answered, "Yes." *Id.* Yet another justice suggested this might "actually help the State" by providing an incentive for payment. *Id.* at 19.

The intended meaning of Amendment 4 cannot be determined based only on what the proponents' attorney said at oral argument or what three justices thought at that time. A critical question—even more important—is what a reasonable *voter* would have understood the amendment's language to mean. But the Florida Supreme Court has said that in construing amendments, the framers' views are relevant. *Zingale*, 885 So. 2d at 282-83; *see also Gray v. Bryant*, 125 So. 2d 846, 851 (Fla. 1960). The court will surely take into account the proponents' assertions at oral argument. The proponents of an amendment ought not be able to tell the Florida Supreme Court that the amendment means one thing but later, after adoption, assert the amendment means something else.

In any event, voters might well have understood the amendment to require felons to meet all components of their sentence—whatever they might be—before automatically becoming eligible to vote. The plaintiffs say the voters' intent was to restore the right of felons to vote and that all doubts should be resolved accordingly—that is, in favor of otherwise-disenfranchised felons. But that goes too far. The theory of most voters might well have been that felons should be allowed to vote only when their punishment was complete—when they "paid their debt to society."

If, based on this theory, a felon must serve a prison sentence or finish a term of supervision as a condition of voting, it is difficult to argue that a felon who is

able to pay a fine should not be required to do so, also as a condition of voting. Fines are imposed as punishment, sometimes instead of, sometimes in addition to, imprisonment. Inability to pay raises different issues, not only of policy but of constitutional law, but those are issues bearing only a little, if at all, on the proper interpretation of "all terms of sentence." If that phrase is read to exclude fines, it will mean that a felon who is able to pay a fine but chooses not to do so will nonetheless automatically become eligible to vote. There is no evidence that this is what Florida voters intended.

The analysis of voters' intent for restitution is similar, though on at least one view, restitution is imposed not so much as punishment as to provide just compensation to a victim. If voters intended "all terms of sentence" to mean punishment, restitution is not as clearly covered as fines. But voters might still have deemed restitution part of a felon's "debt to society."

In arguing that payment of financial obligations is not required, the plaintiffs note the widely publicized assertion that if adopted, Amendment 4 would immediately make roughly 1.4 million felons eligible to vote. Indeed, the state officials responsible for estimating in advance the likely financial impact of Amendment 4 used a similar figure, and the proponents' attorney referred to it during oral argument in the Florida Supreme Court. Citing the financial-impact analysis, the attorney said the experience in other states has been that the

registration rate for felons who become eligible to vote is roughly 20% and that, for Amendment 4, this would mean about 270,000 people.[4] Curiously, the attorney said this would put the total number of eligible felons at 700,000, but better arithmetic—270,000 divided by .20—would put the eligible number at 1,350,000, in line with the widely publicized figure of roughly 1.4 million.

As it turns out, many of Florida's otherwise-eligible felons have unpaid fines and restitution and many more owe fees of various kinds that are addressed in the next subsection of this order. The record does not show the percentage of otherwise-eligible felons who have unpaid fines and restitution, but the record shows that roughly 80% of otherwise-eligible felons have unpaid fines, restitution, *or other financial obligations* imposed at the time of sentencing. *See* Smith Report, ECF No. 153-1 at 4; *see also* Hr'g Tr., ECF No. 204 at 49. If payment of all these obligations is a prerequisite to eligibility, the estimate of the number of felons who would become eligible under Amendment 4 was wildly inaccurate.

Even so, this provides only slight support for the plaintiffs' assertion that Amendment 4 was not intended to require payment of these obligations. Recall that a critical question is the understanding of the voters who adopted the amendment. Surely many of those voters, probably most, were unaware of the 1.4 million estimate. And even voters who *were* aware of the 1.4 million estimate usually had

[4] ECF No. 148-1 at 9.

no reason to know how it was calculated—no reason to believe the estimate included felons with unpaid financial obligations. More important than the estimated number of affected felons was the assertion, readily derived from the text of the amendment, that felons would become eligible only after completing "all terms of sentence." The estimated raw number says little if anything about what the voters understood this language to mean.

Indeed, the estimate does not even show what those who came up with the estimate or embraced it understood the amendment to mean. The state's financial analysts may have lacked familiarity with the state's criminal-justice system and may have failed even to spot the issue. Those who embraced the estimate likely had no idea how many felons would be affected by a requirement to pay fines and restitution, let alone by a requirement to pay other financial obligations. The plaintiffs have tendered no evidence that anyone who made or embraced the estimate actually considered this issue, knew that a substantial number of Florida sentences include fines and restitution, knew that *all* Florida sentences include other financial obligations, or knew that most felons who have finished their time in prison and under supervision have not paid all these financial obligations. The erroneous estimate of the effect of the amendment, even if widely accepted, does not show that most voters thought the right to vote would be restored to those whose sentences included unpaid fines or restitution.

B. Other Financial Obligations

Quite apart from a sentencing judge's decision about the proper punishment for a given felony—punishment that may include a fine—Florida law requires the judge to impose fees whose primary purpose is to raise revenue, sometimes for a specific purpose. The fees often bear no apparent relationship to culpability. The fees for a violent felony that produces substantial bodily injuries may be the same as the fees for a comparatively minor, nonviolent felony, including, for example, shoplifting items of sufficient value.[5]

The fees are ordinarily the same for a defendant who is convicted by a jury or pleads guilty, on the one hand, as for a defendant who denies guilt and pleads no contest, on the other hand.[6] The fees are ordinarily the same whether a defendant is adjudicated guilty or adjudication is withheld.[7]

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[5] *See* Fla. Stat. § 938.05(1); *see also* ECF No. 152-10 at 15; ECF No. 152-20 at 14.

[6] *See* Fla. Stat. § 938.05(1).

[7] *See, e.g.*, Fla. Stat. § 938.29(1)(a) (imposing fees on a "convicted person" and stating that, for this purpose, convicted means "a determination of guilty, or of violation of probation or community control, which is result of a plea, trial, of violation proceeding, regardless of whether adjudication is withheld").

The fees include $50 for applying for representation by a public defender;[8] $100 for actual representation by a public defender;[9] at least $100 for the state attorney's "costs" (though these are not court costs of the kind ordinarily taxed in favor of a prevailing party in litigation);[10] $225 as "additional court costs" (though again unrelated to court costs of the traditional kind), of which $25 is remitted to the Department of Revenue for deposit in the General Revenue Fund; and additional amounts whose ostensible purpose, other than to raise revenue, is not always clear.[11]

A state of course must provide an attorney for an indigent defendant. *See Gideon v. Wainwright*, 372 U.S. 335 (1963). Even so, a state may be able to require a convicted defendant to pay the state back for the expense of providing the attorney. *See, e.g.*, *James v. Strange*, 407 U.S. 128 (1972). It is a stretch, though, to say that when the voters adopted Amendment 4 restoring the right of felons to vote upon "completion of all terms of sentence," the intent was to condition the right to

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[8] *See* Fla. Stat. §§ 938.29(1), 27.52(1)(b); *see also* ECF No. 152-10 at 15; ECF No. 152-20 at 12.

[9] *See* Fla. Stat. § 938.29(1); *see also* ECF No. 152-10 at 15.

[10] *See* Fla. Stat. § 938.27(8); *see also* ECF No. 152-10 at 15.

[11] *See* Fla. Stat. § 938.05; *see also* ECF No. 152-10 at 15; ECF No. 152-20 at 14.

vote on the payment of fees for representation by a public defender. And the same could be said of some if not all of the other fees.

At the very least, the analysis of whether Amendment 4 conditions restoration of the right to vote on the payment of financial obligations may be different for fines and restitution, on the one hand, and for the various fees imposed without regard to culpability, on the other hand. The former were explicitly discussed at the oral argument in the Florida Supreme Court; the latter were not. But whatever might be said of Amendment 4, it apparently is clear that SB7066 conditions the right to vote on the payment of the fees, so long as they are included in the sentencing document, as they usually are.[12]

C. Conversion to Civil Liens

Florida law allows a judge to convert a financial obligation imposed at the time of sentencing to a civil lien. *See* Fla. Stat. § 938.30(6)-(9). Judges often do this when they know the defendant is unable to pay the amount being assessed. *See* Hr'g Tr., ECF No. 204 at 94; Timmann Dep., ECF No. 194-1 at 31; Haughwout Decl., ECF No. 167-103 at 5-6; ECF No. 167-20 at 48. Conversion to a civil lien takes the obligation out of the criminal-justice system and allows collection through the same civil processes available to ordinary creditors.

[12] *See, e.g.*, ECF No. 152-10 at 15.

The analysis of whether Amendment 4 conditions restoration of the right to vote on the payment of financial obligations may be different for amounts that have or have not been converted to civil liens. The oral argument at the Florida Supreme Court did not explicitly address this issue. But again, whatever might be said of Amendment 4, it is clear that SB7066 conditions the right to vote on the payment even of amounts that have been converted to civil liens. *See* Fla. Stat. §98.0751(2)(a).

D. The Treatment of These Issues for Purposes of This Order

On this issue of whether Amendment 4 requires payment of financial obligations imposed at the time of sentencing—and if so, which financial obligations—the last word will belong to the Florida Supreme Court. This order assumes, subject to revision as the litigation progresses, that "all terms of sentence" includes fines and restitution, fees even when unrelated to culpability, and amounts even when converted to civil liens, so long as the amounts are included in the sentencing document. This is what SB7066 provides.

The Florida Supreme Court's anticipated ruling on fines and restitution can be predicted with substantial confidence. The ruling on the other amounts cannot be predicted as confidently but will not affect the ruling on the preliminary-injunction motion of these individual plaintiffs.

VI. The Standards Governing Preliminary Injunctions

This brings us to the plaintiffs' constitutional claims—the claims on which they base their motion for a preliminary injunction. As a prerequisite to a preliminary injunction, a plaintiff must establish a substantial likelihood of success on the merits, that the plaintiff will suffer irreparable injury if the injunction does not issue, that the threatened injury outweighs whatever damage the proposed injunction may cause a defendant, and that the injunction will not be adverse to the public interest. *See, e.g.*, *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1354 (11th Cir. 2005); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). The burden of proof is on the plaintiff.

VII. Reenfranchisement Must Comply with the Constitution

When a state decides to restore the right to vote to some felons but not others, the state must comply with the United States Constitution, including the First, Fourteenth, and Twenty-Fourth Amendments. It is no answer to say, as the Secretary does, that a felon has no right to vote at all, so a state can restore the right to vote or not in the state's unfettered discretion. Both the Supreme Court and the en banc Eleventh Circuit have squarely rejected that assertion.

In *Richardson v. Ramirez*, 418 U.S. 24 (1974), the plaintiffs were felons who had completed their terms in prison and on parole but who, under California

law, were still denied the right to vote. The Supreme Court rejected their claim that this, without more, violated the Equal Protection Clause.

Even so, the Court did *not* say that because a state could choose to deny all felons the right to vote and to restore none of them, the state's decision to restore the vote to some felons but not others was beyond the reach of the Constitution. Quite the contrary. The Court remanded the case to the California Supreme Court to address the plaintiffs' separate contention that California had not treated all felons uniformly and that the disparate treatment violated the Equal Protection Clause. *Id.* at 56. The remand was appropriate because when a state allows some felons to vote but not others, the disparate treatment must survive review under the Equal Protection Clause. The same is true here.

Similarly, in *Johnson v. Governor of Florida*, 405 F.3d 1214 (11th Cir. 2005) (en banc), the court upheld Florida's decision to disenfranchise all felons, subject to restoration of the right to vote by the Florida Executive Clemency Board. Again, though, the court did *not* say that a state's decision to restore the vote to some felons but not others was beyond constitutional review. Instead, citing an equal-protection case, the court made clear that even in restoring the right of felons to vote, a state must comply with other constitutional provisions. *See id.*, 405 F.3d at 1216-17 n.1 (citing *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 668 (1966)).

An earlier decision to the same effect is *Shepherd v. Trevino*, 575 F.2d 1110 (5th Cir. 1978). There the court said a state's power to disenfranchise felons does not allow the state to restore voting rights only to whites or otherwise to "make a completely arbitrary distinction between groups of felons with respect to the right to vote." *Id*. at 1114. As a decision of the Old Fifth Circuit, *Shepherd* remains binding in the Eleventh. *See Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir.1981) (en banc).

Other courts, too, have recognized that provisions restoring the voting rights of felons are subject to constitutional review. *See, e.g.*, *Harvey v. Brewer*, 605 F.3d 1067, 1079 (9th Cir. 2010) (O'Connor, J.) (holding the Equal Protection Clause applicable to Arizona's felon-restoration statute but rejecting the plaintiffs' claim on the merits; noting that a state could not restore the vote only to felons of a specific race or only to those over six feet tall); *Johnson v. Bredesen*, 624 F.3d 742, 746-50 (6th Cir. 2010) (holding the Equal Protection Clause applicable to Tennessee's felon-restoration statute but rejecting the plaintiffs' claim on the merits); *Owens v. Barnes*, 711 F.2d 25, 26-27 (3d Cir. 1983) (holding the Equal Protection Clause applicable to Pennsylvania's felon-restoration statute but rejecting the plaintiff's claim on the merits).

VIII. The Constitution Allows a State to Condition Reenfranchisement on Payment of At Least Some Financial Obligations

Leaving aside for the moment claims based on inability to pay or the Twenty-Fourth Amendment, it is clear that a state can deny restoration of a felon's right to vote based on failure to pay financial obligations included in a sentence. This is so regardless of the level of scrutiny deemed applicable—whether rational-basis scrutiny, as the Secretary contends, or strict scrutiny tempered by the holding in *Richardson* that the Fourteenth Amendment affirmatively allows felon disenfranchisement.

Harvey applied rational-basis scrutiny and upheld the Arizona requirement to pay fines and restitution. No plaintiff claimed indigency, so the court did not address that issue or the level of scrutiny it would trigger. *See Harvey*, 605 F.3d at 1080.) *Johnson v. Bredesen* applied rational-basis scrutiny and upheld a requirement to pay restitution and unrelated child-support obligations, even as applied to felons unable to pay. *Madison v. State*, 163 P.3d 757 (Wash. 2007), with no majority opinion, upheld a requirement to pay fines, costs, and restitution, even as applied to felons unable to pay.

As an original matter, one might take issue with this treatment of a felon's right to vote. The Declaration of Independence holds it "self-evident" that men—today we would add women—are endowed with unalienable rights, including life, liberty, and the pursuit of happiness. The Declaration says that to secure these

rights, governments are instituted, "deriving their just powers from the consent of the governed." *Declaration of Independence* para. 2 (U.S. 1776). Felons, no less than others, are "governed."

This does not, however, give felons the right to vote. The Declaration of Independence is aspirational, not the law, and the majority of the governed, at least in Florida, have chosen to forgo the consent of felons, pending only the restoration of their right to vote as provided by law. *Richardson* and *Johnson v. Governor*, if not the Declaration of Independence, allow the State to take this approach.

So a state can properly disenfranchise felons, even permanently, and if the state decides to restore the right to vote to anyone, the state can exercise discretion in choosing among the candidates. Consistent with this considerable leeway, a state can rationally choose to take into account not only whether a felon has served any term of imprisonment and supervision but also whether the felon has paid any financial obligation included in the sentence. A state can rationally decide that the right to vote should not be restored to a felon who is able to pay but chooses not to do so. Indeed, a state's decision not to restore the vote to such a person survives even strict scrutiny, so long as it is recognized, as *Richardson* requires, that the Constitution affirmatively allows disenfranchisement.

IX. Johnson v. Governor: The Right to Vote Cannot Be Made to Depend on an Individual's Financial Resources

The analysis to this point does not, however, resolve the claim based on inability to pay. The starting point of the analysis of this issue, and pretty much the ending point, is a succinct statement of the en banc Eleventh Circuit addressing this very issue: whether the State of Florida can deny restoration of a felon's right to vote based on failure to pay an amount the felon is unable to pay. In a case in which the financial obligation at issue was restitution, the court said:

> *Access to the franchise cannot be made to depend on an individual's financial resources*. Under Florida's Rules of Executive Clemency, however, the right to vote can still be granted to felons who cannot afford to pay restitution. . . . *Because* Florida does not deny access to the restoration of the franchise based on ability to pay, we affirm the district court's grant of summary judgment in favor of the defendants on these claims.

Johnson v. Governor of Florida, 405 F.3d 1214, 1216-17 n.1 (11th Cir. 2005) (en banc) (emphasis added; citation omitted to *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 668 (1966)). *Harper* held that Virginia's $1.50 poll tax for state elections violated the Equal Protection Clause.

The *Johnson* footnote is a binding, controlling statement of the en banc Eleventh Circuit addressing not an individual's right to vote in the first instance but the very issue in the case at bar: restoration of a *felon's* right to vote.

Johnson establishes two things.

First, the State of Florida cannot deny restoration of a felon's right to vote solely because the felon does not have the financial resources necessary to pay restitution. And because, for this purpose, there is no reason to treat restitution differently from other financial obligations included in a sentence, Florida also cannot deny restoration of a felon's right to vote solely because the felon does not have the financial resources to pay the other financial obligations. The court summed it up succinctly: "*Access to the franchise cannot be made to depend on an individual's financial resources*." *Johnson*, 405 F.3d at 1216-17 n.1 (emphasis added).

Second, the State meets its constitutional obligation—that is, its obligation not to deny restoration of the right to vote based on lack of financial resources—if the State allows the lack of financial resources to be addressed as part of the same process through which other felons may obtain restoration of the right to vote. Further, though not addressed in *Johnson* itself, a reasonable corollary is that the State can satisfy its duty by another method of its choosing, so long as the method is equally accessible to the felon or otherwise comports with constitutional requirements.

Before going on to address further support for, and the import of, these two *Johnson* holdings, a word is in order on why *Johnson* is binding, that is, why it must be followed in this court. The Eleventh Circuit has a longstanding,

unwavering principle: the law of the circuit as established in the first case to address an issue must be followed until altered by the Eleventh Circuit en banc or the United States Supreme Court. *See, e.g.*, *United States v. Gillis*, 938 F.3d 1181, 1198 (11th Cir. Sept. 13, 2019); *United States v. Vega-Castillo*, 540 F.3d 1235, 1236 (11th Cir. 2008). District judges in the circuit must follow course. That an issue is resolved in a footnote rather than in the text of an opinion makes no difference.

To be sure, dictum—a statement unnecessary to the decision in a case—is not binding. *See, e.g.*, *United States v. Birge*, 830 F.3d 1229, 1231 (11th Cir. 2016) (stating that the requirement to follow prior decisions "applies only to holdings, not dicta"); *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1315 (11th Cir. 1998) (Carnes, J., concurring) ("[D]icta in our opinions is not binding on anyone for any purpose."). But the *Johnson* footnote is not dictum. The footnote explains precisely why the court reached its decision on one of the issues in the case. The explanation was this: a state cannot refuse to restore a felon's right to vote because of inability to pay restitution, but the plaintiffs did not establish a violation of that principle. Their claim failed "because"—as clear a statement as one can have that this was the basis for the decision—state law allowed restoration of a felon's right to vote through the Executive Clemency Board without requiring payment of amounts the felon could not pay.

As a binding Eleventh Circuit holding, the *Johnson* footnote would be controlling even in the absence of Supreme Court decisions supporting the result. But *Johnson* does not lack Supreme Court support; it is consistent with a series of Supreme Court decisions.

In one, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), the Court noted the "general rule" that equal-protection claims based on indigency are subject to only rational-basis review. This is the same general rule on which the Secretary places heavy reliance here. But in *M.L.B.* the Court said there are two exceptions to the general rule. *Id*. at 123-24.

The first exception, squarely applicable here, is for claims related to voting. *Id*. at 124. The Court said, "The basic right to participate in political processes as voters and candidates cannot be limited to those who can pay for a license." *Id*. at 124. The Court cited a long line of cases supporting this principle. *Id*. at 124 n.14. In asserting that the Amendment 4 and SB7066 requirement for payment of financial obligations is subject only to highly deferential rational-basis scrutiny, the Secretary ignores this exception.

The second exception is for claims related to criminal or quasi-criminal processes. Cases applying this exception hold that punishment cannot be increased because of a defendant's inability to pay. *See, e.g.*, *Bearden v. Georgia*, 461 U.S. 660 (1983) (holding that probation cannot be revoked based on failure to pay an

amount the defendant is financially unable to pay). Disenfranchisement of felons has a regulatory component, *see, e.g.*, *Trop v. Dulles*, 356 U.S. 86, 96-97 (1958), and when so viewed, disenfranchisement is subject only to the first *M.L.B.* exception, not this second one. But when the purpose of disenfranchisement is to punish, this second exception applies. If, after adoption of Amendment 4, the purported justification for requiring payment of financial obligations is only to ensure that felons pay their "debt to society"—that is, that they are fully punished—this second *M.L.B.* exception is fully applicable.

Another case applying these principles is *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966), which was cited in both *M.L.B.* and the *Johnson* footnote. In *Harper* the Supreme Court said "[v]oter qualification has no relation to wealth." *Id.* at 666. The Court continued, "[w]ealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process." *Id*. at 668. And the Court added, "[t]o introduce wealth or payment of a fee as a measure of a voter's qualifications is to introduce a capricious or irrelevant factor." *Id*. The Secretary says none of this is true when the voter is a felon, but the Secretary does not explain how a felon's wealth is more relevant than any other voter's. And *Johnson* plainly rejected the Secretary's proposed distinction.

The error in the Secretary's position can be illustrated with a hypothetical. Suppose a state adopted a statute automatically restoring the right to vote for felons

with a net worth of $100,000 or more but not for other felons. Would anyone contend this was constitutional? One hopes not. An official who adopts a constitutional theory that would approve such a statute needs a new constitutional theory.

The difference between the hypothetical, on the one hand, and Amendment 4 and SB7066, on the other hand, is that the financial condition in the hypothetical is unrelated to a felon's sentence, while the financial obligations at issue under Amendment 4 and SB7066 are part of a felon's sentence. If writing on a clean slate, one could reasonably argue both sides of the question whether this difference changes the result. But the slate is not clean. The *Johnson* footnote addressed a financial obligation that was part of the sentence and nonetheless concluded that restoration of a felon's right to vote could not constitutionally be made to depend on ability to pay the obligation.

In asserting that the State can properly condition voting on payment of an amount a felon cannot afford to pay, the Secretary makes no effort to come to grips with *Johnson*. Instead, the Secretary cites the Ninth Circuit's decision in *Harvey v. Brewer*, 605 F.3d 1067 (9th Cir. 2010), the Sixth Circuit's decision in *Johnson v. Bredesen*, 624 F.3d 742 (6th Cir. 2010), and the Washington Supreme Court's decision in *Madison v. State*, 163 P.3d 757 (Wash. 2007).

These out-of-circuit decisions do not carry the day for the Secretary. The *Harvey* plaintiffs did not allege inability to pay, so the court explicitly declined to address the issue. *Johnson v. Bredesen* was a 2–1 decision, and the dissent had the better of it. *Madison* was again a split decision, and again the dissent had the better of it. More importantly, a district court in the Eleventh Circuit cannot decline to follow a binding circuit precedent just because other courts have taken a different view. *Johnson* is controlling.

X. Johnson v. Governor: The Scope of the Remedy

Johnson does not mean, though, that the individual plaintiffs are entitled to a preliminary injunction requiring the Secretary and affected Supervisor to allow them to vote. *Johnson* requires only that the State put in place an appropriate procedure through which an individual plaintiff may register and vote if otherwise qualified and genuinely unable to pay outstanding financial obligations.

This issue was addressed during closing argument following the evidentiary hearing. Asked whether, based on *Johnson*, it would be sufficient for the State to allow the plaintiffs to establish their inability to pay in a proceeding before the Executive Clemency Board, the plaintiffs asserted they cannot properly be forced into a different track than available to all other felons. Hr'g Tr., ECF No. 205 at 23-25. At first blush, the contention makes sense. *See, e.g.*, *Harman*, 380 U.S. at

542 (holding it unconstitutional to require indigent voters to file certificates of residency not required of voters who paid a $1.50 poll tax).

The flaw in the contention is this. As set out above, the State can condition restoration of a felon's right to vote on payment of fines and restitution the felon is able to pay. When a felon claims inability to pay, the State need not just take the felon's word for it. The State may properly place the burden of establishing inability to pay on the felon and, to that end, may put in place an appropriate administrative process. That this places a greater burden on the felon claiming inability to pay than on felons with no unpaid obligations is unavoidable and not improper.

The process available to the *Johnson* plaintiffs was an application to the Executive Clemency Board. The individual plaintiffs in the case at bar also have the right to apply to the Executive Clemency Board. If the Board operates at a pace that makes it an available remedy in fact, the State can satisfy its *Johnson* obligation through the Board, so long as the Board complies with *Johnson*. This will mean restoring the right to vote of any felon who applies and whose right to vote would be automatically restored under Amendment 4 and SB7066 but for financial obligations the applicant is genuinely unable to pay.

The Executive Clemency Board is not, however, the forum in which other felons will claim their right to vote under Amendment 4 and SB7066. Just as the

State could satisfy its obligation to the indigent *Johnson* plaintiffs by making available to them the same process available to others, so also the State may satisfy its obligation to the indigent plaintiffs in the case at bar by making available to them the same process available to others whose right to vote has been restored under Amendment 4 and SB7066. That process consists of up to six steps.

First, a felon, like any other prospective voter, submits an application to the appropriate county's Supervisor of Elections.[13] Second, if the application is sufficient on its face, the Supervisor puts the applicant on the roll of qualified voters and forwards the application to the Secretary of State, who checks for disqualifying felony convictions.[14] Third, if "credible and reliable" information indicates the applicant has a disqualifying conviction, the Secretary so notifies the Supervisor.[15] Fourth, if the Supervisor accepts the Secretary's conclusion after any further investigation the Supervisor chooses to undertake, the Secretary gives the applicant notice and an opportunity to be heard.[16] Fifth, if the applicant fails to establish eligibility to vote, the Supervisor removes the applicant from the roll of

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[13] Matthews Decl., ECF No. 148-16 at 3.

[14] *Id.* at 5.

[15] *Id.* at 6; *see also* Fla. Stat. § 98.075(5).

[16] Matthews Decl., ECF No. 148-16 at 8, 11; *see also* Fla. Stat. § 98.075(7).

qualified voters.[17] Sixth, the applicant may challenge the Supervisor's decision through an action in state circuit court, where evidence may be presented and the decision will be made de novo, without deference to the Supervisor.[18]

Consistently with *Johnson*, the State could meet its obligation not to deny restoration of the right to vote based on lack of financial resources by requiring the Secretary to determine at step three of the process, or by allowing an otherwise-qualified felon to establish at step four, that the reason for failing to pay any outstanding financial obligation was inability to pay. That this might require a hearing does not make it unconstitutional. *See Johnson*, 405 F.3d at 1217 n.1 ("The requirement of a hearing is insufficient to support the plaintiffs' claim."). Or the State could meet its obligation by a constitutionally acceptable alternative method. What the State cannot do, under *Johnson*, is deny the right to vote to a felon who would be allowed to vote but for the failure to pay amounts the felon has been genuinely unable to pay.

XI. The Community-Service Option Does Not Save an Unconstitutional Requirement to Pay

SB7066 includes a provision allowing a court to convert a financial obligation to community service. A felon may satisfy the otherwise-applicable

[17] Matthews Decl., ECF No. 148-16 at 11; *see also* Fla. Stat. § 98.075(7).

[18] *See* Fla. Stat. §§ 98.075(7), 98.0755.

financial obligation by performing the proper amount of community service. The Secretary says this means restoration of the right to vote is not unconstitutionally conditioned on financial resources.

The Secretary's assertion fails for three reasons.

First, the community-service option applies only to Florida convictions, not out-of-state or federal convictions. And the option applies only when a judge chooses to employ it. For many felons, including at least some of the individual plaintiffs, the option is not available at all.

Second, even for felons convicted in a Florida state court and for whom the judge chooses to employ the community-service option, the prospect of satisfying financial obligations in this way is often wholly illusory. Community service is usually credited at low hourly rates.[19] Some plaintiffs would miss many votes before they could satisfy their financial obligations in this way, even if allowed to do so, and some plaintiffs would never be able to satisfy their obligations. In the meantime, the right to vote would be lost based solely on lack of financial resources.

Third, separate and apart from the hourly rate and the near certainty that a plaintiff would miss votes even if allowed to use the community-service option, the

[19] Hr'g Tr., ECF No. 204 at 94, Timmann Dep., ECF No. 194-1 at 63, Haughwout Decl., ECF No. 152-20 at 8.

option does not eliminate the disparate treatment of otherwise-qualified felons based on financial resources. Those with financial resources would still be able to vote simply by paying their financial obligations, while felons without the same resources would not be able to do so. The option thus does not cure the underlying problem: "*Access to the franchise cannot be made to depend on an individual's financial resources*." *Johnson*, 405 F.3d at 1216-17 n.1 (emphasis added).

XII. Twenty-Fourth Amendment

The Twenty-Fourth Amendment to the United States Constitution provides that a citizen's right to vote in a federal election "shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax." The State says the amendment does not apply to felons because they have no right to vote at all, but that makes no sense. A law allowing felons to vote in federal elections but only upon payment of a $10 poll tax would obviously violate the Twenty-Fourth Amendment.

Florida has not, of course, explicitly imposed a poll tax. The financial obligations at issue were imposed as part of a criminal sentence. The obligations existed separate and apart from, and for reasons unrelated to, voting. Every court that has considered the issue has concluded that such a preexisting obligation is not a poll tax. *See, e.g.*, *Johnson v. Bredesen*, 624 F.3d 742, 751 (6th Cir. 2010); *Harvey v. Brewer*, 605 F.3d 1067, 1080 (9th Cir. 2010); *Thompson v. Alabama*,

293 F. Supp. 3d 1313, 1332-33 (M.D. Ala. 2017); *Coronado v. Napolitano*, No. cv-07-1089-PHX-SMM, 2008 WL 191987 at *4-5 (D. Ariz. Jan. 22, 2008).

This does not, however, end the Twenty-Fourth Amendment analysis. The amendment applies not just to any poll tax but also to any "other tax." As the Secretary emphasizes in addressing Florida's Amendment 4, "words matter." The same principle applies to the Twenty-Fourth Amendment. The words "any . . . other tax" are right there in the amendment.

There is no defensible way to read "any other tax" to mean only any tax imposed at the time of voting or only any tax imposed explicitly for the purpose of interfering with the right to vote. "Any other tax" means "any other tax." A law prohibiting citizens from voting while in arrears on their federal income taxes or state sales or use taxes would plainly violate the Twenty-Fourth Amendment. A state could not require a voter to affirm, on the voter-registration application or when casting a ballot, that the voter was current on all the voter's taxes. The very idea is repugnant.

The only real issue is whether the financial obligations now at issue are taxes. As the Supreme Court has made clear time and again, whether an exaction is a "tax" for constitutional purposes is determined using a "functional approach," not simply by consulting the label given the exaction by the legislature that imposed it. *See, e.g.*, *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 564-66 (2012)

(collecting cases). The Supreme Court has said the "standard definition of a tax" is an "enforced contribution to provide for the support of the government." *United States v. State Tax Comm'n of Miss.*, 421 U.S. 599, 606 (1975) (quoting *United States v. La Franca*, 282 U.S. 568, 572 (1931)). More recently, the Court has said the "essential feature of any tax" is that "[i]t produces at least some revenue for the Government." *Nat'l Fed'n*, 567 U.S. at 564 (citing *United States v. Kahriger*, 345 U.S. 22, 28 n.4 (1953)).

Some of the financial obligations at issue plainly are not taxes. Criminal fines generate revenue for the government that imposes them, but the primary purpose is to punish the offender, not to raise revenue. Fines are criminal penalties; they are not taxes. Similarly, restitution payable to the private victim of a crime—not to a government—lacks the essential feature of a tax; restitution is intended to compensate the victim, not raise revenue for the government. Restitution payable to a victim is not a tax.

The issue is much closer for other amounts routinely assessed against Florida criminal defendants, including not only those who are adjudicated guilty but also those who enter no-contest pleas that resolve their cases without an adjudication of guilt. Florida has chosen to pay for its criminal-justice system in significant measure through such fees. The record establishes that in one county, the fees total at least $698 for every defendant who is represented by a public

defender and at least $548 for every defendant who is not.[20] If, as the Supreme Court has held, a $100 assessment against a person who chooses not to comply with the legal obligation to obtain conforming health insurance is a tax, *see National Federation*, 567 U.S. at 574, it is far from clear that a $698 or $548 assessment against a person who is charged with but not adjudicated guilty of violating some other legal requirement is not also a tax, at least when, as in Florida, the purpose of the assessment is to raise money for the government. And if a fee assessed against a person who is not adjudicated guilty is a tax, then the same fee, when assessed against a person who *is* adjudicated guilty, is also a tax.

A definitive ruling on whether the Florida fees are taxes within the meaning of the Twenty-Fourth Amendment need not be made at this time because it will not affect the ruling on the preliminary-injunction motion of these specific plaintiffs.

XIII. Due Process

The plaintiffs assert that even if a state can properly condition restoration of a felon's right to vote on payment of financial obligations included in a sentence, the manner in which the State of Florida proposes to do so violates the Due Process Clause. The argument carries considerable force. Florida's records of the financial obligations are decentralized, often accessible only with great difficulty, sometimes

[20] Haughwout Decl., ECF No. 152-20 at 4 ¶ 6.

inconsistent, and sometimes missing altogether. This creates administrative difficulties that sometimes are unavoidable.

The plaintiffs say the flaws in Florida's recordkeeping are especially egregious because a felon who claims a right to vote and turns out to be wrong may face criminal prosecution. A conviction for a false affirmation in connection with voting requires a showing of willfulness, *see* Florida Statutes § 104.011, and a conviction for illegally voting requires a showing of fraud, *see id*. § 104.041. At least one Supervisor of Elections and one State Attorney have said they will not pursue criminal charges against a felon who asserts in good faith that the felon has completed all terms of sentence.[21] But some supervisors and prosecutors might not be so charitable, and determining whether a felon's assertion was made in good faith will not always be easy. If Florida does not clean up its records, some genuinely eligible voters may choose to forgo voting rather than risk prosecution.

When a state chooses to restore a felon's right to vote in defined circumstances—for example, upon completion of all terms of sentence—the felon has a constitutional right to due process on the question of whether the circumstances exist—for example, on whether all terms of sentence have been completed. The contours of the process that is due turn on factors identified in

[21] Early Dep., ECF No. 152-52 at 68-70.

Mathews v. Eldridge, 424 U.S. 319, 335 (1976), and *J.R. v. Hansen*, 736 F.3d 959, 966 (11th Cir. 2015). For factual disputes, a hearing is often required, and this opinion assumes that in Florida a felon has a constitutional right to a hearing on any factual dispute about whether the felon has completed all terms of sentence as required.

Under current Florida procedure, a felon who asserts eligibility to vote is entitled to a hearing before the Supervisor of Elections. A felon dissatisfied with the Supervisor's decision may initiate a de novo proceeding in state circuit court, complete with full due process. This is constitutionally sufficient so long as all material factual disputes are in play at the hearing. The Due Process Clause does not preclude the State from placing the burden of going forward at the hearing, and even the burden of proof, on the felon. That carrying the burden will be difficult does not, without more, render this process unconstitutional.

There is no need to decide at this time whether the state can constitutionally refuse to restore the right to vote based on a financial obligation that the state cannot confirm or calculate—an obligation for which essential records are missing—because that is not the circumstance faced by any of these plaintiffs.

Two circumstances do not change the conclusion that the plaintiffs have not established a violation of their right to procedural due process.

First, there are substantial inconsistencies in the records of the financial obligations owed by some of these plaintiffs. Even so, the amount actually owed is a factual issue that can be sorted out, albeit with some difficulty. This can be done through the hearing process if necessary.

Second, to make it to a hearing that satisfies due process, a felon must be able to apply to register to vote. Prior to the adoption of SB7066, Florida's standard voter-registration form required an applicant to attest that the applicant had never been convicted of a felony or, if the applicant had been convicted of a felony, the right to vote had been restored.[22] This apparently worked without difficulty and, if used now, would allow a felon who asserts a right to vote to submit an application and thus begin the process that, if there is disagreement, eventually leads to a hearing.

But SB7066 scraps the old attestation in favor of three new ones—alternatives to one another—that must be included on the application. These require the applicant to attest that the applicant has never been convicted of a felony, or that the felon's right to vote has "been restored by the Board of Executive Clemency," or that the felon's right to vote has "been restored pursuant

[22] *See* Matthews Decl., ECF No. 148-16 at 2; *see also* Fla. Stat. § 97.052(2)(t) (2018).

to s. 4, Art. VI of the State Constitution upon the completion of all terms of my sentence, including parole or probation." Fla. Stat. § 97.052(2)(t) (2019).

During closing arguments in this case, the Secretary called these required attestations "inartful," and they surely are.[23] But they are worse than that; as the Secretary acknowledged, there are eligible individuals who could not attest to any of the three new statements. Hr'g Tr., ECF No. 205 at 50. The statements do not reach felons whose rights have been restored in other states or through other methods, including executive pardons. *See, e.g.*, *Schlenther v. Dep't of State, Div. of Licensing*, 743 So. 2d 536, 537 (Fla. 2d DCA 1998) ("Once another state restores the civil rights of one of its citizens whose rights had been lost because of a conviction in that state, they are restored and the State of Florida has no authority to suspend or restore them at that point."). If Florida adopts an application form that tracks the statute and does nothing more—as did the initial draft prepared in response to SB7066[24]—the form will not only discourage eligible felons from voting but will make it impossible for some eligible felons even to apply. The Secretary says that as of now, the Supervisors of Elections in all 67 Florida counties are accepting the old form.[25]

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[23] Hr'g Tr., ECF No. 205 at 49-50.

[24] ECF No. 148-3 at 4.

[25] Hr'g Tr., ECF No. 205 at 51.

In addition, if Florida wishes to address inability to pay through its existing six-step administrative process, *see supra* at 37-38, rather than in a functioning Executive Clemency Board or federal court, the state may wish to provide a method by which a felon can claim inability to pay on the application form.

SB7066 created a workgroup tasked with addressing these and other difficulties.[26] The workgroup may design a system improving accessibility to records, may improve the application form, and may suggest other changes. Before this case goes to trial, the Florida Legislature will meet again and may choose to address the substantial administrative and constitutional issues not resolved by SB7066. The Florida Constitution does not preclude the Legislature from restoring the right to vote beyond the minimum required by Amendment 4—an approach that could minimize, if not eliminate, the administrative and constitutional issues.

In any event, these individual plaintiffs have not yet shown a likelihood of success on the merits of the claim that they, as distinct from other affected felons, will suffer a denial of due process in the absence of an injunction broader than set out in this order. Nor have the organizational plaintiffs made this showing for any individual whose rights they assert.

[26] *See* ECF No. 148-46 at 33-35; *see also* ECF No. 152-116.

XIV. Vagueness and the Risk of Prosecution

Closely related to the due-process claim is the assertion that SB7066 is unconstitutionally vague. It is not.

That a constitutional provision or statute is not clear in all its applications does not, without more, make it impermissibly vague. *See, e.g.*, *Grayned v. City of Rockford*, 408 U.S. 104, 110-11 (1972) ("Condemned to the use of words, we can never expect mathematical certainty from our language."). Concerns about ambiguity, about what a provision means, ordinarily can be resolved through judicial construction of the provision. That is true here. The issues that arise when construing Amendment 4 and SB7066 are no more difficult than issues courts resolve every day when construing other provisions.

To be sure, when First Amendment protections are involved, vagueness is of heightened concern. *See Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293 (11th Cir. 2017). Even so, the language of Amendment 4 comes nowhere near the point of unconstitutional vagueness. And SB7066, while substantively controversial, is quite clear. The plaintiffs' real concern is not so much that they don't know what SB7066 means as that they do.

The plaintiffs' more substantial complaint is not the asserted facial ambiguity of Amendment 4 or SB7066 but what might be termed factual vagueness—the difficulty in determining the financial obligations included in a

sentence and what portion has been paid. These are matters that can be addressed in the hearing the State makes available. If, as this plays out, the State forces the individual plaintiffs to risk prosecution to get to an appropriate hearing, they may renew their motion for a preliminary injunction.

So far, the plaintiffs have not shown a substantial likelihood of success on any claim that Amendment 4 and SB7066 are unconstitutionally vague either on their face or as applied to these plaintiffs.

XV. Applying the Preliminary-Injunction Standards

For the reasons set out in section IX above, the State of Florida cannot deny an individual plaintiff the right to vote just because the plaintiff lacks the financial resources to pay whatever financial obligations Amendment 4 and SB7066 require the plaintiff to pay. "*Access to the franchise cannot be made to depend on an individual's financial resources*." *Johnson*, 405 F.3d at 1216-17 n.1 (emphasis added). The plaintiffs are likely to prevail on this claim.

This does not mean, though, that the plaintiffs are likely to prevail on their claim for an injunction requiring the Secretary and the appropriate Supervisor to register specific individuals and to allow them to vote. The appropriate remedy, at least at this stage of the litigation, is to preliminarily enjoin the defendants from interfering with an appropriate procedure through which the plaintiffs can attempt to establish genuine inability to pay. *Johnson* requires nothing more.

The Miami-Dade County Supervisor of Elections asserts that if a preliminary injunction is issued, it should take full account of the distinction between registering to vote and eligibility to vote. The point is well taken. As the Supervisor notes, if a felon applies, is registered, and is not removed from the voting roll, the felon's eligibility can still be challenged, including by any other voter. *See* Fla. Stat. § 101.111. If that occurs, the felon may cast a provisional ballot, and the county canvassing board must adjudicate the challenge. *See* Hr'g Tr., ECF No. 204 at 197-98. This order's preliminary injunction does not explicitly address any such challenge, but as should be clear from what has been said to this point, an otherwise-qualified felon who establishes genuine inability to pay—either through another process the State makes available or in connection with a challenge—cannot be prevented from casting a ballot and having it counted.

The plaintiffs have easily met the other three prerequisites to a preliminary injunction of the scope set out in this order.

When an eligible citizen misses an opportunity to vote, the opportunity is gone forever; the vote cannot later be cast. So when a state wrongly prevents an eligible citizen from voting, the harm to the citizen is irreparable. Each of these plaintiffs have a constitutional right to vote *so long as* the state's only reason for denying the vote is failure to pay an amount the plaintiff is genuinely unable to

pay. The preliminary injunction is necessary to prevent irreparable harm to any such plaintiff.

The damage the injunction may cause the Secretary and the affected Supervisor, if a plaintiff is wrongly allowed to vote, is not insubstantial. Few if any states disenfranchise as many felons as Florida, but Florida's choices must be honored, to the extent constitutional. Even so, the State's interest in *preventing* votes by *ineligible* voters is no greater than its interest in *allowing* votes by *eligible* voters. If the State puts in place an administrative process through which genuine inability to pay can be promptly addressed, the potential damage to the Secretary or a Supervisor will be minimized. And in any event, any damage that may result from the injunction does not outweigh an eligible plaintiff's interest in voting.

Finally, the injunction is in the public interest. The public interest lies in resolving this issue correctly and implementing the proper ruling without delay. Complying with the Constitution serves the public interest. Those with a constitutional right to vote should be allowed to vote. The countervailing interests do not tip the balance.

In sum, the plaintiffs are entitled to a preliminary injunction of appropriate scope. Federal Rule of Civil Procedure 65(c) requires a party who obtains a preliminary injunction to "give[] security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been

wrongfully enjoined." This order requires the plaintiffs to give security for costs in a modest amount. Any party may move at any time to adjust the amount of security.

XVI. Conclusion

For these reasons,

IT IS ORDERED:

1. The Secretary's motion to dismiss or abstain, ECF No. 97, is denied.

2. The plaintiffs' preliminary-injunction motion, ECF No. 108, is granted in part. A preliminary injunction is entered in favor of the individual plaintiffs as set out below against all defendants other than the Governor and Supervisor of Orange County.

3. The Secretary of State must not take any action that both (a) prevents an individual plaintiff from applying or registering to vote and (b) is based only on failure to pay a financial obligation that the plaintiff asserts the plaintiff is genuinely unable to pay. The plaintiffs to which this paragraph applies are Jeff Gruver, Emory Mitchell, Betty Riddle, Karen Leitch, Keith Ivey, Kristopher Wrench, Raquel Wright, Stephen Phalen, Jermaine Miller, Clifford Tyson, Rosemary McCoy, Sheila Singleton, Bonnie Raysor, Diane Sherrill, Lee Hoffman, Luis Mendez, and Kelvin Jones.

4. The Secretary of State must not take any action that both (a) prevents an individual plaintiff from voting and (b) is based only on failure to pay a financial obligation that the plaintiff shows the plaintiff is genuinely unable to pay. The plaintiffs to which this paragraph applies are the same as for paragraph 3 above.

5. This injunction does not prevent the Secretary from notifying the appropriate Supervisor of Elections that a plaintiff has an unpaid financial obligation that will make the plaintiff ineligible to vote unless the plaintiff shows that the plaintiff is genuinely unable to pay the financial obligation.

6. The defendant Supervisor of Elections of the county where an individual plaintiff is domiciled must not take any action that both (a) prevents the plaintiff from applying or registering to vote and (b) is based only on failure to pay a financial obligation that the plaintiff asserts the plaintiff is genuinely unable to pay. The Supervisors and individual plaintiffs to which this paragraph applies are the Supervisor of Alachua County for the plaintiffs Jeff Gruver and Kristopher Wrench; the Supervisor of Sarasota County for the plaintiff Betty Riddle; the Supervisor of Miami-Dade for the Plaintiff Karen Leitch; the Supervisor of Duval County for the plaintiffs Keith Ivey, Rosemary McCoy, and Sheila Singleton; the Supervisor of Indian River County for the plaintiff Raquel Wright; the Supervisor of Manatee County for the plaintiff Stephen Phalen; the Supervisor of Leon County for the plaintiff Jermaine Miller; and the Supervisor of Hillsborough

County for the plaintiffs Clifford Tyson, Lee Hoffman, Luis Mendez, and Kelvin Jones.

7. The Supervisor of Elections of the county where a plaintiff is domiciled must not take any action that both (a) prevents a plaintiff from voting and (b) is based only on failure to pay a financial obligation that the plaintiff shows the plaintiff is genuinely unable to pay. The Supervisors and individual plaintiffs to which this paragraph applies are the same as for paragraph 6 above.

8. This injunction will take effect upon the posting of security in the amount of $100 for costs and damages sustained by a defendant found to have been wrongfully enjoined. Security may be posted by a cash deposit with the Clerk of Court.

9. This injunction binds the defendants and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with any of them—who receive actual notice of this injunction by personal service or otherwise.

SO ORDERED on October 18, 2019.

s/Robert L. Hinkle
United States District Judge

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES,

Plaintiff,

v.

RON DESANTIS, in his official capacity as the Governor of Florida, et al.,

Defendant.
_____ /

CONSOLIDATED
Case No. 4:19-cv-00300-RH-MJF

THE GOVERNOR AND SECRETARY OF STATE'S ANSWER AND AFFIRMATIVE DEFENSES

Defendants, RON DESANTIS, in his official capacity as the Governor of Florida, and LAUREL M. LEE, in her official capacity as the Florida Secretary of State, by and through the undersigned counsel, hereby answer Plaintiff's Complaint for Injunctive Relief, Declaratory Relief, and Mandamus.

RESPONSE TO ALLEGATIONS

As to the numbered paragraphs of the Complaint, the Governor and Secretary answer as follows:

NATURE OF THE CASE

1. The statutes and constitutional provisions cited speak for themselves. The Governor and Secretary deny any remaining factual allegations or legal conclusions contained in numbered paragraph 1.

2. The case and statute cited speak for themselves. The Governor and Secretary deny any remaining factual allegations or legal conclusions contained in numbered paragraph 2.

3. The case cited speaks for itself. The Governor and Secretary deny any remaining factual allegations or legal conclusions contained in numbered paragraph 3.

4. The case cited speaks for itself. The Governor and Secretary deny any remaining factual allegations or legal conclusions contained in numbered paragraph 4.

5. The constitutional provision cited speaks for itself.

6. The statute cited speaks for itself.

7. The Governor and Secretary specifically deny the allegations of numbered paragraph 7.

8. The Governor and Secretary specifically deny the allegations of numbered paragraph 8.

9. The Governor and Secretary acknowledge the position taken by Plaintiff in numbered paragraph 9, but deny the validity of such position. The Governor and Secretary deny any remaining factual allegations or legal conclusions contained in numbered paragraph 9.

PARTIES TO THE ACTION

10. The Governor and Secretary are without sufficient information and knowledge to admit or deny the factual allegations contained in numbered paragraph 10; therefore denied.

11. The Governor and Secretary are without sufficient information and knowledge to admit or deny the factual allegations contained in numbered paragraph 11; therefore denied.

12. The Governor and Secretary are without sufficient information and knowledge to admit or deny the factual allegations contained in numbered paragraph 12; therefore denied.

13. The Governor and Secretary are without sufficient information and knowledge to admit or deny the factual allegations contained in numbered paragraph 13; therefore denied.

14. The Governor and Secretary are without sufficient information and knowledge to admit or deny the factual allegations contained in numbered paragraph 14; therefore denied.

15. The Governor and Secretary deny that, as part of the Secretary's official duties, she is "responsible for conducting Federal, State, County, special and local elections." The Secretary's duties as chief election officer are prescribed in section 97.012, Florida Statutes. The Governor's powers and duties are provided for in the

Florida Constitution. The remaining allegations in numbered paragraph 15 are directed at other defendant and therefore do not require an answer from the Governor or Secretary.

FIRST CAUSE OF ACTION
(FOURTEENTH AMENDMENT, AND 42 USC 1983)

The Governor and Secretary incorporate by reference the responses to numbered paragraphs 1-15 of the Complaint.

16. The cited statute, constitutional provision, and cases speak for themselves. The Governor and Secretary specifically deny any remaining allegations of numbered paragraph 16. The Governor and Secretary specifically deny that Plaintiff is entitled to a any relief under the Fourteenth Amendment of the U.S. Constitution or 42 U.S.C § 1983.

SECOND CAUSE OF ACTION (TWENTY FOURTH AMENDMENT)

The Governor and Secretary incorporate by reference the responses to numbered paragraphs 1-15 of the Complaint.

17. The cited constitutional provision speaks for itself. The Governor and Secretary specifically deny any remaining allegations of numbered paragraph 17.

18. Denied.

THIRD CAUSE OF ACTION (52 U.S.C. § 10301 – VOTING RIGHTS ACT)

The Governor and Secretary incorporate by reference the responses to numbered paragraphs 1-15 of the Complaint.

19. Denied.

FOURTH CAUSE OF ACTION (FLORIDA CONSTITUTION)

The Governor and Secretary incorporate by reference the responses to numbered paragraphs 1-15 of the Complaint.

20. Denied.

FIFTH CAUSE OF ACTION (MANDAMUS)

The Governor and Secretary incorporate by reference the responses to numbered paragraphs 1-15 of the Complaint.

21. The Governor and Secretary deny that Plaintiff is entitled to any relief in the form of mandamus under 28 U.S.C. § 1361 or otherwise.

PRAYER FOR RELIEF

The Governor and Secretary deny that Plaintiff is entitled to any of the relief referenced in numbered paragraph 1 and 2 under the heading "Prayer for Relief" in the Complaint.

AFFIRMATIVE DEFENSES

The Governor and Secretary hereby allege the following affirmative defenses to the Complaint:

1. Failure to State a Cause of Action. The Complaint and each claim alleged therein fails to state a valid cause of action or claim for relief.

2. Lack of Standing. The Plaintiffs lack standing under Article III of the

U.S. Constitution.

Respectfully submitted this 1st day of November, 2019.

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November 1, 2019

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES

The undersigned certifies that this filing complies with the size, font, and formatting requirements of Local Rule 5.1(C).

/s/Mohammad O. Jazil
Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record via email on this 1st day of November, 2019.

/s/Mohammad O. Jazil
Attorney

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JEFF GRUVER, et al.,

Plaintiffs,
v.

CONSOLIDATED
Case No.: 4:19-cv-00300-RH-MJF

KIM BARTON, et al.,

Defendants.
_____/

DEFENDANT CRAIG LATIMER, HILLSBOROUGH COUNTY SUPERVISOR OF ELECTIONS' ANSWERS AND AFFIRMATIVE DEFENSES RESPONSIVE TO THE FIRST AMENDED COMPLAINT (Doc. 26)

Defendant Craig Latimer, the Hillsborough County Supervisor of Elections (herein, "the SOE") files his Answers and Affirmative Defenses responsive to the First Amended Complaint (Doc. 26) and responds as follows to each allegation therein:

1. The SOE takes no position regarding the argument and characterizations presented in paragraph 1. The SOE admits that Amendment 4 passed as alleged.

2. The SOE agrees that "no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as

good citizens, we must live…" Otherwise the SOE takes no position regarding the argument and characterizations presented in paragraph 2.

3. The SOE takes no position regarding the argument and characterizations presented in paragraph 3.

4. The SOE takes no position regarding the argument and characterizations presented in paragraph 4.

5. The SOE takes no position regarding the argument and characterizations presented in paragraph 5.

6. The SOE takes no position regarding the argument and characterizations presented in paragraph 6.

7. The SOE takes no position regarding the argument and characterizations presented in paragraph 7.

8. The SOE takes no position regarding the argument and characterizations presented in paragraph 8.

9. The SOE takes no position regarding the argument and characterizations presented in paragraph 9.

10. The SOE takes no position regarding the argument and characterizations presented in paragraph 10.

11. Without knowledge, therefore denied.

12. Without knowledge, therefore denied.

13. Without knowledge, therefore denied.

14. Without knowledge, therefore denied.

15. Without knowledge, therefore denied.

16. Without knowledge, therefore denied.

17. Without knowledge, therefore denied.

18. Without knowledge, therefore denied.

19. Without knowledge, therefore denied.

20. Without knowledge, therefore denied.

21. Without knowledge, therefore denied.

22. Without knowledge, therefore denied.

23. Without knowledge, therefore denied.

24. The Florida NAACP is a well-known and respected organization; the SOE admits the assertions in paragraph 24 except the SOE is without knowledge as to the last two sentences of paragraph 24.

25. The SOE admits the allegations of the first sentence of paragraph 25. The SOE is without knowledge as to the remaining allegations in paragraph 25, so those allegations are denied.

26. Without knowledge, therefore denied.

27. Without knowledge, therefore denied.

28. Admitted.

29. Admitted.

30. Admitted that the LWVF seeks to increase political participation. Otherwise without knowledge and therefore denied.

31. Admitted.

32. The SOE takes no position regarding the argument and characterizations presented in paragraph 32.

33. Without knowledge, therefore denied.

34. The cited statutes and references to case law speak for themselves.

35. Admitted that Craig Latimer is the Supervisor of Elections for Hillsborough County. Admitted that the SOE is responsible for conducting elections and voter registration in Hillsborough County. The language of SB 7066 speaks for itself.

36. Admitted.

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41. The SOE takes no position regarding the argument and characterizations presented in paragraph 41. Admitted that Amendment 4 passed.

42. The language of the cited Constitutional reference speaks for itself.

43. The SOE takes no position regarding the argument and characterizations presented in paragraph 43. The references to Amendment 4 and to the cited Supreme Court opinion speak for themselves.

44. The references to the cited case law speak for themselves.

45. The references to the cited case law speak for themselves. The SOE takes no position regarding the argument and characterizations presented in paragraph 41.

46. Admitted.

47. The SOE takes no position regarding the argument and characterizations presented in paragraph 47.

48. The SOE takes no position regarding the argument and characterizations presented in paragraph 48.

49. The SOE takes no position regarding the argument and characterizations presented in paragraph 49.

50. The SOE takes no position regarding the argument and characterizations presented in paragraph 50.

51. The SOE takes no position regarding the argument and characterizations presented in paragraph 51.

52. The SOE takes no position regarding the argument and characterizations presented in paragraph 52.

53. Admitted.

54. Admitted.

55. Admitted.

56. The cited statutory language speaks for itself.

57. The SOE takes no position regarding the argument and characterizations presented in paragraph 57. The cited "three options" speak for themselves.

58. Without knowledge as to what "some counties" do, as there are 67 counties in Florida. Otherwise the SOE takes no position regarding the allegations of paragraph 58.

59. Without knowledge as to what "some counties" do, as there are 67 counties in Florida. Otherwise the SOE takes no position regarding the allegations of paragraph 59.

60. The cited Advisory Opinion speaks for itself.

61. The cited statutory language speaks for itself.

62. The cited statutory language speaks for itself.

63. The cited statutory language speaks for itself.

64. The SOE takes no position regarding the argument and characterizations presented in paragraph 64.

65. The SOE takes no position regarding the argument and characterizations presented in paragraph 65.

66. The SOE takes no position regarding the argument and characterizations presented in paragraph 66.

67. The SOE takes no position regarding the argument and characterizations presented in paragraph 67.

68. The SOE takes no position regarding the argument and characterizations presented in paragraph 68.

69. The SOE takes no position regarding the argument and characterizations presented in paragraph 69.

70. The SOE takes no position regarding the argument and characterizations presented in paragraph 70.

71. The SOE takes no position regarding the argument and characterizations presented in paragraph 71.

72. The SOE takes no position regarding the argument and characterizations presented in paragraph 72.

73. The SOE takes no position regarding the argument and characterizations presented in paragraph 73.

74. The SOE takes no position regarding the argument and characterizations presented in paragraph 74.

75. The SOE takes no position regarding the argument and characterizations presented in paragraph 75.

76. The SOE takes no position regarding the argument and characterizations presented in paragraph 76.

77. The SOE takes no position regarding the argument and characterizations presented in paragraph 77.

78. The SOE is without knowledge regarding the allegations presented in paragraph 78.

79. The cited statutory language speaks for itself.

80. The SOE is without knowledge regarding the allegations presented in paragraph 80.

81. The SOE is without knowledge regarding the allegations presented in paragraph 81.

82. The SOE is without knowledge regarding the allegations presented in paragraph 82.

83. The SOE is without knowledge regarding the allegations presented in paragraph 83.

84. The SOE is without knowledge regarding the allegations presented in paragraph 84.

85. The SOE takes no position regarding the argument and

characterizations presented in paragraph 85.

86. The SOE takes no position regarding the argument and characterizations presented in paragraph 86.

87. The SOE takes no position regarding the argument and characterizations presented in paragraph 87.

88. The SOE takes no position regarding the argument and characterizations presented in paragraph 88.

89. The SOE takes no position regarding the argument and characterizations presented in paragraph 89.

90. The SOE takes no position regarding the argument and characterizations presented in paragraph 90.

91. The SOE takes no position regarding the argument and characterizations presented in paragraph 91.

92. The SOE takes no position regarding the argument and characterizations presented in paragraph 92.

93. The SOE takes no position regarding the argument and characterizations presented in paragraph 93.

94. The SOE takes no position regarding the argument and characterizations presented in paragraph 94.

95. The SOE takes no position regarding the argument and

characterizations presented in paragraph 95.

96. The SOE takes no position regarding the argument and characterizations presented in paragraph 96.

97. The SOE takes no position regarding the argument and characterizations presented in paragraph 97.

98. The SOE takes no position regarding the argument and characterizations presented in paragraph 98.

99. The SOE takes no position regarding the argument and characterizations presented in paragraph 99.

100. The cited language from case law speaks for itself. The SOE takes no position regarding the argument and characterizations presented in paragraph 100.

101. The SOE takes no position regarding the argument and characterizations presented in paragraph 101.

102. Without knowledge, therefore denied.

103. Without knowledge, therefore denied.

104. The SOE takes no position regarding the argument and characterizations presented in paragraph 104.

105. The SOE takes no position regarding the argument and characterizations presented in paragraph 105.

106. The SOE takes no position regarding the argument and

characterizations presented in paragraph 106.

107. The SOE takes no position regarding the argument and characterizations presented in paragraph 107.

COUNT ONE

108. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

109. Admitted; the cited language speaks for itself.

110. The SOE takes no position regarding the argument and characterizations presented in paragraph 110.

111. Without knowledge, therefore denied.

112. Without knowledge, therefore denied.

113. Without knowledge, therefore denied.

114. The SOE takes no position regarding the argument and characterizations presented in paragraph 114.

115. The SOE takes no position regarding the argument and characterizations presented in paragraph 115.

COUNT TWO

116. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

117. The SOE takes no position regarding the argument and

characterizations presented in paragraph 117.

118. Admitted; the cited language speaks for itself.

119. The cited language speaks for itself.

120. The cited language speaks for itself.

121. The SOE takes no position regarding the argument and characterizations presented in paragraph 121.

122. Without knowledge, therefore denied.

123. The SOE takes no position regarding the argument and characterizations presented in paragraph 123.

124. The SOE takes no position regarding the argument and characterizations presented in paragraph 124.

125. The SOE takes no position regarding the argument and characterizations presented in paragraph 125.

126. The SOE takes no position regarding the argument and characterizations presented in paragraph 126.

127. The SOE takes no position regarding the argument and characterizations presented in paragraph 127.

128. The SOE takes no position regarding the argument and characterizations presented in paragraph 128.

COUNT THREE

129. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

130. The SOE takes no position regarding the argument and characterizations presented in paragraph 130.

131. Admitted; the cited language speaks for itself.

132. Admitted, the cited language speaks for itself.

133. The SOE takes no position regarding the argument and characterizations presented in paragraph 133.

134. The SOE takes no position regarding the argument and characterizations presented in the first sentence of paragraph 134. The SOE denies the allegation made in the last sentence of paragraph 134.

135. Denied that "entirely different schemes" have been incorporated to implement SB7066. Otherwise denied.

COUNT FOUR

136. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

137. Admitted.

138. The cited language speaks for itself.

139. Without knowledge, therefore denied.

140. Denied that the SOE "confirmed Plaintiffs' eligibility to vote and added Plaintiffs to the registration rolls," with the exception of Plaintiff Clifford Tyson.

141. Without knowledge, therefore denied.

142. Without knowledge, therefore denied.

143. Admitted.

144. The SOE takes no position regarding the argument and characterizations presented in paragraph 144.

145. The SOE takes no position regarding the argument and characterizations presented in paragraph 145.

146. The SOE takes no position regarding the argument and characterizations presented in paragraph 146.

147. The SOE takes no position regarding the argument and characterizations presented in paragraph 147.

148. The SOE takes no position regarding the argument and characterizations presented in paragraph 148.

149. Without knowledge, therefore denied.

150. Without knowledge, therefore denied.

151. The SOE takes no position regarding the argument and characterizations presented in paragraph 151.

COUNT FIVE

152. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

153. The SOE takes no position regarding the argument and characterizations presented in paragraph 153.

154. Admitted.

155. The SOE takes no position regarding the argument and characterizations presented in paragraph 155.

156. Without knowledge, therefore denied.

157. Without knowledge, therefore denied.

158. The SOE takes no position regarding the argument and characterizations presented in paragraph 158.

159. The SOE takes no position regarding the argument and characterizations presented in paragraph 159.

COUNT SIX

160. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

161. The cited language speaks for itself.

162. Without knowledge, therefore denied.

163. Without knowledge, therefore denied.

164. Without knowledge, therefore denied.

165. Without knowledge, therefore denied.

166. Without knowledge, therefore denied.

167. Without knowledge, therefore denied.

168. Without knowledge, therefore denied.

169. Without knowledge, therefore denied.

170. Without knowledge, therefore denied. The SOE takes no position regarding the argument and characterizations presented in paragraph 170.

171. The SOE takes no position regarding the argument and characterizations presented in paragraph 171.

172. The SOE takes no position regarding the argument and characterizations presented in paragraph 172.

173. The SOE takes no position regarding the argument and characterizations presented in paragraph 173.

COUNT SEVEN

174. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

175. The cited language speaks for itself.

176. Admitted.

177. The SOE takes no position regarding the argument and

characterizations presented in paragraph 177.

178. The SOE takes no position regarding the argument and characterizations presented in paragraph 178.

179. The cited language speaks for itself. Other than the cited language, the SOE takes no position regarding the argument and characterizations presented in paragraph 179.

180. Admitted.

181. The SOE takes no position regarding the argument and characterizations presented in paragraph 181.

182. Without knowledge, therefore denied.

183. Without knowledge, therefore denied.

184. The SOE takes no position regarding the argument and characterizations presented in paragraph 184.

185. The SOE takes no position regarding the argument and characterizations presented in paragraph 185.

186. The SOE takes no position regarding the argument and characterizations presented in paragraph 186.

187. The SOE takes no position regarding the argument and characterizations presented in paragraph 187.

188. The SOE takes no position regarding the argument and

characterizations presented in paragraph 188.

189. The SOE takes no position regarding the argument and characterizations presented in paragraph 189.

190. The SOE takes no position regarding the argument and characterizations presented in paragraph 190.

COUNT EIGHT

191. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

192. Admitted.

193. Without knowledge, therefore denied.

194. The SOE takes no position regarding the argument and characterizations presented in paragraph 194.

195. The SOE takes no position regarding the argument and characterizations presented in paragraph 195.

196. The SOE takes no position regarding the argument and characterizations presented in paragraph 196.

197. The SOE takes no position regarding the argument and characterizations presented in paragraph 197.

COUNT NINE

198. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

199. Admitted.

200. Without knowledge, therefore denied.

201. Without knowledge, therefore denied, except as to Plaintiff Clifford Tyson. Admitted as to Clifford Tyson.

202. Without knowledge, except as to Plaintiff Clifford Tyson. Admitted as to Clifford Tyson.

203. The SOE takes no position regarding the argument and characterizations presented in paragraph 203.

204. The SOE takes no position regarding the argument and characterizations presented in paragraph 204.

205. The SOE takes no position regarding the argument and characterizations presented in paragraph 205.

206. The SOE takes no position regarding the argument and characterizations presented in paragraph 206.

207. The SOE takes no position regarding the argument and characterizations presented in paragraph 207.

COUNT TEN

208. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

209. Admitted.

210. Admitted; the cited language speaks for itself.

211. Admitted.

212. The cited language speaks for itself.

213. The SOE takes no position regarding the argument and characterizations presented in paragraph 213.

214. The SOE takes no position regarding the argument and characterizations presented in paragraph 214.

COUNT ELEVEN

215. The SOE incorporates by reference his responses set forth in the preceding paragraphs.

216. The cited language speaks for itself.

217. The SOE takes no position regarding the argument and characterizations presented in paragraph 217.

218. The cited language speaks for itself.

219. The SOE takes no position regarding the argument and characterizations presented in paragraph 219.

220. Admitted, except insofar as the Court's Preliminary Injunction requires that the cited language not be used on voter registration applications.

221. The statement made by Plaintiffs in paragraph 221 is not stated with clarity, so in an abundance of caution the SOE denies the allegation.

222. One purpose of this lawsuit is to request that the Court determine what is "sufficient" as a matter of law. The SOE does not make a determination of what is "sufficient" in the context alleged.

223. The SOE takes no position regarding the argument and characterizations presented in paragraph 223.

224. The SOE takes no position regarding the argument and characterizations presented in paragraph 224.

225. The SOE takes no position regarding the argument and characterizations presented in paragraph 225.

226. The SOE takes no position regarding the argument and characterizations presented in paragraph 226.

227. The SOE takes no position regarding the argument and characterizations presented in paragraph 227.

228. The SOE takes no position regarding the argument and characterizations presented in paragraph 228.

229. The SOE takes no position regarding the argument and

characterizations presented in paragraph 229.

230. The SOE takes no position regarding the argument and characterizations presented in paragraph 230.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs lack Article III standing to sue the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges "he fears he might be removed from the voter registration rolls" (paragraph 18). This allegation of "fear" is not concrete and particularized, as Mr. Tyson does not allege he has suffered an "injury in fact" which may be traceable to the SOE. His alleged "fear" is simply hypothetical or speculative.

Second Affirmative Defense

Plaintiffs' claims are not ripe for review as to the SOE; the only Plaintiff who resides in Hillsborough County is Clifford Tyson, who only alleges "he fears he might be removed from the voter registration rolls" (paragraph 18). Moreover, the the state has not provided credible and reliable information as the basis for an initial finding of ineligibility. Mr. Tyson's alleged "fear" is simply hypothetical or speculative, therefore, his claims have not ripened to the point where he can seek redress for a constitutional violation against the SOE.

Third Affirmative Defense

Plaintiffs have failed to exhaust their administrative remedies. 52 U.S.C. §§ 21111, 21112.

Fourth Affirmative Defense

Plaintiffs fail to state a cause of action for which relief may be granted against the SOE.

Fifth Affirmative Defense

Pursuant to 52 U.S.C. § 20507(a)(3), Congress places an affirmative legal duty upon each state with respect to administration of voter registration. The cited statute further provides that the state *may* cause to be removed a registrant from the official list of eligible voters, "(2) as provided by State law, by reason of criminal conviction." Bellitto v. Snipes, ___ F.3d ____, 2019 WL 3955692 (11th Cir. August 22, 2019). Federal law thus places upon the State of Florida the duty to ensure that any eligible applicant is registered to vote, and allows the State to cause to be removed eligible voters from the list "as provided by State law, by reason of criminal conviction." The SOE reasonably relies upon the State of Florida to exercise its federal statutory duty as to requirements with respect to administration of voter registration, which complies with the above-cited statute, so that the SOE

may discharge his duty to register voters and to conduct elections in Hillsborough County.

/s/ Stephen M. Todd
Stephen M. Todd, Esquire
Sr. Assistant County Attorney
Office of the Hillsborough County Attorney
Post Office Box 1110
Tampa, Florida 33601-1110
(813) 272-5670 – Fax: (813) 272-5758
Attorney for Defendant, Craig Latimer as Supervisor of Elections for Hillsborough County
Service Emails:
ToddS@hillsboroughcounty.org
MatthewsL@hillsboroughcounty.org
ConnorsA@hillsboroughcounty.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 12, 2019, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to all Parties/Counsel of Record.

/s/ Stephen M. Todd
Stephen M. Todd, Esquire

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendant.

_____/

DEFENDANT, RON TURNER, SARASOTA COUNTY SUPERVISOR OF ELECTIONS ANSWER TO FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Ron Turner, Sarasota County Supervisor of Elections, answers the Plaintiff's First Amended Complaint for Injunctive and Declaratory Relief, and says:

1. Defendant admits the allegations to the extent that Amendment 4 was approved by the voters on November 6, 2018 and denies in all other respects the allegations contained in Paragraph 1 of the First Amended Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the First Amended Complaint.

3. The paragraph is a conclusory allegation to which no response is required.

4. Without knowledge and therefore denied.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the First Amended Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the First Amended Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the First Amended Complaint.

8. Defendant is without knowledge as to the allegations contained in Paragraph 8 of the First Amended Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of the First Amended Complaint.

10. Without knowledge and therefore denied.

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the First Amended Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the First Amended Complaint.

13. Defendant is without knowledge as to the allegations contained in Paragraph 13 of the First Amended Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the First Amended Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the First Amended Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the First Amended Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the First Amended Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the First Amended Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the First Amended Complaint.

20. Defendant is without knowledge as to the allegations contained in Paragraph 20 of the First Amended Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the First Amended Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the First Amended Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the First Amended Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the First Amended Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the First Amended Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the First Amended Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the First Amended Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the First Amended Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the First Amended Complaint.

30. Defendant is without knowledge as to the allegations contained in Paragraph 30 of the First Amended Complaint.

31. Defendant is without knowledge as to the allegations contained in Paragraph 31 of the First Amended Complaint.

32. Defendant is without knowledge as to the allegations contained in Paragraph 32 of the First Amended Complaint.

33. Defendant is without knowledge as to the allegations contained in Paragraph 33 of the First Amended Complaint.

34. Defendant admits that Laurel M. Lee is the Secretary of State and that the statutes and cases speak for themselves, and otherwise denies the remaining

allegations contained in Paragraph 34 of the First Amended Complaint.

35. Defendant admits the allegations as to the identification of the named Supervisors of Elections contained in Paragraph 35 of the First Amended Complaint and otherwise denies the remaining allegations.

36. Admitted for jurisdictional purposes only.

37. Admitted for jurisdictional purposes only.

38. Admitted for jurisdictional purposes only.

39. Denied.

40. Denied.

41. Defendant admits that the voters on November 6, 2018 approved Amendment 4 and is without knowledge as to the remaining allegations contained in Paragraph 41 of the First Amended Complaint.

42. Defendant admits the text of the Amendment speaks for itself; otherwise denied.

43. Defendant admits that Amendment 4 and the Florida Supreme Court's opinion speak for themselves and is without knowledge as to all other allegations contained in Paragraph 43 of the First Amended Complaint, including footnote 3.

44. Defendant admits that the cases speak for themselves and denies all remaining allegations in Paragraph 44.

45. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 45 of the First Amended Complaint.

46. Defendant admits the allegations contained in Paragraph 46 of the First Amended Complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the First Amended Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the First Amended Complaint.

49. Defendant is without knowledge as to the allegations contained in Paragraph 49 of the First Amended Complaint.

50. Defendant is without knowledge as to the allegations contained in Paragraph 50 of the First Amended Complaint.

51. Defendant is without knowledge as to the allegations contained in Paragraph 51 of the First Amended Complaint.

52. Defendant is without knowledge as to the allegations contained in Paragraph 52 of the First Amended Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the First Amended Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the First Amended Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the First Amended Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the First Amended Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the First Amended Complaint.

58. Defendant admits the allegations contained in Paragraph 58 of the First Amended Complaint.

59. Defendant admits the allegations contained in Paragraph 59 of the First Amended Complaint.

60. Defendant admits the allegations contained in Paragraph 60 of the First Amended Complaint.

61. Defendant admits the allegations contained in Paragraph 61 of the First Amended Complaint.

62. Defendant admits the allegations contained in Paragraph 62 of the First Amended Complaint.

63. Defendant admits the allegations contained in Paragraph 63 of the First Amended Complaint.

64. Defendant is without knowledge as to the allegations contained in Paragraph 64 of the First Amended Complaint.

65. Defendant is without knowledge as to the allegations contained in Paragraph 65 of the First Amended Complaint.

66. Defendant is without knowledge as to the allegations contained in Paragraph 66 of the First Amended Complaint.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the First Amended Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the First Amended Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the First Amended Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the First Amended Complaint.

71. Defendant is without knowledge as to the allegations contained in Paragraph 71 of the First Amended Complaint.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the First Amended Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the First Amended Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the First Amended Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the First Amended Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the First Amended Complaint.

77. Defendant is without knowledge as to the allegations contained in Paragraph 77 of the First Amended Complaint.

78. Defendant is without knowledge as to the allegations contained in Paragraph 78 of the First Amended Complaint.

79. Admitted that §775.089(3)(b) speaks for itself; otherwise denied.

80. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

81. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

82. Defendant admits that SB 7066 speaks for itself; otherwise denied.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the First Amended Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the First Amended Complaint.

85. Defendant is without knowledge as to the allegations contained in Paragraph 85 of the First Amended Complaint.

86. Admitted that SB7066 speaks for itself; otherwise denied.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the First Amended Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the First Amended Complaint.

89. Admitted that SB7066 speaks for itself; otherwise denied.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the First Amended Complaint.

91. Defendant is without knowledge as to the allegations contained in Paragraph 91 of the First Amended Complaint.

92. Admitted that SB7066 speaks for itself; otherwise denied.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the First Amended Complaint.

94. Admitted that the referenced hearing transcript speaks for itself; otherwise denied.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the First Amended Complaint.

96. Admitted the hearing transcript speaks for itself; otherwise denied.

97. Admitted the hearing transcript speaks for itself; otherwise denied.

98. Admitted the hearing transcript speaks for itself; otherwise denied.

99. Admitted the hearing transcript speaks for itself; otherwise denied.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the First Amended Complaint.

101. Defendant is without knowledge as to the allegations contained in Paragraph 101 of the First Amended Complaint.

102. Admitted the hearing transcript speaks for itself; otherwise denied.

103. Defendant is without knowledge as to the allegations contained in Paragraph 103 of the First Amended Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the First Amended Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the First Amended Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the First Amended Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the First Amended Complaint.

108. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

109. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 109 of the First Amended Complaint.

110. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 110 of the First Amended Complaint

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the First Amended Complaint.

112. Defendant is without knowledge as to the allegations contained in Paragraph 112 of the First Amended Complaint.

113. Defendant is without knowledge as to the allegations contained in Paragraph 113 of the First Amended Complaint.

114. Denied.

115. Denied.

116. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

117. Denied.

118. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 118 of the First Amended Complaint.

119. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 119 of the First Amended Complaint.

120. Defendant admits the case speaks for itself and otherwise denies the allegations contained in Paragraph 120 of the First Amended Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the First Amended Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the First Amended Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the First Amended Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the First Amended Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the First Amended Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the First Amended Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the First Amended Complaint.

128. Defendant is without knowledge as to the allegations contained in Paragraph 128 of the First Amended Complaint.

129. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

130. Defendant is without knowledge as to the allegations contained in Paragraph 130 of the First Amended Complaint.

131. Defendant is without knowledge as to the allegations contained in Paragraph 131 of the First Amended Complaint.

132. Defendant is without knowledge as to the allegations contained in Paragraph 132 of the First Amended Complaint.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the First Amended Complaint.

134. Defendant is without knowledge as to the allegations contained in Paragraph 134 of the First Amended Complaint.

135. Defendant is without knowledge as to the allegations contained in Paragraph 135 of the First Amended Complaint.

136. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein

137. Defendant admits the 14th Amendment speaks for itself; otherwise denied.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the First Amended Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the First Amended Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the First Amended Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the First Amended Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the First Amended Complaint.

143. Defendant is without knowledge as to the allegations contained in Paragraph 143 of the First Amended Complaint.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the First Amended Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the First Amended Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the First Amended Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the First Amended Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the First Amended Complaint.

149. Defendant is without knowledge as to the allegations contained in Paragraph 149 of the First Amended Complaint.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the First Amended Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the First Amended Complaint.

152. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

153. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

154. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

155. Defendant admits SB7066 speaks for itself; otherwise denied.

156. Defendant is without knowledge as to the allegations contained in Paragraph 156 of the First Amended Complaint.

157. Defendant is without knowledge as to the allegations contained in Paragraph 157 of the First Amended Complaint.

158. Defendant admits SB7066 speaks for itself; otherwise denied.

159. Defendant is without knowledge as to the allegations contained in Paragraph 159 of the First Amended Complaint.

160. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the First Amended Complaint.

162. Defendant is without knowledge as to the allegations contained in Paragraph 162 of the First Amended Complaint.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the First Amended Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the First Amended Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the First Amended Complaint.

166. Defendant is without knowledge as to the allegations contained in Paragraph 166 of the First Amended Complaint.

167. Defendant is without knowledge as to the allegations contained in Paragraph 167 of the First Amended Complaint.

168. Defendant is without knowledge as to the allegations contained in Paragraph 168 of the First Amended Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the First Amended Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the First Amended Complaint.

171. Defendant admits SB7066 speaks for itself; otherwise denied.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the First Amended Complaint.

173. Defendant is without knowledge as to the allegations contained in Paragraph 173 of the First Amended Complaint.

174. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

175. Defendant is without knowledge as to the allegations contained in Paragraph 175 of the First Amended Complaint.

176. Defendant is without knowledge as to the allegations contained in Paragraph 176 of the First Amended Complaint.

177. Defendant is without knowledge as to the allegations contained in Paragraph 177 of the First Amended Complaint.

178. Defendant is without knowledge as to the allegations contained in Paragraph 178 of the First Amended Complaint.

179. Defendant is without knowledge as to the allegations contained in Paragraph 179 of the First Amended Complaint.

180. Defendant is without knowledge as to the allegations contained in Paragraph 180 of the First Amended Complaint.

181. Defendant is without knowledge as to the allegations contained in Paragraph 181 of the First Amended Complaint.

182. Defendant is without knowledge as to the allegations contained in Paragraph 182 of the First Amended Complaint.

183. Defendant is without knowledge as to the allegations contained in Paragraph 183 of the First Amended Complaint.

184. Defendant is without knowledge as to the allegations contained in Paragraph 184 of the First Amended Complaint.

185. Defendant is without knowledge as to the allegations contained in Paragraph 185 of the First Amended Complaint.

186. Defendant is without knowledge as to the allegations contained in Paragraph 186 of the First Amended Complaint.

187. Defendant is without knowledge as to the allegations contained in Paragraph 187 of the First Amended Complaint.

188. Defendant is without knowledge as to the allegations contained in Paragraph 188 of the First Amended Complaint.

189. Denied.

190. Defendant is without knowledge as to the allegations contained in Paragraph 190 of the First Amended Complaint

191. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

192. Defendant admits that the Constitution speaks for itself and otherwise denies the remaining allegations contained in Paragraph 192 of the First Amended Complaint.

193. Defendant is without knowledge as to the allegations contained in Paragraph 193 of the First Amended Complaint.

194. Defendant is without knowledge as to the allegations contained in Paragraph 194 of the First Amended Complaint.

195. Defendant is without knowledge as to the allegations contained in Paragraph 195 of the First Amended Complaint.

196. Defendant is without knowledge as to the allegations contained in Paragraph 196 of the First Amended Complaint.

197. Defendant is without knowledge as to the allegations contained in Paragraph 197 of the First Amended Complaint.

198. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

199. Defendant admits that the Constitution and case speak for themselves and otherwise denies the remaining allegations contained in Paragraph 199 of the First Amended Complaint.

200. Defendant is without knowledge as to the allegations contained in Paragraph 200 of the First Amended Complaint.

201. Defendant is without knowledge as to the allegations contained in Paragraph 201 of the First Amended Complaint.

202. Defendant is without knowledge as to the allegations contained in Paragraph 202 of the First Amended Complaint.

203. Defendant is without knowledge as to the allegations contained in Paragraph 203 of the First Amended Complaint.

204. Defendant admits the referenced news article speaks for itself; otherwise denied.

205. Defendant is without knowledge as to the allegations contained in Paragraph 205 of the First Amended Complaint.

206. Defendant is without knowledge as to the allegations contained in Paragraph 206 of the First Amended Complaint.

207. Defendant is without knowledge as to the allegations contained in Paragraph 207 of the First Amended Complaint.

208. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

209. Defendant admits the 14th Amendment speaks for itself; otherwise denied.

210. Defendant is without knowledge as to the allegations contained in Paragraph 210 of the First Amended Complaint.

211. Defendant is without knowledge as to the allegations contained in Paragraph 211 of the First Amended Complaint.

212. Defendant is without knowledge as to the allegations contained in Paragraph 212 of the First Amended Complaint.

213. Defendant is without knowledge as to the allegations contained in Paragraph 213 of the First Amended Complaint.

214. Defendant is without knowledge as to the allegations contained in Paragraph 214 of the First Amended Complaint.

215. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

216. Defendant is without knowledge as to the allegations contained in Paragraph 216 of the First Amended Complaint.

217. Defendant is without knowledge as to the allegations contained in Paragraph 217 of the First Amended Complaint.

218. Defendant is without knowledge as to the allegations contained in Paragraph 218 of the First Amended Complaint.

219. Defendant is without knowledge as to the allegations contained in Paragraph 219 of the First Amended Complaint.

220. Defendant admits SB7066 speaks for itself; otherwise denied.

221. Defendant is without knowledge as to the allegations contained in Paragraph 221 of the First Amended Complaint.

222. Defendant is without knowledge as to the allegations contained in Paragraph 222 of the First Amended Complaint.

223. Defendant is without knowledge as to the allegations contained in Paragraph 223 of the First Amended Complaint.

224. Defendant is without knowledge as to the allegations contained in Paragraph 224 of the First Amended Complaint.

225. Defendant is without knowledge as to the allegations contained in Paragraph 225 of the First Amended Complaint.

226. Defendant is without knowledge as to the allegations contained in Paragraph 226 of the First Amended Complaint.

227. Defendant is without knowledge as to the allegations contained in Paragraph 227 of the First Amended Complaint.

228. Defendant is without knowledge as to the allegations contained in Paragraph 228 of the First Amended Complaint.

229. Defendant is without knowledge as to the allegations contained in Paragraph 229 of the First Amended Complaint.

230. Defendant admits SB7066 speaks for itself; otherwise denied.

AFFIRMATIVE DEFENSES OF DEFENDANT RON TURNER, SUPERVISOR OF ELECTIONS OF SARASOTA COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Supervisor Turner has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the First Amended Complaint and he has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility, and Fla. Stat. § 98.0755 provides appellate jurisdiction over such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Supervisor Turner and therefore do not possess the requisite standing to bring this cause of action against Supervisor Turner.

4. Plaintiffs' First Amended Complaint does not state a cause of action against Supervisor Turner for which relief may be granted because the relief requested is not sought from Supervisor Turner and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' First Amended Complaint does not state a cause of action against Supervisor Turner for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to . . . [o]btain and maintain uniformity in the interpretation and implementation of the election laws . . . [and] may . . . adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* Fla. Stat. § 97.012.

6. Plaintiffs' First Amended Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the First Amended Complaint is an improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Supervisor Turner is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. To the extent Plaintiffs suffered any damages as a result of facts alleged in the First Amended Complaint, Supervisor Turner is entitled to immunity under the Eleventh Amendment of the United States Constitution.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the First Amended Complaint, Supervisor Turner is not the proximate cause of those damages.

10. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

11. The First Amended Complaint incorporates all preceding counts into each count and therefore fails to state a claim as a matter of law.

12. Plaintiffs have failed to state a basis for attorneys' fees and costs against Supervisor Turner.

13. Supervisor Turner adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

14. Supervisor Turner reserves the right to assert additional defenses as appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail upon counsel of record for all parties in the above-captioned matter this 31 day of December, 2019.

MORGAN R. BENTLEY, ESQ.
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al., Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as Governor of the State of Florida, et al.

Defendant.

_____/

DEFENDANT, MICHAEL BENNETT, MANATEE COUNTY SUPERVISOR OF ELECTIONS ANSWER TO FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendant, Michael Bennett, Manatee County Supervisor of Elections, answers the Plaintiff's First Amended Complaint for Injunctive and Declaratory Relief, and says:

1. Defendant admits the allegations to the extent that Amendment 4 was approved by the voters on November 6, 2018 and denies in all other respects the allegations contained in Paragraph 1 of the First Amended Complaint.

2. Defendant is without knowledge as to the allegations contained in Paragraph 2 of the First Amended Complaint.

3. The paragraph is a conclusory allegation to which no response is required.

4. Without knowledge and therefore denied.

5. Defendant is without knowledge as to the allegations contained in Paragraph 5 of the First Amended Complaint.

6. Defendant is without knowledge as to the allegations contained in Paragraph 6 of the First Amended Complaint.

7. Defendant is without knowledge as to the allegations contained in Paragraph 7 of the First Amended Complaint.

8. Defendant is without knowledge as to the allegations contained in Paragraph 8 of the First Amended Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of the First Amended Complaint.

10. Without knowledge and therefore denied.

11. Defendant is without knowledge as to the allegations contained in Paragraph 11 of the First Amended Complaint.

12. Defendant is without knowledge as to the allegations contained in Paragraph 12 of the First Amended Complaint.

13. Defendant is without knowledge as to the allegations contained in Paragraph 13 of the First Amended Complaint.

14. Defendant is without knowledge as to the allegations contained in Paragraph 14 of the First Amended Complaint.

15. Defendant is without knowledge as to the allegations contained in Paragraph 15 of the First Amended Complaint.

16. Defendant is without knowledge as to the allegations contained in Paragraph 16 of the First Amended Complaint.

17. Defendant is without knowledge as to the allegations contained in Paragraph 17 of the First Amended Complaint.

18. Defendant is without knowledge as to the allegations contained in Paragraph 18 of the First Amended Complaint.

19. Defendant is without knowledge as to the allegations contained in Paragraph 19 of the First Amended Complaint.

20. Defendant is without knowledge as to the allegations contained in Paragraph 20 of the First Amended Complaint.

21. Defendant is without knowledge as to the allegations contained in Paragraph 21 of the First Amended Complaint.

22. Defendant is without knowledge as to the allegations contained in Paragraph 22 of the First Amended Complaint.

23. Defendant is without knowledge as to the allegations contained in Paragraph 23 of the First Amended Complaint.

24. Defendant is without knowledge as to the allegations contained in Paragraph 24 of the First Amended Complaint.

25. Defendant is without knowledge as to the allegations contained in Paragraph 25 of the First Amended Complaint.

26. Defendant is without knowledge as to the allegations contained in Paragraph 26 of the First Amended Complaint.

27. Defendant is without knowledge as to the allegations contained in Paragraph 27 of the First Amended Complaint.

28. Defendant is without knowledge as to the allegations contained in Paragraph 28 of the First Amended Complaint.

29. Defendant is without knowledge as to the allegations contained in Paragraph 29 of the First Amended Complaint.

30. Defendant is without knowledge as to the allegations contained in Paragraph 30 of the First Amended Complaint.

31. Defendant is without knowledge as to the allegations contained in Paragraph 31 of the First Amended Complaint.

32. Defendant is without knowledge as to the allegations contained in Paragraph 32 of the First Amended Complaint.

33. Defendant is without knowledge as to the allegations contained in Paragraph 33 of the First Amended Complaint.

34. Defendant admits that Laurel M. Lee is the Secretary of State and that the statutes and cases speak for themselves, and otherwise denies the remaining allegations contained in Paragraph 34 of the First Amended Complaint.

35. Defendant admits the allegations as to the identification of the named Supervisors of Elections contained in Paragraph 35 of the First Amended Complaint and otherwise denies the remaining allegations.

36. Admitted for jurisdictional purposes only.

37. Admitted for jurisdictional purposes only.

38. Admitted for jurisdictional purposes only.

39. Denied.

40. Denied.

41. Defendant admits that the voters on November 6, 2018 approved Amendment 4 and is without knowledge as to the remaining allegations contained in Paragraph 41 of the First Amended Complaint.

42. Defendant admits the text of the Amendment speaks for itself; otherwise denied.

43. Defendant admits that Amendment 4 and the Florida Supreme Court's opinion speak for themselves and is without knowledge as to all other allegations contained in Paragraph 43 of the First Amended Complaint, including footnote 3.

44. Defendant admits that the cases speak for themselves and denies all remaining allegations in Paragraph 44.

45. Defendant admits the cases speak for themselves and otherwise denies the remaining allegations contained in Paragraph 45 of the First Amended Complaint.

46. Defendant admits the allegations contained in Paragraph 46 of the First Amended Complaint.

47. Defendant is without knowledge as to the allegations contained in Paragraph 47 of the First Amended Complaint.

48. Defendant is without knowledge as to the allegations contained in Paragraph 48 of the First Amended Complaint.

49. Defendant is without knowledge as to the allegations contained in Paragraph 49 of the First Amended Complaint.

50. Defendant is without knowledge as to the allegations contained in Paragraph 50 of the First Amended Complaint.

51. Defendant is without knowledge as to the allegations contained in Paragraph 51 of the First Amended Complaint.

52. Defendant is without knowledge as to the allegations contained in Paragraph 52 of the First Amended Complaint.

53. Defendant admits the allegations contained in Paragraph 53 of the First Amended Complaint.

54. Defendant admits the allegations contained in Paragraph 54 of the First Amended Complaint.

55. Defendant admits the allegations contained in Paragraph 55 of the First Amended Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of the First Amended Complaint.

57. Defendant admits the allegations contained in Paragraph 57 of the First Amended Complaint.

58. Defendant admits the allegations contained in Paragraph 58 of the First Amended Complaint.

59. Defendant admits the allegations contained in Paragraph 59 of the First Amended Complaint.

60. Defendant admits the allegations contained in Paragraph 60 of the First Amended Complaint.

61. Defendant admits the allegations contained in Paragraph 61 of the First Amended Complaint.

62. Defendant admits the allegations contained in Paragraph 62 of the First Amended Complaint.

63. Defendant admits the allegations contained in Paragraph 63 of the First Amended Complaint.

64. Defendant is without knowledge as to the allegations contained in Paragraph 64 of the First Amended Complaint.

65. Defendant is without knowledge as to the allegations contained in Paragraph 65 of the First Amended Complaint.

66. Defendant is without knowledge as to the allegations contained in Paragraph 66 of the First Amended Complaint.

67. Defendant is without knowledge as to the allegations contained in Paragraph 67 of the First Amended Complaint.

68. Defendant is without knowledge as to the allegations contained in Paragraph 68 of the First Amended Complaint.

69. Defendant is without knowledge as to the allegations contained in Paragraph 69 of the First Amended Complaint.

70. Defendant is without knowledge as to the allegations contained in Paragraph 70 of the First Amended Complaint.

71. Defendant is without knowledge as to the allegations contained in Paragraph 71 of the First Amended Complaint.

72. Defendant is without knowledge as to the allegations contained in Paragraph 72 of the First Amended Complaint.

73. Defendant is without knowledge as to the allegations contained in Paragraph 73 of the First Amended Complaint.

74. Defendant is without knowledge as to the allegations contained in Paragraph 74 of the First Amended Complaint.

75. Defendant is without knowledge as to the allegations contained in Paragraph 75 of the First Amended Complaint.

76. Defendant is without knowledge as to the allegations contained in Paragraph 76 of the First Amended Complaint.

77. Defendant is without knowledge as to the allegations contained in Paragraph 77 of the First Amended Complaint.

78. Defendant is without knowledge as to the allegations contained in Paragraph 78 of the First Amended Complaint.

79. Admitted that §775.089(3)(b) speaks for itself; otherwise denied.

80. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

81. Admitted that §775.089(3)(d) speaks for itself; otherwise denied.

82. Defendant admits that SB 7066 speaks for itself; otherwise denied.

83. Defendant is without knowledge as to the allegations contained in Paragraph 83 of the First Amended Complaint.

84. Defendant is without knowledge as to the allegations contained in Paragraph 84 of the First Amended Complaint.

85. Defendant is without knowledge as to the allegations contained in Paragraph 85 of the First Amended Complaint.

86. Admitted that SB7066 speaks for itself; otherwise denied.

87. Defendant is without knowledge as to the allegations contained in Paragraph 87 of the First Amended Complaint.

88. Defendant is without knowledge as to the allegations contained in Paragraph 88 of the First Amended Complaint.

89. Admitted that SB7066 speaks for itself; otherwise denied.

90. Defendant is without knowledge as to the allegations contained in Paragraph 90 of the First Amended Complaint.

91. Defendant is without knowledge as to the allegations contained in Paragraph 91 of the First Amended Complaint.

92. Admitted that SB7066 speaks for itself; otherwise denied.

93. Defendant is without knowledge as to the allegations contained in Paragraph 93 of the First Amended Complaint.

94. Admitted that the referenced hearing transcript speaks for itself; otherwise denied.

95. Defendant is without knowledge as to the allegations contained in Paragraph 95 of the First Amended Complaint.

96. Admitted the hearing transcript speaks for itself; otherwise denied.

97. Admitted the hearing transcript speaks for itself; otherwise denied.

98. Admitted the hearing transcript speaks for itself; otherwise denied.

99. Admitted the hearing transcript speaks for itself; otherwise denied.

100. Defendant is without knowledge as to the allegations contained in Paragraph 100 of the First Amended Complaint.

101. Defendant is without knowledge as to the allegations contained in Paragraph 101 of the First Amended Complaint.

102. Admitted the hearing transcript speaks for itself; otherwise denied.

103. Defendant is without knowledge as to the allegations contained in Paragraph 103 of the First Amended Complaint.

104. Defendant is without knowledge as to the allegations contained in Paragraph 104 of the First Amended Complaint.

105. Defendant is without knowledge as to the allegations contained in Paragraph 105 of the First Amended Complaint.

106. Defendant is without knowledge as to the allegations contained in Paragraph 106 of the First Amended Complaint.

107. Defendant is without knowledge as to the allegations contained in Paragraph 107 of the First Amended Complaint.

108. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

109. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 109 of the First Amended Complaint.

110. Defendant admits that the Constitution speaks for itself and denies all remaining allegations contained in Paragraph 110 of the First Amended Complaint

111. Defendant is without knowledge as to the allegations contained in Paragraph 111 of the First Amended Complaint.

112. Defendant is without knowledge as to the allegations contained in Paragraph 112 of the First Amended Complaint.

113. Defendant is without knowledge as to the allegations contained in Paragraph 113 of the First Amended Complaint.

114. Denied.

115. Denied.

116. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

117. Denied.

118. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 118 of the First Amended Complaint.

119. Defendant admits the cases speak for themselves and otherwise denies the allegations contained in Paragraph 119 of the First Amended Complaint.

120. Defendant admits the case speaks for itself and otherwise denies the allegations contained in Paragraph 120 of the First Amended Complaint.

121. Defendant is without knowledge as to the allegations contained in Paragraph 121 of the First Amended Complaint.

122. Defendant is without knowledge as to the allegations contained in Paragraph 122 of the First Amended Complaint.

123. Defendant is without knowledge as to the allegations contained in Paragraph 123 of the First Amended Complaint.

124. Defendant is without knowledge as to the allegations contained in Paragraph 124 of the First Amended Complaint.

125. Defendant is without knowledge as to the allegations contained in Paragraph 125 of the First Amended Complaint.

126. Defendant is without knowledge as to the allegations contained in Paragraph 126 of the First Amended Complaint.

127. Defendant is without knowledge as to the allegations contained in Paragraph 127 of the First Amended Complaint.

128. Defendant is without knowledge as to the allegations contained in Paragraph 128 of the First Amended Complaint.

129. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

130. Defendant is without knowledge as to the allegations contained in Paragraph 130 of the First Amended Complaint.

131. Defendant is without knowledge as to the allegations contained in Paragraph 131 of the First Amended Complaint.

132. Defendant is without knowledge as to the allegations contained in Paragraph 132 of the First Amended Complaint.

133. Defendant is without knowledge as to the allegations contained in Paragraph 133 of the First Amended Complaint.

134. Defendant is without knowledge as to the allegations contained in Paragraph 134 of the First Amended Complaint.

135. Defendant is without knowledge as to the allegations contained in Paragraph 135 of the First Amended Complaint.

136. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein

137. Defendant admits the 14th Amendment speaks for itself; otherwise denied.

138. Defendant is without knowledge as to the allegations contained in Paragraph 138 of the First Amended Complaint.

139. Defendant is without knowledge as to the allegations contained in Paragraph 139 of the First Amended Complaint.

140. Defendant is without knowledge as to the allegations contained in Paragraph 140 of the First Amended Complaint.

141. Defendant is without knowledge as to the allegations contained in Paragraph 141 of the First Amended Complaint.

142. Defendant is without knowledge as to the allegations contained in Paragraph 142 of the First Amended Complaint.

143. Defendant is without knowledge as to the allegations contained in Paragraph 143 of the First Amended Complaint.

144. Defendant is without knowledge as to the allegations contained in Paragraph 144 of the First Amended Complaint.

145. Defendant is without knowledge as to the allegations contained in Paragraph 145 of the First Amended Complaint.

146. Defendant is without knowledge as to the allegations contained in Paragraph 146 of the First Amended Complaint.

147. Defendant is without knowledge as to the allegations contained in Paragraph 147 of the First Amended Complaint.

148. Defendant is without knowledge as to the allegations contained in Paragraph 148 of the First Amended Complaint.

149. Defendant is without knowledge as to the allegations contained in Paragraph 149 of the First Amended Complaint.

150. Defendant is without knowledge as to the allegations contained in Paragraph 150 of the First Amended Complaint.

151. Defendant is without knowledge as to the allegations contained in Paragraph 151 of the First Amended Complaint.

152. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

153. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

154. Defendant admits the 24th Amendment speaks for itself; otherwise denied.

155. Defendant admits SB7066 speaks for itself; otherwise denied.

156. Defendant is without knowledge as to the allegations contained in Paragraph 156 of the First Amended Complaint.

157. Defendant is without knowledge as to the allegations contained in Paragraph 157 of the First Amended Complaint.

158. Defendant admits SB7066 speaks for itself; otherwise denied.

159. Defendant is without knowledge as to the allegations contained in Paragraph 159 of the First Amended Complaint.

160. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

161. Defendant is without knowledge as to the allegations contained in Paragraph 161 of the First Amended Complaint.

162. Defendant is without knowledge as to the allegations contained in Paragraph 162 of the First Amended Complaint.

163. Defendant is without knowledge as to the allegations contained in Paragraph 163 of the First Amended Complaint.

164. Defendant is without knowledge as to the allegations contained in Paragraph 164 of the First Amended Complaint.

165. Defendant is without knowledge as to the allegations contained in Paragraph 165 of the First Amended Complaint.

166. Defendant is without knowledge as to the allegations contained in Paragraph 166 of the First Amended Complaint.

167. Defendant is without knowledge as to the allegations contained in Paragraph 167 of the First Amended Complaint.

168. Defendant is without knowledge as to the allegations contained in Paragraph 168 of the First Amended Complaint.

169. Defendant is without knowledge as to the allegations contained in Paragraph 169 of the First Amended Complaint.

170. Defendant is without knowledge as to the allegations contained in Paragraph 170 of the First Amended Complaint.

171. Defendant admits SB7066 speaks for itself; otherwise denied.

172. Defendant is without knowledge as to the allegations contained in Paragraph 172 of the First Amended Complaint.

173. Defendant is without knowledge as to the allegations contained in Paragraph 173 of the First Amended Complaint.

174. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

175. Defendant is without knowledge as to the allegations contained in Paragraph 175 of the First Amended Complaint.

176. Defendant is without knowledge as to the allegations contained in Paragraph 176 of the First Amended Complaint.

177. Defendant is without knowledge as to the allegations contained in Paragraph 177 of the First Amended Complaint.

178. Defendant is without knowledge as to the allegations contained in Paragraph 178 of the First Amended Complaint.

179. Defendant is without knowledge as to the allegations contained in Paragraph 179 of the First Amended Complaint.

180. Defendant is without knowledge as to the allegations contained in Paragraph 180 of the First Amended Complaint.

181. Defendant is without knowledge as to the allegations contained in Paragraph 181 of the First Amended Complaint.

182. Defendant is without knowledge as to the allegations contained in Paragraph 182 of the First Amended Complaint.

183. Defendant is without knowledge as to the allegations contained in Paragraph 183 of the First Amended Complaint.

184. Defendant is without knowledge as to the allegations contained in Paragraph 184 of the First Amended Complaint.

185. Defendant is without knowledge as to the allegations contained in Paragraph 185 of the First Amended Complaint.

186. Defendant is without knowledge as to the allegations contained in Paragraph 186 of the First Amended Complaint.

187. Defendant is without knowledge as to the allegations contained in Paragraph 187 of the First Amended Complaint.

188. Defendant is without knowledge as to the allegations contained in Paragraph 188 of the First Amended Complaint.

189. Denied.

190. Defendant is without knowledge as to the allegations contained in Paragraph 190 of the First Amended Complaint

191. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

192. Defendant admits that the Constitution speaks for itself and otherwise denies the remaining allegations contained in Paragraph 192 of the First Amended Complaint.

193. Defendant is without knowledge as to the allegations contained in Paragraph 193 of the First Amended Complaint.

194. Defendant is without knowledge as to the allegations contained in Paragraph 194 of the First Amended Complaint.

195. Defendant is without knowledge as to the allegations contained in Paragraph 195 of the First Amended Complaint.

196. Defendant is without knowledge as to the allegations contained in Paragraph 196 of the First Amended Complaint.

197. Defendant is without knowledge as to the allegations contained in Paragraph 197 of the First Amended Complaint.

198. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

199. Defendant admits that the Constitution and case speak for themselves and otherwise denies the remaining allegations contained in Paragraph 199 of the First Amended Complaint.

200. Defendant is without knowledge as to the allegations contained in Paragraph 200 of the First Amended Complaint.

201. Defendant is without knowledge as to the allegations contained in Paragraph 201 of the First Amended Complaint.

202. Defendant is without knowledge as to the allegations contained in Paragraph 202 of the First Amended Complaint.

203. Defendant is without knowledge as to the allegations contained in Paragraph 203 of the First Amended Complaint.

204. Defendant admits the referenced news article speaks for itself; otherwise denied.

205. Defendant is without knowledge as to the allegations contained in Paragraph 205 of the First Amended Complaint.

206. Defendant is without knowledge as to the allegations contained in Paragraph 206 of the First Amended Complaint.

207. Defendant is without knowledge as to the allegations contained in Paragraph 207 of the First Amended Complaint.

208. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

209. Defendant admits the 14th Amendment speaks for itself; otherwise denied.

210. Defendant is without knowledge as to the allegations contained in Paragraph 210 of the First Amended Complaint.

211. Defendant is without knowledge as to the allegations contained in Paragraph 211 of the First Amended Complaint.

212. Defendant is without knowledge as to the allegations contained in Paragraph 212 of the First Amended Complaint.

213. Defendant is without knowledge as to the allegations contained in Paragraph 213 of the First Amended Complaint.

214. Defendant is without knowledge as to the allegations contained in Paragraph 214 of the First Amended Complaint.

215. Defendant re-alleges all responses to preceding paragraphs as though fully set forth herein.

216. Defendant is without knowledge as to the allegations contained in Paragraph 216 of the First Amended Complaint.

217. Defendant is without knowledge as to the allegations contained in Paragraph 217 of the First Amended Complaint.

218. Defendant is without knowledge as to the allegations contained in Paragraph 218 of the First Amended Complaint.

219. Defendant is without knowledge as to the allegations contained in Paragraph 219 of the First Amended Complaint.

220. Defendant admits SB7066 speaks for itself; otherwise denied.

221. Defendant is without knowledge as to the allegations contained in Paragraph 221 of the First Amended Complaint.

222. Defendant is without knowledge as to the allegations contained in Paragraph 222 of the First Amended Complaint.

223. Defendant is without knowledge as to the allegations contained in Paragraph 223 of the First Amended Complaint.

224. Defendant is without knowledge as to the allegations contained in Paragraph 224 of the First Amended Complaint.

225. Defendant is without knowledge as to the allegations contained in Paragraph 225 of the First Amended Complaint.

226. Defendant is without knowledge as to the allegations contained in Paragraph 226 of the First Amended Complaint.

227. Defendant is without knowledge as to the allegations contained in Paragraph 227 of the First Amended Complaint.

228. Defendant is without knowledge as to the allegations contained in Paragraph 228 of the First Amended Complaint.

229. Defendant is without knowledge as to the allegations contained in Paragraph 229 of the First Amended Complaint.

230. Defendant admits SB7066 speaks for itself; otherwise denied.

AFFIRMATIVE DEFENSES OF DEFENDANT MICHAEL BENNETT, SUPERVISOR OF ELECTIONS OF MANATEE COUNTY

1. Plaintiffs' claims are not yet ripe for adjudication. Supervisor Bennett has not removed any voters, including any Plaintiffs, from the rolls as a result of the provisions of SB 7066 addressed in the First Amended Complaint and he has not received any information from the Secretary of State to initiate the removal process for any voter as a result of those provisions.

2. Even if this claim were ripe for adjudication, Fla. Stat. § 97.075(7) provides administrative procedures that must be followed prior to removal of any voter for ineligibility, and Fla. Stat. § 98.0755 provides appellate jurisdiction over such administrative determinations to the state circuit court in the relevant county. Plaintiffs have not exhausted any administrative or state court remedies prior to filing this challenge.

3. Plaintiffs have not suffered an injury in fact as a result of any action by Supervisor Bennett and therefore do not possess the requisite standing to bring this cause of action against Supervisor Bennett.

4. Plaintiffs' First Amended Complaint does not state a cause of action against Supervisor Bennett for which relief may be granted because the relief

requested is not sought from Supervisor Bennett and is only sought from the State of Florida and the Secretary of State.

5. Plaintiffs' First Amended Complaint does not state a cause of action against Supervisor Bennett for which relief can be granted because Florida Statutes provide that the Secretary of State is the "chief election officer of the state" with "responsibility to . . . [o]btain and maintain uniformity in the interpretation and implementation of the election laws . . . [and] may . . . adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code." *See* Fla. Stat. § 97.012.

6. Plaintiffs' First Amended Complaint fails to provide a short and plain statement of the claim showing that they are entitled to relief because the First Amended Complaint is an improper "shotgun pleading."

7. To the extent Plaintiffs' allege that Supervisor Bennett is an indispensable or necessary party for purposes of relief, Plaintiffs' claims fail for failing to join the other fifty-seven unnamed Supervisors of Elections in Florida as indispensable and necessary parties.

8. To the extent Plaintiffs suffered any damages as a result of facts alleged in the First Amended Complaint, Supervisor Bennett is entitled to immunity under the Eleventh Amendment of the United States Constitution.

9. To the extent Plaintiffs suffered any damages as a result of facts alleged in the First Amended Complaint, Supervisor Bennett is not the proximate cause of those damages.

10. Plaintiffs' recovery, if any is limited by the provisions of Fla. Stat. § 768.28(5).

11. The First Amended Complaint incorporates all preceding counts into each count and therefore fails to state a claim as a matter of law.

12. Plaintiffs have failed to state a basis for attorneys' fees and costs against Supervisor Bennett.

13. Supervisor Bennett adopts all affirmative defenses asserted by the other Defendants and incorporates them by reference as if fully set forth herein.

14. Supervisor Bennett reserves the right to assert additional defenses as appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail upon counsel of record for all parties in the above-captioned matter this 3d day of December, 2019.

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No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME IV

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al.,	)	
Plaintiffs,	)	Case No: 4:19cv300-RH
v.	)	Tallahassee, Florida
	)	December 3, 2019
RON DESANTIS, in his official capacity as Governor of Florida, et al.,	)	
	)	10:00 AM
Defendants.	)	

TRANSCRIPT OF ORAL ARGUMENT ON PENDING MOTIONS
BEFORE THE HONORABLE ROBERT L. HINKLE
UNITED STATES CHIEF DISTRICT JUDGE
(Pages 1 through 88)

Court Reporter: MEGAN A. HAGUE, RPR, FCRR, CSR
111 North Adams Street
Tallahassee, Florida 32301
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Proceedings reported by stenotype reporter.
Transcript produced by Computer-Aided Transcription.

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P R O C E E D I N G S

(Call to Order of the Court at 10:03 AM on Tuesday, December 03, 2019.)

THE COURT: Good morning, please be seated.

We are here on all pending motions. Let me start with some ground rules. I understand there's some people on the telephone. I authorized attorneys of record to monitor the hearing by telephone if they wished. Here are the ground rules for that:

Please mute your telephone so that we don't get the static in the background. The Judicial Conference of the United States has adopted a policy that proceedings in district courts are not to be recorded with limited exceptions. I follow the Judicial Conference policy, so please don't record the proceeding. I'll try to get the lawyers to speak from the microphones so those on the telephone can hear.

I can tell you all, I've read the materials and the important authorities that you've cited, so I'm familiar with those. I set the hearing partly because I wanted to give you a chance to address some of my concerns and to make whatever additional arguments you wanted to make over and above what you had filed.

I also was concerned about the pace of the case. We had tried to set a schedule that would allow resolution in the district court and then time for an appeal. The defense, for

whatever reason, decided to introduce a month -- or 40 days -- of delay into the process. There was -- I thought the best way to avoid further delay was just to set a hearing and get everything out so I can get a ruling made on whatever I need to rule on before the case goes forward on appeal.

As a starting point, I've got a couple of questions. I just don't understand parts of the defense position. It will help me to have the Governor or Secretary of State, primarily the Governor, explain what -- at least on the face -- seems to me to be a difference between what has been said publicly and what has been said in the papers submitted to the Court.

So if we could start with whoever is going to speak for the Governor. If you could come to the lectern, that would help me.

MR. PRIMROSE: Morning, Your Honor. Nick Primrose on behalf of Governor DeSantis.

THE COURT: After I entered the October 18th order, the plaintiffs moved to expedite the schedule for one of the motions they had filed. I denied the motion to expedite because the Governor apparently had made a statement promptly after issuance of the order that indicated there was no need to expedite. So in reliance on that, I denied their motion to expedite and set a different hearing.

Here was the statement as reported. It was reported various places. I don't make it a practice to look for

information about my cases in the media, but I do -- I'm like everybody else. I read the papers from time to time.

This was the statement attributed to the Governor's spokesperson, quote, Today's ruling affirms the Governor's consistent position -- I'll stop for a minute and we'll get back to whether it's a consistent position, but that was the statement.

So, quote, Today's ruling affirms the Governor's consistent position that convicted felons should be held responsible for paying applicable restitution fees and fines while also recognizing the need to provide an avenue for individuals unable to pay back their debts as a result of true financial hardship, end quote.

So my first question is: Did the Governor's spokesperson make that statement?

MR. PRIMROSE: Yes, Your Honor.

THE COURT: Was that the Governor's position at the time?

MR. PRIMROSE: Your Honor, after the preliminary injunction order was issued, that was the position of the Governor's Office; that the order was consistent with his understanding of Amendment 4, requiring convicted felons to pay back all outstanding legal financial obligations imposed as part of the sentence, but recognizing, at least for the plaintiffs named in the preliminary injunction order, that there should be

a pathway for them to prove indigency if they cannot pay their financial obligations back.

THE COURT: Well, I'm looking for that in that statement for something limiting it to these 14 people.

MR. PRIMROSE: Well --

THE COURT: Did I understand you just to tell me that the Governor limited this statement to these 14 people?

And why would he treat these 14 different from everybody else?

MR. PRIMROSE: Well, the preliminary injunction was only applied as to those plaintiffs, and that's the -- the statement from the communication spokesperson was in regards to the preliminary injunction order.

THE COURT: Let me go back to the question a minute ago: Was that the Governor's position when the statement was issued?

MR. PRIMROSE: Yes.

THE COURT: I don't want to know if it was the communications person or some office. Was it the Governor's position?

MR. PRIMROSE: Yes, Your Honor.

THE COURT: And you said it his "consistent position," but of course that was not the position he took -- you took in this courtroom and in your papers.

You had taken a contrary position; is that true or not

true?

MR. PRIMROSE: I don't believe so, Your Honor, Senate Bill 7066 which was signed --

THE COURT: Let's -- stop. Did you or did you not tell me in your papers and in your oral presentations at the hearing in this courtroom, that a felon was not eligible to vote if the felon owed financial obligations imposed as part of the sentence, and that was true regardless of whether the person was able to pay?

Was that the position you took or did I just totally misunderstand?

MR. PRIMROSE: No, Your Honor, that's correct.

Amendment 4 requires any convicted felon to pay back all outstanding financial obligations. Senate Bill 7066, though, provides a pathway for those who may not be able to pay all of their outstanding obligations, to seek modification of the Court --

THE COURT: And tell me --

MR. PRIMROSE: -- and there's also the clemency process still available.

THE COURT: So was that -- that was what the Governor was referring to, was the clemency process; the same old clemency process in this state?

MR. PRIMROSE: No, Your Honor.

The Governor was referencing the fact that Senate Bill

7066 provides a modification, waiver, or conversion to community service hours for those who still have outstanding financial obligations that they cannot pay. In addition there's also --

THE COURT: And how --

MR. PRIMROSE: -- the clemency process.

THE COURT: How would that work for a person I sentenced ten years ago?

MR. PRIMROSE: The -- they can still --

THE COURT: It won't work at all, would it?

MR. PRIMROSE: I'm sorry, Your Honor?

THE COURT: It would not work at all, would it?

You have provided no way for somebody convicted in federal court, unable to pay, to be able to vote; is that true or not true?

MR. PRIMROSE: I believe that would be true, Your Honor, under Senate Bill 7066 and it wouldn't apply to federal convicted felons.

THE COURT: Or somebody convicted in Connecticut?

MR. PRIMROSE: That would partially be dependent on what the -- the state where they were convicted allows; yes, Your Honor.

THE COURT: The October 18th order didn't say that Amendment 4 required people to pay financial obligations to be reinstated, because that's an issue for the Florida Supreme Court ultimately. But the October 18th order did assume that

that's what Amendment 4 required.

Humor me for a moment and take my reading of the Governor's statement. You've said the Governor's statement was an accurate statement of his position. I don't think it says what you've told me it said, but let's just -- humor me for a moment and assume that what the Governor said was essentially that the order was right; that Amendment 4 requires payment of all financial obligations as a condition for restoration of the right to vote, but that under the Fourteenth Amendment those unable to pay are entitled to vote, can't be kept from voting just because of inability to pay.

Assume for a minute that's correct. Is it the Governor's position then that Amendment 4 is a nullity? That Amendment 4 allows nobody to vote? Does not reinstate a single individual even if the individual has fully served the sentence and paid all financial obligations?

Is that the Governor's position?

MR. PRIMROSE: I'm not sure I understand your hypothetical, Your Honor. If --

THE COURT: Let me go back over it to make sure you understand it.

Assume for me that the order is right. And parenthetically I say, I think the Governor's statement said that the order was right, but take that off the table for just a minute.

Assume for me that the October 18th order is correct, that to be reinstated under Amendment 4 on the terms of Amendment 4, a felon has to pay all financial obligations, but that under the Fourteenth Amendment a person who is indigent, therefore, cannot pay a financial obligation and who otherwise would be entitled under Amendment 4 to vote, is entitled to vote.

That is assuming that the Florida Supreme Court ultimately decides that financial obligations have to be paid, as you've said, and assume that the Fourteenth Amendment means you can't keep somebody from voting because of indigency. Assume that's the law.

Is it then the Governor's position that Amendment 4 is a complete nullity, that it does not entitle anyone to vote even if the person has served the entire sentence and has paid all financial obligations?

I think that's what you said in your papers and I just want to make sure that you don't just bury it in your papers, but that you say it right out here in public; that that's the Governor's position that even though 65 percent of Floridians voted for that amendment, it has no effect at all.

Is that your position?

MR. PRIMROSE: No. And I think the position that we put in our papers is that if that is the case, that your order on the merits is accurate and the Eleventh Circuit agrees and

the Florida Supreme Court, whenever it issues its opinion, says legal financial obligations must be completed, then it would require a severability analysis.

THE COURT: You didn't say would require an analysis. You said it would not be severable and it would be a nullity.

Is that not what you said in your papers?

MR. PRIMROSE: I don't believe so, Your Honor.

I believe we pointed out what the severability test was and one of the questions is whether or not voters would have intended to vote for Amendment 4 if they knew that an inability to pay was an exemption to somebody completing all terms of their sentence. I think we laid out what the severable test and analysis should be and set --

THE COURT: You think --

MR. PRIMROSE: -- essentially cited that that would be a state court issue on whether or not Amendment 4 could be severed, the part that your analysis finds is unconstitutional, or whether the entire amendment must be struck as a nullity.

THE COURT: What you are telling me is you didn't take any position on that?

MR. PRIMROSE: I believe if -- in our motion for stay we pointed out that that is a critical question that must be addressed, whether or not -- if your analysis on the merits is correct, there does have to be a severability analysis to determine whether or not completion of financial obligations can

be severed from Amendment 4 or whether the entire amendment should be struck; but that's a question that should be addressed by the state court.

THE COURT: You say, In light of the history, blah, blah, and so forth, it is unlikely that Florida voters would have permitted felons to recapture their voting rights without fully repaying their debt to society.

That doesn't sound to me like somebody who is saying this is an open question. It sounds to me like somebody who is saying this is not severable and therefore the whole thing is a nullity.

MR. PRIMROSE: Your Honor, I think as you pointed out in your order on the preliminary injunction, that that may very well have been the thought that voters had going into the voter booth. It is a question for the state court --

THE COURT: And let me just stop you there and say -- since you brought that up again what I said. What you said I said in your papers is not what I said, and I did know the difference.

MR. PRIMROSE: I believe your comment was voters very -- very -- very might well have thought that when they went in. Not that that is what a majority of voters thought, but it is certainly a possibility that voters, when they went into the voter booths last November, thought about that a felon would have to pay back all financial obligations and that there would

not be an exception if an individual is indigent or genuinely unable to pay by the amorphous standard there, but that's a question that has to be addressed if your analysis on the merits is correct; that there needs to be an indigency exception as part of Senate Bill 7066 and Amendment 4.

THE COURT: You say, Partially in joining the requirement that felons complete the terms of their sentences would broaden Amendment 4 to provide automatic restoration of voting rights to a larger segment of the felon population than the people of Florida intended to benefit.

You don't think that's taking a position on severability?

MR. PRIMROSE: I think the position that we are taking, Your Honor, is that Amendment 4 -- and this is the same position that we argued in front of the Florida Supreme Court -- meant you had to pay back all financial obligations. If this Court and if the Eleventh Circuit agrees that there's an indigence exception, meaning that if you can show you can't pay that back, that you are essentially -- you don't have to complete all the requirements of Amendment 4, that that would actually broaden what some people -- maybe a majority of the people passed based on the plain text of Amendment 4.

I think --

THE COURT: What is the Governor's position on whether Amendment 4 then would be a nullity or not?

MR. PRIMROSE: Your Honor, I'm not sure that I can -- I can accurately express the Governor's position on whether or not -- if your analysis is correct and the Eleventh Circuit agrees, whether or not in front of the Florida Supreme Court we would take a position that Amendment 4 is a nullity or if it could be severed or not. I think what --

THE COURT: You are taking no position?

MR. PRIMROSE: No.

THE COURT: So why is it in your brief?

MR. PRIMROSE: I think what we pointed out in the brief, Your Honor, is that there is a very critical question of severability that needed to be addressed. You denied our motion to dismiss, but it is going to be something that we ask the Eleventh Circuit to look at, which is a preliminary injunction that broadens Amendment 4 without actually discussing whether or not Amendment 4's bad parts, if your analysis is correct, can be severed or not.

I think that's why we put it in there. It's a very critical question that everybody needs to understand moving forward is --

THE COURT: All right. I can tell you I'm not accustomed to people coming in and saying, Here's this critical question, but, by the way, I'm not going to tell you my position on it.

MR. PRIMROSE: I think our position is that the

Florida Supreme Court needs to be presented with argument from both sides. Whether --

THE COURT: But what is your argument going to be?

MR. PRIMROSE: I think what -- I think what we are saying, Your Honor, is that we believe that if you provide an indigency exception that goes broader than what Amendment 4 requires, it would expand the voter population to what voters probably did not intend to vote for, and it would have to be a question for the Florida Supreme Court to determine whether or not that particular section can be severed or not.

THE COURT: But you can't tell me that anybody will be arguing --

MR. PRIMROSE: We don't have all of the facts, Your Honor. We don't know what the Florida Supreme Court is going to say. Until we get that, until we get whether or not there actually is a requirement of an indigency exception, we are not prepared to take a position on whether or not something hypothetically in the future should be severed or not or legal nullity.

THE COURT: All right.

I got you out of sequence because I wanted to get the Governor's position -- and I guess, candidly, I still don't know -- but I guess I got the best I'm going to get.

I'll hear -- and I don't care what order the defense proceeds in. If you want to be heard further on the motion to

stay, now is the time. Any of you can speak in any order you chose.

MR. PRIMROSE: Your Honor, I just -- I would just reiterate that the preliminary injunction in and of itself was not necessarily the sole basis for the appeal. The reason for the motion to stay is the moving of the goal post and the progression that we've seen from the plaintiffs, starting with a motion to expand the preliminary injunction to new individuals. The amended class cert, which still doesn't properly define a subclass based on your ruling on inability to pay, and then the subsequent communications and e-mails to Department of State seeking guidance to apply your injunction to nonnamed plaintiffs in this case. It was a culmination of the events that led us to the appeal.

As you pointed out, we do believe that there needs to be a discussion about whether or not the preliminary injunction broadens Amendment 4, and we do want some clarity and finality from the Eleventh Circuit on the indigence. If the Florida Supreme Court rules in the next week or so that legal financial obligations are part of Amendment 4, we'd like the quicker finality from the Eleventh Circuit as to whether or not there needs to be an indigency exception that the State could implement or not.

Part of the reason for the stay, though, is we've only got certain individuals now. Plaintiffs' attempt is going to --

THE COURT: Let me stop you there and ask: Part of what you say on class certification is there's no reason to certify a class because if I make a ruling, it's going to apply to everybody. And then you turn around now and say, Oh, but the problem is it only applies to 14 people, but now they want to apply it to three more people -- those numbers may not be exact.

Which is it; is the ruling going to apply to everybody like you say in some of your papers or is it only going to apply to these 14, and if I extend it to three more that's a major problem?

MR. PRIMROSE: Your Honor, I think what we were -- what we were preparing for was if Your Honor granted class cert for a million -- a million plus on their main class or on a subclass, that there would then be an attempt to get your preliminary injunction to apply to all of them while -- the entire class -- while we are trying to appeal and get a process in place.

THE COURT: But you said in your papers that if I ruled just for one plaintiff or 14 plaintiffs, it was going to apply to everybody and you were going to follow the ruling anyway.

Did I miss that?

MR. PRIMROSE: I'm not sure what you are referencing, Your Honor. Is this in the --

THE COURT: I think that's exactly what your papers

say. Maybe I'm missing it. I just don't --

(Discussion was held off the record between the defense attorneys.)

MR. PRIMROSE: And I'm sorry, Your Honor. With the Twenty-fourth Amendment main class, which would be a facial challenge to Senate Bill 7066, which would be different than an as-applied challenge, which was for the preliminary injunction order or the motion to expand the preliminary injunction to four more individuals.

THE COURT: All right. Go ahead.

MR. PRIMROSE: Your Honor --

THE COURT: The -- I may be asking the wrong person the wrong question, and if at any point this is a question that ought to be addressed by anybody else, just tell me. I'm really not trying to get things crossways.

But you got -- one of the problems is they are trying to expand it to three more people or four more people, the new plaintiffs. And I guess part of my question about that is: So what? If they had named those four people in the original complaint, they would have been covered. So now they've amended to add four more people and they want them covered.

What's different? Why wouldn't I just do that?

MR. PRIMROSE: Admittedly, Your Honor, and I think our response to the expansion does just take exception with the fact that you had closed evidence at the end of the hearing; you had

told plaintiffs at some point we need to end this; and now they are trying to add additional. And it really became a -- the expansion with -- we still had a lot of concerns with the class cert understanding that --

THE COURT: You do know on appeal the Eleventh Circuit is not going to deal with class certification. There's been no class certification order. I mean, that's just not going to be an issue on appeal.

MR. PRIMROSE: Understood, Your Honor.

However, our concern was that if Your Honor granted class cert, that there would be a request to apply the preliminary injunction to either the main class, which would be a facial challenge, or the 400,000 or so that we think in the subclass.

THE COURT: Let's say for the four and then we'll come back to the class. Just for the four new ones -- three or four, whatever -- I'm going to say four. I didn't count very carefully.

For the four new ones you oppose extending the preliminary injunction, can't they file a motion for preliminary injunction this afternoon and wouldn't it all be the same evidence?

Wouldn't I make the same ruling?

MR. PRIMROSE: Most likely, Your Honor; yes, you would.

THE COURT: Well, how long do we want this to take or how complicated do we want it to get? Why don't we just agree that these four are in the same situation as the others and extend the injunction to them?

MR. PRIMROSE: Your Honor -- and, again, I would just go back to, we really were just citing the fact that the evidence was closed. We saw the goal lines were starting to be moved. We wanted our objection out there that we believed at the preliminary injunction hearing that it would be applied to those individuals, that there was evidence submitted, and we didn't want the goal post to be continually moved, which is what we believed was happening, what we think will happen absent this motion to expand it to four more plaintiffs.

If the next attempt was if you granted class cert and they tried to expand it there, that's what we were trying to do, is just cut it off before the ball kept rolling.

THE COURT: Got it. All right.

Now, on the stay, explain to me what you think is going to change depending on whether there is or is not a stay.

Here's what I think: John Doe wants to apply. John Doe was convicted 20 years ago of a drug offense, has done everything, but got tagged with some fees that he can't pay and he wants to register to vote and he asserts he's entitled to do it.

Now I think, under the preliminary injunction, he can

submit an application, and he's registered. And then if the Secretary or the Supervisor asserts that he has unpaid financial obligations so he's not eligible, they give him notice and an opportunity to be heard and then the Supervisor makes a decision.

What you told me, and what your witnesses swore to under oath, was he can submit an application, and if it's sufficient on its face, they register him. They don't make a decision. They register him. So the preliminary injunction doesn't change that.

Now, we had some back and forth about whether he could be prosecuted. First, the defense said, Oh, he can vote and it's okay with us. And then we took a break and came back and said, Oh, no, he can't vote. But you insisted -- you submitted evidence -- that said nobody is going to prosecute him and then you came back and said, Well, yeah, it would be a crime. So it seemed to me, look, let's get a preliminary injunction entered that says we can get the process started, the person can apply.

Now, what irreparable harm does it do to anybody if John Doe gets to submit an application to register to vote? How does that harm you?

MR. PRIMROSE: The only harm is if Department of State is flooded with individuals who have not completed all terms of their sentence as required by Amendment 4 Senate Bill 7066, then we are creating -- again, if we are talking about 400,000 plus

individuals, an immense amount of work for not only the Secretary of State but every single supervisor of election in the state of Florida from now until we get a final ruling or opinion from the Eleventh Circuit.

THE COURT: You really think so?

MR. PRIMROSE: Yes, Your Honor.

THE COURT: Let's talk about what's really going on here, what's practical.

First, the professor tells me -- maybe it was your people, maybe it was their people -- somebody, I think the Florida Supreme Court maybe when they were applying for this, trying to get the ballot language approved, maybe it was the proponents that said that history in other states is that 20 percent register. So we start off with a million four and I think the numbers were actually put in before the Florida Supreme Court, so that's 200,000, and not all of them owe fees.

Now, it's hard -- I mean, the evidence was the Secretary of State can't figure it out. The State can't figure it out. You are having a terrible time figuring this out. That was part of the plaintiffs' point; some lower number, but it takes awhile to figure it out. And I gotcha, it's hard. At some point somebody is going to have to do it.

And I guess my question is: Why not get started?

I mean, the way you want to do it, if I understand it, you want to stay this, do nothing, tell people it's a crime to

even register. You took 40 days to move to stay, almost 30 days to file a notice of appeal; you are jamming up the Eleventh Circuit pretty good. You want a ruling out of the Eleventh Circuit some time before March when the next major election is. But if the Eleventh Circuit goes at warp speed -- I don't know how they'd get a ruling done by February, but say they get a ruling done in February -- now you want somebody to have to come in and register for the first time after the Eleventh Circuit rules and then go to the Secretary of State and start all over.

Why not start now?

MR. PRIMROSE: Well, candidly, Your Honor, one of the -- one of the delays has been getting some finality from the Florida Supreme Court, so we are waiting to see what Amendment 4 actually means, if it includes legal financial obligations, which is obviously the Governor and Secretary's position. We plan on --

THE COURT: Are you worried about that ruling?

MR. PRIMROSE: I will not insert -- I will not speculate what the Florida Supreme Court will do. We are waiting for their opinion to give us a definitive ruling on whether or not Amendment 4 requires legal financial obligations. And at that point in time, if they do say that, then my understanding is that the Secretary of State's Office will begin sending down potentially disqualifying voter files to all the

supervisors of elections.

One of the concerns, again --

THE COURT: I really thought it was phase one, phase two, and they couldn't even get to phase two yet.

I mean, has that all changed since the evidence came in?

MR. PRIMROSE: I believe so, Your Honor. I believe that the Secretary of State's Office is waiting for a ruling from the Florida Supreme Court on whether or not legal financial obligations are a requirement before it sends down any disqualifying voter files based solely on financial obligations.

THE COURT: All right. And my injunction, of course, doesn't keep them from doing that. I explicitly said they can do that.

But, of course, if I stay the injunction, they can't do that because they don't even know who's going to apply; right?

You are trying to keep the Secretary of State from doing that because they don't even know who's going to register.

MR. PRIMROSE: I don't believe so, Your Honor.

I think what we are trying to prevent is the possibility of tens of thousands or hundreds of thousands of individuals voting, based on your preliminary injunction order which I think is being used by folks that are not named in the preliminary injunction. We've got communications to the

Department of State on attempts to take the preliminary injunction order and apply it to nonnamed parties.

What we are trying to prevent is from individuals who are not on the preliminary injunction order, potentially that might get a part of a class cert if there's a request to apply the preliminary injunction to the class cert, and then be in a situation where we've got 100,000 plus individuals who are registering to vote based on an inability to pay, the Eleventh Circuit potentially telling us that you don't need to provide that pathway because you've got clemency or because you've got a modification provision, and then we are going back and we are trying to reverse course on everybody who has registered to vote.

Because under statute, the second that you register to vote and it gets sent to the Secretary, you can go vote. And that's what we are trying to prevent is you registering to vote, having your voter registration card, and potentially having to be removed after the fact based on what the Eleventh Circuit might rule.

It would be different if --

THE COURT: It seems to me that the only potentially irreparable harm to the state is if somebody votes. Now, it does do irreparable harm to the state if somebody who is not legally eligible to vote is allowed to vote. Just like it does irreparable harm to a plaintiff who is eligible to vote, but is

precluded from voting.

What ought to happen in a case like this -- you'd never get everybody to agree, but, look, here's what ought to happen, and this principle applies to all of these voting cases. We've got constant voting cases here.

But here's how this ought to work: Everybody who is legally eligible to vote ought to be able to vote. And everybody who legally votes, ought to have the vote counted. The one who gets the most votes ought to win. It's really not that hard. Legally eligible to vote means under the laws adopted by the State of Florida and the United States Constitution. Same thing for voting and counting votes: Figure out the law; figure out what the Constitution requires; everybody that's eligible to vote, let them vote; count the votes; somebody wins. That's all I'd like to see happen here.

Letting people start the process now, that doesn't do any irreparable harm to the State, as long as somebody doesn't get to vote who's not eligible. You got to do a little work, all right. It's a small price to pay to live in a country with a constitution.

So I think -- I think I've read the Eleventh Circuit *Johnson* decision correctly; you disagree. I'll take a minute and note that they cited it prominently in their papers and your side didn't even discuss it. I was fairly astounded that the State would write papers when there's a recent Eleventh Circuit

en banc decision addressing financial inability to pay by a felon seeking restoration of rights, but your side chose not even to discuss the case. Oh, it was included in a string cite on some other issue that didn't matter. But you didn't even discuss it.

You came to the preliminary injunction hearing and you told me that the Eleventh Circuit had ruled exactly the opposite of what it ruled. Defense just said the Ninth Circuit had resolved this issue and, of course, the Ninth Circuit didn't. You told me that the Eleventh Circuit ruled on this issue in your favor, and it didn't.

Now you say in your papers, Oh, but read the last sentence, it says we are not addressing a poll tax. Respectfully, the Eleventh Circuit knows the difference between the Fourteenth Amendment and the Twenty-fourth. So when the Eleventh Circuit says you can't deny the right to vote to a felon being reenfranchised based on a financial inability to pay, based on financial resources, I think that's what the Eleventh Circuit means. And then when they add a sentence that says we are not addressing a poll tax, I think they mean they are not addressing a poll tax. I don't think they mean you can ignore what we just said about the Fourteenth Amendment.

But you can try to sell that to a panel on the Eleventh Circuit, and maybe they'll agree. I think the Eleventh Circuit panel will follow the prior panel rule and will

follow what the Eleventh Circuit said, but you may be right.

I bring that up partly to say to the extent that your motion to stay is really a motion to reconsider, I think you run into all those cases that say, you know, you can't refuse to address a question before the decision, and then after the decision come in for the first time and make new arguments, which I think is what you've done.

But, look, you've said that it's a crime for somebody to try to register to vote even if the only reason they are not eligible is because they have a financial obligation they can't pay. Now, one side or the other may win this, but it is very hard to assert that a person cannot claim in good faith a right to vote based on *Johnson versus Bush*. So what you'd like to do is hold the threat of prosecution up, keep that person from registering until it's too late.

What I'm trying to do is make sure that person can start the process now and then we need to make sure that the person does not get to vote if the person is not eligible to vote. So I'm with you on voting, but I don't understand why the person can't register.

So explain it to me again. Why is it that John Doe who's got this old conviction and either owes amounts or thinks he might owe amounts, may not know if he owes amounts, why can't he at least start the process?

MR. PRIMROSE: I think because under Florida statute,

upon registering to vote, turning in the form to the Supervisor of Elections, them doing their administerial, you know, checking the box to make sure that the information is filled out and sending it to the Department of State guarantees you the right to vote. And at that point it is a -- it is a -- how long does it take Department of State to go through all of the applications?

THE COURT: It just doesn't guarantee the right to vote.

MR. PRIMROSE: It does, Your Honor, in the sense that --

THE COURT: Not under the testimony that the Secretary of State gave, not under what your side told me before the preliminary injunction. What you told me was he registers and if the Secretary determines he's not eligible, the Secretary starts the process of revoking the registration.

What the supervisor from Miami-Dade told me -- which I thought was very helpful in explaining, you know, how does this work and what do we really need -- said, Look, bear in mind that even when the person shows up on voting day, if somebody says that person is not eligible, there can be a challenge right there. So registering does not guarantee the person the ability to vote.

Am I missing something?

MR. PRIMROSE: I think Oren -- or Mr. Rosenthal from

Miami-Dade said is that there still is an opportunity to challenge a voter's eligibility at the polls. That typically happens with another individual challenging the right.

However, when you fill out the voter registration form and it's sent to the Secretary of State, it does go through a process of going through and finding any disqualifying offenses. It's not automatic. It doesn't happen the second the form gets to the Secretary of State's Office. So I think that's where the confusion is.

If you register to vote and as long as you are not still incarcerated, you're able to vote and go to the polls. Now, during that time from registering to voting --

THE COURT: Unless you are disenfranchised in the meanwhile?

MR. PRIMROSE: Yes, Your Honor.

And I think --

THE COURT: I go back again, so why can't they register and start this process?

I'm looking at two options: I grant the stay or I don't. If I grant the stay, then my hypothetical John Doe who wants to vote can't even submit the form. The Secretary doesn't look up any records because he hasn't even submitted the form.

If the Eleventh Circuit rules close in time to an election, too late. You are required to register 30 days ahead. And in any event, if the Eleventh Circuit rules more than 30

days ahead and he rushes in and registers, now what? Now the Secretary of State has a very limited time period in which to act.

Why wouldn't the Secretary of State want to have more time? Why wouldn't you want to know as soon as possible who it is that claims a right to vote so that you can vet the person and find out if they are entitled to vote? Why wouldn't you want to know sooner?

MR. PRIMROSE: I think there is just a concern, Your Honor, with the sheer number of individuals that might attempt to register to vote, the amount of work that it's going to take Department of State and all of the local supervisors of elections to go through and essentially redo what we could just cut off at the outset, which is wait until the Eleventh Circuit says you either need an indigency exception or you don't, and then allow people to register so that what we are not doing is having individuals go register, believe they've got the right to vote, and then the Eleventh Circuit saying there is no indigency exception, and we are doing 100,000 plus removal proceedings in 67 different supervisor offices across the state.

THE COURT: So the irreparable harm is the administrative burden?

MR. PRIMROSE: Yes, Your Honor.

THE COURT: All right. Let me look at my list and see if there is something else I wanted to ask you.

(Pause in proceedings.)

THE COURT: I did want to find out what the status was of efforts to put a process in place. This goes back to my question about what the Governor said, but the Governor seemed to say that there had to be a process in place; seemed to recognize the need to provide an avenue for individuals unable to pay back their debts as a result of true financial hardship.

Where do we stand on developing that avenue?

MR. PRIMROSE: Your Honor, we've tried to have some discussions on what an agreeable avenue might look like. Unfortunately, I don't think we've been able to come to a consensus agreement.

Our concern -- and I can let Ms. Price kind of address this in our response to class cert, but there is some disagreement on what inability to pay might look like. And so we're struggling with -- we've got a pending statute on whether or not you're indigent and would qualify for a public defender; is that the test that should be used? Is the test -- I think Your Honor might have asked the question during the preliminary injunction hearing: Is it a snapshot in time when you register to vote that you are unable to pay? Is it looking backwards from the time that you're incarcerated to the time that you want to register to vote? That you may have had means to pay and you chose not to? Is it forward looking that Department of State and the supervisors should be determining whether or not you've

maybe gotten a job or you've won the lottery or now you have the ability to pay your financial obligations after you've registered to vote?

There is a lot of disagreement. We weren't able to reach a consensus, I think, with plaintiffs on what that might look like. And so candidly, we are -- at least on the indigency piece, Your Honor, we are struggling with how to properly define that, understanding that if we -- if we define it in a way that is not agreeable to plaintiffs, that will most definitely cause some litigation on what the definition or the implementation might be.

THE COURT: I understand. It's really not up to them. The question was really not whether there are hard issues, but where you stood on them.

I guess I heard you saying you hadn't made much progress.

MR. PRIMROSE: No, Your Honor, we've --

THE COURT: Let me suggest -- tell me what's wrong with this. Part of what you say is what an enormous problem this is and how hard it would be to decide for a million four or 400,000 or whatever number, whether they are indigent or not. I mean, you do recognize that for 99-point some percent of these people, there's already been a determination. The very first day somebody comes into the criminal justice system, right at their initial appearance, there is a determination of whether

they are able to pay.

So here's -- tell me what's wrong with this: You say, Okay, look, there's a rebuttable presumption that a person is indigent if the person has already been determined to be indigent in connection with their last felony conviction. That would be an easy thing to figure out, I think, even with the state of the record. We've had some discussion of that, but I don't think that would be hard to figure out.

There's a rebuttable presumption that the person who is indigent if the state court judge already converted the financial obligation to a civil lien. I mean, the testimony is that's why the judges do it. On the other hand, if you don't meet one of those, then there's a rebuttable presumption that you are able to pay.

Now, you've gone to 400,000 individual determinations and I'll bet you you have 10. If what you really want to do is comply with the Constitution, let all those who are eligible to vote, vote. It would be pretty easy.

What am I missing?

MR. PRIMROSE: I think that -- that's dependent, Your Honor, on your analysis on the merits being what the Eleventh Circuit is going to decide. If the Eleventh Circuit decides that there is no need for an indigency exception to Amendment 4 7066, then you don't need a rebuttable presumption test on indigency. And what you do have is you've got voters

who shouldn't be voting on the rules.

THE COURT: Absolutely. I understand. This -- I got it.

If you win the case, you win the case. You have people that are willing to stand up and say, I don't care if you are able to pay or not. If you've gotten money in the state of Florida, you can vote. And if you don't have money, you can't vote, and that's what we are going to do. And if that's what the State is going to do and the Eleventh Circuit decides that's okay -- even though it pretty plainly said that's not okay in *Johnson* -- but if that's the ruling, then you win and all of this is for naught.

It won't be the first time I've gotten something wrong. I do my level best to get it right, but there's a reason why there is an appellate court. So I understand, if you win, you win.

I'm trying to figure out what the problems are in the meantime. And part of what you tell me is how this just can't be administered, and I just gave you a suggestion that I think is pretty darn easy.

MR. PRIMROSE: And, Your Honor, I'm sorry if I -- if what I said was taken as that we don't think we can administer. We do believe that we can. We've been discussing internally what an inability to -- an inability to pay pathway might look like, what documentation we might need. And as I stated, we

know there is a statute on the books for indigency and the Public Defender.

So we are looking at it, we just haven't determined which would be the most appropriate inability to pay test if we had to institute and implement one. That's the only thing.

THE COURT: The State does this in lots of other ways, too.

MR. PRIMROSE: Yes, Your Honor.

THE COURT: You decide who qualifies for Medicaid. You decide -- there's lots -- the State does lots of things to determine financial inability.

MR. PRIMROSE: We have not pinpointed what test would be implemented if one is required, but we have discussed it. We know the options. We've tried to have some decisions with plaintiffs and we just were not able to reach a consensus on what might be agreeable to them. And without getting into those discussions -- but we are trying to --

THE COURT: Let me help you out a little bit. You put in place a constitutional system, it won't matter if they like it or not, I'll rule for you.

MR. PRIMROSE: Yes, Your Honor.

THE COURT: But what you can't do -- and here's the problem with the motion to stay. What you can't do is just try to run out the clock so that people who are eligible to vote don't get to vote in the March presidential primary or probably

more importantly in the November election for president and lots of other offices. If there are people who are eligible to vote, they ought to be able to vote. And if that's going to take some time, we need to get going.

MR. PRIMROSE: Agreed, Your Honor.

And if I can, we have purposed to plaintiffs and the other parties in this case an expedited briefing schedule, which we plan on filing in the Eleventh Circuit before the end of this week, that would essentially ask the Eleventh Circuit for a schedule that has oral arguments some time the week of February 10th.

And the defendants on this entire case, Your Honor, have tried to move expeditiously. When we were discussing whether or not to have a preliminary injunction hearing, it was the defendants that said, Why don't we skip a preliminary injunction and go straight to a final trial before the end of 2019? That's what we are trying to do by appealing the preliminary injunction, asking for an expedited briefing schedule, is go back to what we asked for all along, but the plaintiffs have objected to, which is a final order from this Court as quickly as possible so that it can be appealed.

We believe that this is the best way that we've got right now to do that, understanding Your Honor's concerns that we waited until the last day to appeal and a week or so to file the stay. But we have been trying to move this case

expeditiously, we have talked with -- we talked with the plaintiffs last week about the potential of competing summary judgments, but that was just a very preliminary discussion that hasn't really been discussed at length. We are trying to move expeditiously so we can have finality not only for the Secretary of State, but for all of the voters to know whether or not they can vote or not in the March or in the -- there would be a primary and a general in 2020.

THE COURT: Sometimes the Eleventh Circuit expedites things, and sometimes not so much. I appreciate your plug by asking them when you want to have argument. I hope they'll do it.

I think we've probably explored this as far as it's helpful. There is an administrative problem between now and February or March and the only real harm comes when the rubber hits the road at the time to vote. We have to have time to -- if you get a ruling before voting that indigency doesn't matter, then everything is -- well, let's think this through.

Even there -- let me suggest to you that even there -- I mean, the Circuit won't rule from the bench. I'm not even going to rule from the bench today and there is just one of me and, you know, your chance of getting a ruling from a district judge from the bench is a whole lot better from the Circuit. They are not going to rule the day you have argument, even if they go with your schedule.

The problem is suppose that they rule promptly and they rule for you. I'm still not sure you wouldn't have been better off by having the process started earlier so that you could be looking at these things.

You know, if you assume that every applicant tells you the truth -- knows the truth and then tells you the truth, then if they rule for you, that solves the problem because you know who owes money and they are not eligible. Sometimes the State of Florida has told me that not every applicant tells the truth. I've had cases here where people claimed they were citizens and weren't citizens.

If you believe that some of these people may not tell you the truth, wouldn't you like to start working on it as soon as you could? I mean, if you wait until -- even if the Circuit rules at the end of February, whatever, if you just got an application in, you are not working on it.

What are you going to do then?

MR. PRIMROSE: Your Honor, the Department of State is currently working on all voter registration forms that get submitted to them and parsing out if somebody is still incarcerated, if they've got a disqualifying offense -- a murder, a felony, sexual offense, and those that have outstanding financial obligations -- the real problem that we are in right now is understanding that your preliminary injunction only impacted those individuals.

In practice, it's being applied and used on more than just those individuals.

THE COURT: One would expect. One would expect a supervisor to pay attention to a constitutional ruling of a district judge. There is nothing wrong with that.

MR. PRIMROSE: Well, but there is a problem with that, Your Honor, in the sense that the preliminary injunction is limited to those plaintiffs. But if nonnamed plaintiffs are attempting to use your preliminary injunction to register to vote, then they are violating Amendment 4 and Senate Bill 7066 because the injunction --

THE COURT: Only if I'm wrong.

MR. PRIMROSE: Well -- but your injunction doesn't apply to them right now. And so --

THE COURT: No, but the Constitution does.

The Constitution applies to them with or without an injunction. I've had this very same discussion. We did the same thing in the same sex case.

MR. PRIMROSE: And understanding that, Your Honor, so now we are dealing with nonnamed plaintiffs using your preliminary injunction order and is Department of State to turn a blind eye if they have outstanding LFOs and we haven't implemented an indigency test? And if the Eleventh Circuit agrees with us, now we've got potentially hundreds of thousands of voters voting who should not be voting and altering the

elections.

THE COURT: I got -- no, do not turn a blind eye. My order explicitly did not say turn a blind eye. It said look at it, report it to the supervisors. No problem there. I'll let that go forward.

I've got it. We've been through this at length. I'll think it through the rest of the way.

We need to talk about class certification, too, but we can talk anything you want to about a stay. And let me tell you my concern, whoever is going to speak on the plaintiffs' side, I do have a concern about -- at the voting stage. I'm not worried about somebody being able to apply and start to run the process.

But it does seem to me that there's irreparable harm to anybody who loses incorrectly at the stage of actual voting, and so that's the concern.

MS. ADEN: Good morning, Your Honor. I'm Leah Aden with the Gruver plaintiffs.

On the motion to stay, the plaintiffs oppose it for all the reasons that you've teed up: It's late; it seeks to shoehorn the issue of class cert that has not been adjudicated and to the motion to stay. And if it would aid Your Honor in issuing a decision on it, we'd like the opportunity to respond in the time that we are entitled under the rules to respond to it.

In addition, on the motion to stay, you know, we hear

your concern with what happens once people are on the rolls and are they able to vote. We clearly believe that the onerous is on the State to use the existing removal process to ferret out who is ineligible to pay and prevent --

THE COURT: That kind of assumes the result. Their theory is -- well, anyway.

If I have it right, there is no pending request for preliminary injunction running in favor of class members.

MS. ADEN: That's correct, Your Honor.

What we are seeking is -- well, we got here, the Gruver plaintiffs, because we are the ones that filed the motion to extend to the four. It is four individuals; three of whom are named plaintiffs, one of whom is an organizational member. And we only wanted to put those four individuals on the same footing as the other named plaintiffs and to not turn --

THE COURT: A couple of thoughts. I may be remembering this wrong because I've gone through all these plaintiffs so many different times. A couple of those are already registered.

MS. ADEN: All of them are registered. All of them are registered. You know, we originally came to you to try to --

THE COURT: So all your -- the only way this affects them is if --

MS. ADEN: The State does nothing before the March

elections because they are on the rolls and they are ready to participate.

THE COURT: So if the Eleventh Circuit rules that I'm wrong, they know they are not eligible to vote and they don't vote.

MS. ADEN: That's correct.

THE COURT: If the Eleventh Circuit has not ruled, if I extend the injunction to them, then they get to vote unless somebody says you can afford to pay this money and they failed to show that they can't pay.

MS. ADEN: That's exactly right, Your Honor.

And for the -- we are also hopeful that between now and the February voter registration deadline that we are going to hear from the State about how other -- for example, we represent voter registration organizations. They want to engage in voter registrations and they are at a loss for what to do at this time because they're hearing nothing from the State. They have not widely published the decision. They have not heeded this Court's admonishments about the problems with the new voter registration form. It's still up on the Secretary of State's website. So they've been given no guidance --

THE COURT: People are using the old form?

MS. ADEN: We are --

THE COURT: Is there --

MS. ADEN: They have not been told by the State

whether or not they can use the old voter registration form.

THE COURT: If my John Doe is a felon who says I'm able to pay because I've satisfied my conditions except that I'm indigent and can't pay a financial obligation, is there a form that John Doe can use?

MS. ADEN: We believe that they should be able to use the current voter registration form.

THE COURT: That's the old one.

MS. ADEN: The old one. That says that their rights have been restored or the State can set up some other system, an affidavit or some other process, for them.

THE COURT: But you don't have anybody who is currently unable to register?

MS. ADEN: Not who is individual plaintiffs.

THE COURT: I'm not asking for names. You don't have any indication that there's any of the 67 counties in which a person who is willing to sign that form can't register?

MS. ADEN: No. And I think that's part of the point is since January -- or even since July, the State has actually been allowing people to register using the new and old forms. They have been allowing people to get on the voter registration rolls. What they are doing now is they are just going mute and not saying whether or not that continues to be the case in light of this Court's preliminary injunction order.

So they are -- we are not asking them in many ways to

change much of their behavior. We are asking them to, though, publicize that this Court has issued a decision that people can register if they are unable to pay. That if people go on the voter registration rolls, there is an existing process that this Court has already acknowledged by which the State can go about removing them from the voter registration rolls or someone can go about challenging them.

All of that is in place, but they are staying mute on it and in many ways that is doing exactly what we warned the Court would happen. It's chilling people and people are declining to register and to participate because the State is unwilling to say what the state -- the current status of affairs is. And we believe it's completely inconsistent with the spirit of the Court's order. While it did extend to 17 individual plaintiffs, the spirit of the order required the State to begin a process. We wholeheartedly agree with you, Your Honor, that the process should not begin once it goes up to the Eleventh Circuit; even then there's no finality.

As you know, the preliminary injunction only raised limited claims. It's going to come back down. We are going to go to trial. This case will proceed. The legislature will go into session. This finality that the State seems to suggest is going to happen, it's not going to happen.

THE COURT: It would happen very easily if the legislature just adopted some of this.

MS. ADEN: In a constitutional process, exactly; that's exactly right.

THE COURT: I mean, the legislature can, you know -- whatever.

All right. What you'd really like to do is respond in writing. That's fair enough. But, look, we don't need to take more time with this than necessary.

MS. ADEN: And just on a very small point on the motion to extend, as you can see from the position of the State, they have no real meaningful opposition to our motion to extend the PI. They have not provided any harm to them. They have not provided any prejudice to them. They merely don't like the form by which we did it, but in the interest of judicial resources we have proceeded the way that we have.

THE COURT: All right. Fair enough.

MS. ADEN: Thank you, Your Honor.

THE COURT: Any rebuttal?

MR. JAZIL: Your Honor, just briefly. The State did put out a --

THE COURT: Make sure the microphone is on. I think if the red light is on, the microphone is on.

MR. JAZIL: Your Honor, I'd simply note that the State did prepare a restoration right work group report. The report addresses, among other things, the form issue that we discussed at the last --

THE COURT: Is that part of the record?

MR. JAZIL: That is not part of the record, Your Honor. It's publicly available. Your Honor said we were not to introduce evidence at the trial, but I simply note that it's out there.

One of the recommendations, Recommendation 5, addresses the form. I would note that the website that the Secretary of State maintains has the old form and the new form. I would further note that there are other recommendations that deal with the inability to pay issue that Your Honor --

THE COURT: If you want to file that, file it electronically. But if you want to make that part of the record, you are welcome to do it.

MR. JAZIL: Understood, Your Honor.

THE COURT: It's a recommendation. It doesn't prove a whole lot, but it's part of what's going on on the ground. It's part of my question: Where do we stand on that stuff?

MS. ADEN: And, frankly, as far as we are concerned, the Secretary of State has only communicated with the SOEs by attaching your order and saying -- and indicating that it only applies to individual plaintiffs. We'd love if the Secretary of State would e-mail the supervisors of elections and say you should be telling people that they can use the old voter registration form; that should be publicized on their website, but none of that is happening. The fact that it's in material

that's not even been filed into the record into the Court does not help anyone understand where the State is at this juncture.

THE COURT: All right. Class certification, I've read your papers. I'll hear anything you want to tell me about it.

MR. GABER: Your Honor, Mark Gaber for the Raysor plaintiffs. I guess I'll start with the Twenty-fourth Amendment class and the assertion that there's a necessity requirement for class certification.

THE COURT: Before you get into that, let me just ask the other side -- sometimes I try to expedite things and it just slows things down, but let me try for this.

Suppose -- and I'm going to hear what you have to say so don't take this as a ruling. But suppose I say, Now look, this is a (b)(2) class. I'm going to certify a class on the Twenty-fourth Amendment claim, but by the way on the merits of fine, restitution, that's not a tax. So on the merits they are going to lose on the fine and restitution question, but they might win on the fee question.

You really want me to not certify a class on the fine and restitution issue?

That means that if some other plaintiff filed a case tomorrow in the Southern District of Florida and if the judge thinks I got it right, then the judge may do the same thing I did. But if the judge thinks I got it wrong, the judge will consider it all over again.

You really want that class not certified?

MS. PRICE: Yes, Your Honor.

THE COURT: All right. Fair enough.

MR. GABER: And on that point, Your Honor, your order setting the hearing raised the -- asked counsel to be prepared to discuss alternative class and subclass definitions. To the extent that that issue applies to the Twenty-fourth Amendment class, you know, we think it would be fine to have a subclass that was with respect to folks that had costs and fees only, but not restitution and fines outstanding.

That may add some clarity; it may not. The Court can address the definition --

THE COURT: I don't know if it makes any difference how the class is certified. It's just a merits question.

MR. GABER: Right.

So the argument that -- the main argument that was raised in opposition on the Twenty-fourth Amendment was this issue of necessity, as Your Honor mentioned, that they would apply -- the State would apply the constitutional ruling of the Court to everyone regardless of whether the class was certified. I think the briefing and the position taken today shows that's not actually the case, but this isn't actually a legal requirement.

The Supreme Court in the *Shady Grove* decision said that so long as a plaintiff meets the specified criteria of

(b)(2) that they are entitled to certification and necessity isn't -- where it exists is a judge-made standard. It's not the text of Rule 23. The Third Circuit has recognized that *Shady Grove* has abrogated any necessity doctrine, and that's in the *Gayle Warden Monmouth County* decision, 838 F.3d 297, 2016.

THE COURT: Let me ask you this. If I understand your position, and I might not, you want to exclude from the class the named plaintiffs in the other cases?

MR. GABER: The -- at the time we filed the -- and I'll let my counsel speak for the other cases, if that has changed, but my understanding is that because they are already represented by counsel that it won't make sense to define them in the class because then we'd have issues with respect to who is class counsel, who is counsel for those individuals who are not part of the Raysor group. So we have three plaintiffs in our group that are sought to be the class representatives. And just as a matter of making sense with who is counsel in the case --

THE COURT: Yeah, and that's what I thought. It's kind of a practicality question. You have any examples where a (b)(2) class has been done that way?

MR. GABER: I do, Your Honor. And I think it's cited in the footnote in the motion for class certification. The Virginia same sex marriage case there were two cases pending, one in the Eastern District of Virginia and one in the Western

District of Virginia, and the Western District case was a class action and the judge approved the definition excluding the folks who were --

THE COURT: Excluding the others. That's the case that went up to the Fourth Circuit?

MR. GABER: Right.

THE COURT: All right.

MR. GABER: And so unless Your Honor has questions about the necessity issue, I think that the state of the law is clear. And to the extent that there were a necessity requirement, the potential for mootness -- the Supreme Court has recognized that the potential for mootness particularly in a (b)(2) class generally always makes the class necessary.

There's a case *Arizonans for Official English versus Arizona* where the Court noted that because it wasn't brought as a class, you know, that the mootness caused the --

THE COURT: Yeah, mootness is not very likely here. I suppose your named plaintiffs could all move out of state or they could all pay their amounts.

MR. GABER: Or the Governor has the discretion at any time to grant them clemency. He could decide not to have named plaintiffs.

THE COURT: Okay.

MR. GABER: That seems unlikely.

THE COURT: All right.

MR. GABER: But there is the potential for mootness.

THE COURT: Fair enough.

MR. GABER: With respect to the Fourteenth Amendment class and the issue of ascertainability, the State relied on an old Fifth Circuit case *DeBremaecker versus Short*, but that case didn't actually confront the question of whether there is an ascertainability issue in (b)(2) classes.

THE COURT: And it's after *Carpenter*?

MR. GABER: Right.

THE COURT: It seems to me that class certification is presented differently for two possible ways to frame the claim. Part of what you wanted before I entered the preliminary injunction was for -- I think essentially for me to decide that these folks are indigent and therefore they can vote. The way I did it in the preliminary injunction was to say, I'm not deciding that but the substantive ruling is the State's got to put in place a system to determine whether somebody is.

It seems to me certifying a class on the claim that the State has to put in place a system, that's pretty straightforward. That's a pretty typical class. Certifying a class if we are actually going to determine who is indigent, that is a whole lot harder and that creates a whole different set of issues.

Which are you seeking?

And if I'm wrong about one being different than the

other, tell me why I'm wrong.

MR. GABER: Before I do that, we've kind of slipped and used the word "indigent" a lot here today. I wanted to note that the ruling in the constitutional principle is the inability to pay. And unlike a lot of cases we have, there's two sides of this equation. I think there is a plaintiff who has like $52 million in a joint and severable outstanding financial obligation. That person can be well beyond an indigent person, they could be a millionaire, and not have the resources to pay that. So I do want to be careful and not --

THE COURT: Fair enough. You know, one of the things I've looked at is Judge Rosenthal's decision in the case in Texas that she has about misdemeanor bail, and she reframed something in terms of indigency.

But, fair enough, it's different there.

MR. GABER: And I do think that the courts have used them interchangeably because in that context they are, but in this context they are not.

I do think there will be -- as the Court has ruled, there must be a procedure in place and anyone who asserts that they have an inability to pay will be able to use that procedure. And so if the Court wishes to define the class surrounding, you know, access to that procedure, that that might address some of the concerns about ascertainability that have been raised.

You know, as a first principle, I don't think that those concerns ought to apply in the (b)(2) context. And we've cited a lot of cases that say that.

THE COURT: Yeah, I really wasn't asking about ascertainability as much as, I guess, for help in how to frame the class. I mean, it does seem to me if I frame the class the way you've framed it -- I define the class the way you've defined it, then I may have effectively certified a class on the second kind of claim I described, on the claim that the plaintiff is entitled to a ruling from the federal court but the plaintiff is unable to pay. And it seems to me I'm -- I'm not hesitant to say that I'm not going to certify a class, you may talk me into it. But it would be much harder to persuade me to certify a class for that claim.

MR. GABER: And I don't think that by certifying the class using the definition, you know, ability to pay or genuine inability to pay, is a ruling that anyone is, you know, is genuinely unable to pay. It's rather that anyone -- someone who proves they -- you know, who asserts or proves they have an inability to pay will go through the process that's in place.

THE COURT: If I certify the class only on the issue of whether there is an entitlement to a process, and I don't certify the class on the issue of actual inability to pay, is that going to satisfy you?

MR. GABER: I think so, Your Honor, because that would

give everyone who asserts an inability to pay access to that process.

THE COURT: It helps everybody on your side?

MR. GABER: I hear yeses and I hear nodding. Though I am looking forward, I can hear it.

THE COURT: Anyone on your side who is opposed has stayed silent.

MR. GABER: Right.

So I think that that would address whatever concerns might have been raised at the prior hearing, and it wouldn't be making a determination as individual people but giving them the benefit of the (b)(2) clause.

THE COURT: All right. Fair enough.

MR. GABER: This is not about the class issue, but I wanted to -- a couple of points that came up in the previous argument.

Your Honor asked about the severability issue and there are actually headers in the opposition to the motion to dismiss brief filed by the State, Docket 163, that take a position. And we are obviously happy if the position has changed and that is no longer the position of the State, but it is not the case. That opposition was not taken.

THE COURT: It's in No. 163?

MR. GABER: 163, I believe, page 7. That's the opposition to the motion to dismiss. The Court had asked the

parties to address this issue and they did and the position seemed clear.

On the question of --

THE COURT: Give me just a minute. Let me catch back up with that.

MR. GABER: Sure.

(Pause in proceedings.)

THE COURT: Do you have it right in front of you which page you are talking about?

MR. GABER: I don't. I think it's pages 6 and 7, perhaps.

Also page 12, I'm told.

(Pause in proceedings.)

THE COURT: Okay. It does seem to pretty clearly say they take a position, but I've only looked at it quickly. I haven't had a chance to go back through it, but I will.

MR. GABER: And I would note that, you know, with an as-applied challenge there is no severability analysis that was done in *Johnson v. Bush*. When you have an as-applied challenge, you are not getting rid of the piece of law that applies generally, but you are saying as applied to certain people it can't apply to them, and that doesn't require a severability analysis.

There is no case that's been cited that shows that as-applied challenges must undergo a severability analysis. I

think that that would be wholly new law across the country for widely recognized ability to have as-applied challenges and, indeed, the Justices of the Florida Supreme Court indicated as such at the hearing last month.

And with respect to the idea that this accelerated briefing schedule that the State has sought in the Eleventh Circuit will provide any finality or clarity, the oral argument that they have sought is the week that registration closes for the March primary. The primary is March 17th, so 30 days prior is February 17th. And so --

THE COURT: Maybe February 16th.

MR. GABER: 16th.

So there is -- what is guaranteed to happen is, if Your Honor is right and if the Eleventh Circuit meant what the Eleventh Circuit said in *Johnson*, then there will be no opportunity, that truly will be irreparable for the folks who are covered -- or who have an inability to pay and they will have no opportunity to repair that harm in time for the March primary. Whereas the State can repair any harm it has by going through the lists and taking the folks who are not eligible off the rolls.

THE COURT: Is the March primary only in the -- it is, I think, only the presidential primary? It's not a primary for state elections?

MR. GABER: I believe that's the case, yeah.

THE COURT: All right. Thank you.

MR. GABER: So if you have no further questions about the class.

THE COURT: Thank you.

Ms. Price.

MS. PRICE: Thank you, Your Honor. Tara Price on behalf of the Secretary of State of Florida.

On the issue of class cert I'm happy to answer any questions you have. I would like to address a couple of comments that the plaintiffs made with regard to necessity and then also address some of the issues that you raised on ascertainability as well.

With regard to necessity I would just note that as we had said in our papers -- and I won't reiterate our points -- but this Circuit does have precedent going back as far as 1974 where the Circuit itself has applied a necessity examination to a (b)(2) class. That was in the *United Farm Workers* case.

THE COURT: But that's a case where there is an association that has standing to represent everybody that's affected. And that's why the Court said we don't need to certify a class because you've got an associational plaintiff.

MS. PRICE: Yes, Your Honor.

The Courts within the Eleventh Circuit have continued to apply necessity including this Northern District earlier this year in the sister court, in the *Madera* case. Certainly all

those courts are not acting in violation of the supreme court decision in *Shady Grove*. *Shady Grove* does not talk or discuss about necessity. The case is actually about federal jurisdiction. And there was a state law at issue that would have prevented a class action from being certified, and the Second Circuit said that the state law applied. The Supreme Court said, no, Rule 23 is what applies when you are looking at this case. That's what the case was about.

The Third Circuit in *Gayle* does have a statement talking about what the Supreme Court has decided. But if you look at *Gayle* and what it's actually held, there's actually a statement where it says, It would be fine for a district court to decline to certify a class based on necessity if it were a formality or not going to grant anything.

THE COURT: Sure. And there are district court cases where courts say, We don't need this and --

MS. PRICE: Yes, Your Honor.

THE COURT: If I haven't done that, I probably would have given the right circumstance. Nobody needs a class action when you don't need a class action. It just complicates things.

Tell me this. If it's -- if an injunction in favor of a single plaintiff makes an injunction in favor of a class unnecessary and so makes class certification improper, give me an example of a proper (b)(2) class.

Another way to ask the question is: Why is the rule

in the book?

MS. PRICE: The rule is in the book, Your Honor, where an injunction directs an action to defendant that can be taken with regard to all particular plaintiffs that fall within the particular class. But it's not necessarily limited to only instances where, for example, an injunction would be applied against the State or to where it might be binding on more than one person based on the entity that is involved.

If I'm answering Your Honor's question.

It's the Secretary's position that the --

THE COURT: I'm trying to get the particular circumstance. I mean, go back to the classic -- the very paradigms of class actions; it's the steel company in Birmingham is not taking applications from African-Americans; the State of Florida is not paying African-Americans at Sunland the same thing it's paying the whites. One plaintiff brings an action and says, I want to bring a class action. And the defense says, Well, no, if you make a ruling for the one, we'll just follow it. So I rule you've got to pay white folks and African-Americans the same, and the State just does it for everybody because the State always complies with injunctions, so why certify a class? Well, the reason is because sometimes people don't just do it.

MS. PRICE: That may be right, Your Honor.

It is the Secretary's position with regard to the

Twenty-fourth Amendment claim that a ruling against -- that a ruling on the Raysor plaintiffs' claim on the Twenty-fourth Amendment would be binding.

THE COURT: So how is it -- they tell me that the Secretary right now is sending information to all the supervisors of election saying that order just applies to the 14 people and for everybody else it's just business as it was. I mean, is that -- are they doing that? I mean, is the Secretary doing that?

MS. PRICE: Your Honor, after this Court issued the preliminary injunction order, the Secretary sent a copy of the order to the supervisors of elections, told them to read the order and understand what was in it, and noted that it was limited to the named plaintiffs; that is correct. However --

THE COURT: So what makes you think that if I rule that these fines are taxes prohibited by the Twenty-fourth Amendment, that the Secretary won't send a letter to all the supervisors that says, Here's the order, read it, but by the way, it only applies to these 14 -- or maybe 18 -- people. For the rest, business as usual?

MS. PRICE: Your Honor, because as the Secretary understands the Raysor plaintiffs' claim, it is a facial challenge on the Twenty-fourth Amendment issue. It would apply with regard to everyone within the state of Florida. It is not an as-applied challenge which was the nature of the actual

injunction that was entered on October 18th.

THE COURT: All right. Fair enough.

MS. PRICE: I would also note briefly, I know we talked about necessity, just it's the Secretary's position that there are some issues perhaps with commonality and typicality on the Twenty-fourth Amendment claim and that none of the Raysor plaintiffs owe restitution and as Your Honor noted it is a different --

THE COURT: I think one might, but little bit hard to tell. That goes back to one of their points earlier. Sometimes it's hard to tell, but I think there's one that had a restitution order in.

MS. PRICE: And, Your Honor, I may be mistaken, but it is my understanding, based on the evidence, and the plaintiffs do have the burden here to not just assert, but to provide evidence based on the evidence that's before this Court, none of the Raysor plaintiffs owe restitution, and so if that's the case, and Your Honor has noted in the preliminary injunction order that restitution is a different analysis as are fines, as are fees and costs, they would not be appropriate to have a class.

THE COURT: They may well be, and let me take the flip side of my effort to expedite earlier. I asked if you were going to lose that claim on the merits, did they still want a class certified, and do they still oppose class certification

and the answer was, yes, they still oppose class certification. If you're going to lose that claim on the merits, do you want a class certified, or are you willing to not have a class certified on that? Hard to be an adequate representative if you're going to throw all those people under the bus.

MR. GABER: I think, Your Honor, the answer is that the ruling in the preliminary -- I mean, perhaps --

THE COURT: Stand up for me.

MR. GABER: I'm sorry, Your Honor. We think that we can at final judgment convince Your Honor that the Twenty-fourth Amendment applies to those issues. If you're telling me that that's not possible, then we might reconsider that question, but --

THE COURT: You still want a class certified, got it. I'm 0 for 2 trying to expedite things.

MS. PRICE: Your Honor, in turning to the Fourteenth Amendment wealth-based subclass, as we noted in our papers, there are ascertainability -- significant ascertainability problems. Your Honor asked a question about whether the class would be certified with regard to a process or whether the class would be certified with regard to requiring a court determination about who actually is within the class, and that highlights the distinction we tried to put in our papers between the case law that the plaintiffs are asserting and the case law that we're asserting.

Your Honor did note that the Fifth Circuit case in *DeBremaecker* was shortly after *Carpenter*, but if you look at the two classes and what the injunctions would have been, that kind of illustrates the distinction here quite nicely. The *DeBremaecker* case was a proposed class that was against the residents of the state who were active in the police movement -- or, I'm sorry, active in the peace movement, and the injunction would have been against police harassment.

And the Fifth Circuit was struggling with what that actually meant, who would be in the class. The Court said, "It is elementary that in order to maintain a class action, the class sought to be represented must be adequately defined and clearly ascertainable." That's a (b)(2) class versus in *Carpenter*, you had a class that was all people who might sell newspapers that a police or a particular town had determined were obscene.

That is different in the sense that the Court was saying presently I don't need to make a determination about who might sell newspapers in the future. All I need to do is make a determination about whether this newspaper is obscene or not. That takes care of everybody. That's not what we have here.

To the extent Your Honor were to consider -- although it is the Secretary's position that no class should be certified, to the extent Your Honor were to consider a class with regard to a process, that is very different than a class

with regard to proposed individuals who are genuinely unable to pay, which, as plaintiffs have pointed out today, is not limited to indigency. There is no objective test that they are putting forward and the case law is beyond clear that regardless of the level of ascertainability in the various circuits, the classes still have to be defined according to an objective standard, and that is the plaintiffs' burden to bear.

THE COURT: Everybody who claims genuine inability to pay. That's ascertainable, isn't it?

MS. PRICE: Your Honor, if a class were to be certified that was everyone who claims an inability to pay -- I guess it would depend -- we're getting a lot closer to facial relief there as opposed to an as-applied standard.

THE COURT: I haven't gone back and looked at it, but, you know, wasn't *Goldberg versus Kelly* a class action. Maybe not, but it would seem to me if I went back and found all of those indigency cases through time, I'd find lots and lots of class actions, Judge Rosenthal's, and, you know --

MS. PRICE: Yes, Your Honor.

THE COURT: Just another district judge, but she was the district judge more involved than any other in writing Rule 23. She's kind of the district judge expert on Rule 23 and certified the class there.

MS. PRICE: Yes, Your Honor, so I would just note two things on that: One, indigency in those classes may have been

things that were picked up on the back end, right, so as part of a determination that's already been made Your Honor had talked about how some of these defendants have already been approved for criminal defendants or whatnot. Some of them may not have. Some of them, that may have happened 20 years ago, and circumstances change.

And so we are still, to the extent the relief being provided is on the front end with regard to registration, as opposed to on the back end, there's still an ascertainability issue and uncertainty about actually who is in the class, if it's more than indigency and it remains a genuine inability to pay.

Your Honor -- and so Your Honor has suggested earlier with regard to Mr. Primrose various considerations, whether a court had previously determined that a former felon was indigent in connection with the last felony, again -- and I think Your Honor raised this question during the preliminary injunction hearing, what is the look, if someone is released from prison, and this process doesn't happen until five or ten years later, is it looking just at what happened five or ten years later? Circumstances change, is it looking based on that determination that was made in conjunction with their last felony?

The same could be true with a conversion to a civil lien. Certainly that would be a determination at a particular

point in time, but we may be talking about five years from now, ten years from now. How long is this determination good for? Is it in advance of every particular election?

THE COURT: That's why my suggestion was a rebuttable presumption. I mean, if something's changed, something's changed. It -- here's the problem, and, you know, the suggestion is, oh, the Court can't impose this burden. I'm not imposing any burden. Look, the State of Florida can decide to make voting turn on financial obligations or not. There was a time in this country where that was done, and the Supreme Court pretty emphatically struck it all down, even when it was a dollar and a half. You couldn't require somebody to pay a dollar and a half.

And there was an alternative. The defense talks about alternatives. You could go through the registration process, but it's a little bit burdensome, and the Court said, no, you cannot make it harder by requiring payment of a dollar and a half because we don't make voting turn on financial ability. That's what the Eleventh Circuit said in citing that case in *Johnson versus Bush*.

If the State now says, look, we're going to reenfranchise people, but not if there are financial obligations, then that's the State's choice. The State has chosen to impose a financial condition on voting. And if you do that, you're going to have to sort out the ones that are unable

to pay. Now, the legislature could fix it tomorrow by eliminating the financial requirement, but if you want to have a financial requirement, you're going to have to comply with the Fourteenth Amendment. It's not that hard.

Now, I suggested an easy way to do it. You can have a rebuttable presumption this way and a rebuttal presumption that way and you can rebut it, but at some point, you're right, if the decision was made ten years ago, circumstances change, people do win the lottery. And when you've been to jail, it's a little harder to get a job and succeed, but people do it. And so there are people who go to jail and owe amounts and they get out and they prosper.

And so, yeah, some decision's going to have to be made, but, you know, the problem is the State can either abandon the financial condition or figure out how to apply it consistently with the Fourteenth Amendment, but you can't violate the Fourteenth Amendment. And it seems to me that's an across the board thing. Why is that not the kind of thing that we would certify a class for? I mean, that indigency is something that is perfect for class certification.

MS. PRICE: Yes, Your Honor. I think, depending on what the Florida Supreme Court says, the actions of the legislature may -- may or may not have flexibility with regard to what Amendment 4 will permit the legislature to do.

THE COURT: But the -- I mean, I asked this last time,

and I think the answer was, yes, the legislature could, and I understand it's not a no-brainer. I mean, the Florida Constitution says what it says, but I think under the Florida Constitution, if the legislature wanted to pass a law making restoration of rights more available, the legislature could do it, I think, right?

MS. PRICE: I think without, you know what I mean, knowing the specifics I -- there may be --

(Discussion was held off the record.)

MS. PRICE: The legislature could define Amendment 4 and what completion is and maybe that is an opportunity.

THE COURT: You don't think the legislature could pass laws that apply to the clemency board?

MS. PRICE: Your Honor, I think there's provision in the Florida Constitution that puts clemency within the power of the Governor's office, and so there may be some separation of powers issues there. Depending on --

THE COURT: Then the governor can do it. Surely -- surely somebody -- somebody could say, look, if you've served your time, you're off supervision, we're going to reinstate you; just file the petition and show that that's -- those conditions are met and you're in.

MS. PRICE: Yes, Your Honor. And I'm not trying to suggest the opposite. I'm just merely --

THE COURT: No.

MS. PRICE: -- trying to suggest there is -- there's a construct that the State has been placed in by the voters with an interpretation that was advanced by at least one of the plaintiffs previously and now is being challenged and so the State does have to work within those legal constructs.

THE COURT: I got it. I do think I asked at the preliminary injunction hearing, and whoever I was asking at the time thought that the legislature could do that, but it may not have been clear, and I've read the constitutional provision and it's one of those things you can probably argue both sides of, but I don't know who would object if the legislature or Governor, whichever, if they got together and said, look, we're going to reinstate people, and it's too hard to find the records, it's too hard to know, there's a Fourteenth Amendment problem, we're just going to reinstate people.

And the Governor certainly doesn't have to say, if the Fourteenth Amendment applies the way the judge says, then Amendment 4 is a nullity because it's not severable and nobody gets reinstated, and the plaintiffs tell me that's what your papers say, and that certainly was my understanding before I came in the room. Mr. Primrose tells me that, no, the Governor just hadn't taken a position on that. I'll go back and read those papers again, but I do think that's going to be a hard position to take.

MS. PRICE: Your Honor, just briefly with regard to --

there was a claim -- argument made about mootness, and I don't know whether Your Honor is willing to entertain that or not, but the case law, I think it's the *Access Now* case, actually denied a claim based on -- no, I'm sorry. I think it was *Ruiz versus Robinson*, denied a claim based on mootness where it was individuals who were trying to get in-state tuition and they weren't eligible because their parents were undocumented immigrants, and the plaintiffs had advanced that those named plaintiffs might age out once they turn 24, but that was several years away.

THE COURT: The Court said that's going to be a long time.

MS. PRICE: It wasn't just, you know, imminent, which is what the Court held was necessary for mootness. I don't think there's any evidence of that here that would counter any sort of necessity or other decision.

THE COURT: Fair enough.

MS. PRICE: The Secretary does oppose class certification and would oppose an expansion of the preliminary injunction order to any certified classes, and if Your Honor has any further questions --

THE COURT: No, thank you.

MS. PRICE: Thank you.

MR. JAZIL: Pardon me, Your Honor, may I be briefly heard on the severability issue to clear up any confusion?

THE COURT: Yes, excuse me, I was looking at my list to make sure I didn't have other questions I meant to ask; yes.

MR. JAZIL: Your Honor, it's important to walk through why it is we briefed the severability issue in the first instance. Your Honor brought it up in a pretrial conference so we briefed it as part of our motion to dismiss briefing.

THE COURT: I brought it up, but I didn't tell the Governor or the Secretary of State that you need to assert that Amendment 4 is a nullity. Let me ask you the same question I asked Mr. Primrose. Now that I've been -- my attention has been called back to your papers where you say that.

Is it the position of the Secretary of State that if the Fourteenth Amendment precludes you from preventing a person, an otherwise eligible person from voting, because of a financial obligation the person is unable to pay, then Amendment 4 is a nullity and does not reenfranchise anyone? Is that the Secretary of State's position?

MR. JAZIL: If Your Honor's analysis on the Fourteenth Amendment issue is correct, and the Eleventh Circuit agrees that that analysis is correct, then under existing Florida Supreme Court case law we have to undertake a severability analysis, Your Honor, and the logic of the existing Florida Supreme Court case law on severability, when applied to this case -- and, Your Honor, I have scoured to find a distinction between as-applied in facial cases and a Court saying that we don't

undertake severability analysis, there isn't a case that specifically addresses the issue then, Your Honor, our fear is that the severability analysis would be triggered, and our fear is that the severability analysis under existing Florida Supreme Court case law would suggest that Amendment 4 cannot be severed.

THE COURT: Do you remember my question?

MR. JAZIL: Yes, Your Honor.

THE COURT: I do. Is it the Secretary's position that if those conditions are met, Amendment 4 is a nullity and nobody has been reenfranchised? That's a yes or no question.

MR. JAZIL: And, Your Honor, I'm trying to be as respectful as possible and not answer that question in a way that's --

THE COURT: I really don't want the lawyers' analysis that there are these cases and those cases and here's what one could consider. This is a question that the Secretary is going to have to take a position on, and the Governor is going to have to take a position on, and so that's my question.

Is it the Secretary's position that if those conditions are met, Amendment 4 is a nullity and nobody has been reenfranchised? Yes, no, or we haven't taken a position, we just had our lawyers write it in the papers, but it's really not my position?

MR. JAZIL: And, Your Honor, our papers say that the logic would require it to be so, and that we believe is an

absurd outcome. It's an outcome that should be avoided. It's the reason why we've been arguing so hard and so strenuously that we not create asterisks, not parse out exceptions to the text that was actually put into the Florida Constitution. Our job, as the State's lawyers, is to defend every word that's in there and, Your Honor, that is the absurd outcome we're trying to avoid.

THE COURT: Respectfully, your job as a lawyer is to make sure that the positions you write in the papers you file with me are the positions of your client. It is not okay to take positions in papers here that your client disavows, so that's what I wanted to know. Is what you've told me in your papers, at least as I understood it -- and I'm going to go back and reread them, and maybe I misunderstood them, and Mr. Primrose answered my questions. I may have misunderstood. It's part of the reason I ask the question. If I misunderstood your papers, I want to make sure I get it right. But certainly as I understood them, the assertion was not severable, Amendment 4 fails entirely.

And what I wanted to make sure of was if it's what the Secretary of State through her lawyers puts in the papers that are submitted to me that you want me to make a ruling based on, if that's her position, then let's let it be known that's the Secretary's position: Amendment 4 is void. If that's the Governor's position, let's let it be known: Amendment 4 is

void.

But, frankly, my suspicion was -- and I read the Governor's statement, my suspicion was the Governor wouldn't say that, and the Secretary wouldn't say that, and so now I've got a situation where I really doubt that this is the Governor's position. And I doubt that it's the Secretary's position, but I've got papers that have been filed by their lawyers taking that position, asking me to rule based on what you've told me.

I think I deserve a straight answer. Is that the Secretary's position or not, and if the answer is the Secretary does not take a position, okay. The Secretary doesn't take a position. You can do it any way you want, but what you can't do is not answer the question. I think I deserve an answer. The Secretary says it's void, the Secretary says, no, it's still in effect, or the Secretary doesn't take a position.

MR. JAZIL: Your Honor, our position is that every word in Amendment 4 is perfectly constitutional. Every single word. And we respectfully believe that Your Honor's analysis on the Fourteenth Amendment issue is incorrect, and if those two things are true, then we don't need to say that Amendment 4 is a nullity.

THE COURT: Absolutely. If those things are true, that's right. And, you know, if it was a political debate, you'd get away with that. Let me just tell you, you're not helping yourself with me. It's a fair question. It's a fair

question whether your client adopts the position you've put in your papers. Isn't that a fair question?

MR. JAZIL: Your Honor, we stand by our papers. Our papers lay out an argument for why we believe that the Fourteenth Amendment analysis shouldn't apply and why we believe Amendment 4, as written and as approved by the voters, is, in its entirety, perfectly constitutional. So that is our position.

THE COURT: Give me just a minute.

(Pause in proceedings.)

MR. JAZIL: Unless Your Honor has further questions, I will --

THE COURT: Well, I was going to give them a chance to consult and -- I mean, I think here's where I am. I think I've tried diligently to get a straight answer to these questions and I think I've gotten all I'm going to get, so if you've got something you want to add, you can add it, and if you don't, we're going to leave it right there.

I will say this: Any further paper you file in this Court, you had best make sure that your client approves it.

MR. PRIMROSE: Your Honor, if I can just on that point, everything that's in the papers from the Governor and the Secretary of State are the position of the Governor and the Secretary of State. Nothing has been put in any of the papers that has not been consulted and read and briefed by the two

individuals with their approval.

And just to mirror what my colleague, Mr. Jazil, said, if Your Honor is correct, which we do not believe that Your Honor is correct, the Florida Supreme Court would have to do a severability test, and the case law suggests, as what we put in our papers, a requirement that Amendment 4 is a legal nullity if your analysis is correct.

We don't believe your analysis is correct, which is why we're seeking the opinion of the Eleventh Circuit. We think that Amendment 4 should stand as the -- hopefully the Florida Supreme Court says what it says and we don't need to go down the severability test, but we do believe that if we ever had to get there, the case law suggests, and it would be argued to the Court, that Amendment 4 is a legal nullity.

THE COURT: You want to square that with the statement I read you at the beginning of the hearing when the Governor said that it has been his consistent position that there has to be an avenue for people unable to pay?

MR. PRIMROSE: He does, Your Honor, and I know that our office has been discussing with the legislature any potential fixes. Again, we believe that there is a modification provision in 7066, and I understand your concerns about it not applying to federal convicted felons or out of state, but we do believe that there's a viable pathway in 7066. We're continuing discussions with the legislature, and I know that the Governor

is also considering different clemency options.

As the *Johnson* case approved, the clemency process is a viable option to go through if you want to get your rights restored. Those are all options on the table, and when the Governor says that he's looking at different options for indigency, that's what he says, and that's what he believes, but at the same point, if Amendment 4 has an unconstitutional provision --

THE COURT: He can do it even if Amendment 4 was held to be a nullity.

MR. PRIMROSE: He could, Your Honor, but we have Amendment 4, and if the Eleventh Circuit says that there's an unconstitutional part of it, there has to be an analysis done by the Florida Supreme Court on whether it can be severed, or if it's an entire legal nullity. And that doesn't change the fact that the legislature could still do something and the clemency process could still be amended to provide that pathway.

THE COURT: Anything else anybody on the defense side wants to tell me today?

MR. HERRON: Your Honor?

THE COURT: You win the patience award.

MR. HERRON: Thank you, Your Honor.

Mark Herron on behalf of Leon County Supervisor Mark Earley. I don't intend to get into this crossfire between the Court and the parties here. I do want to note one thing in

terms of one of the questions you asked, Your Honor, about the March primary. In some jurisdictions around the state, there are local elections that are tied to the March primary. You had asked if there were other offices that were up; and, again, not in Leon County, but in other jurisdictions there are.

I think I can speak --

THE COURT: Like city council?

MR. HERRON: City council elections, things like that.

With respect to what --

THE COURT: Do you know -- and this is probably an unfair question. Do you know whether any of those are in counties where these plaintiffs reside?

MR. HERRON: I do not know off the top of my head, but there are, again, counties where they're tied to the March presidential preference primary.

Again, Supervisor Earley, as probably all supervisors, were kind of a second tier defendant in this litigation. What we desire is clarity and certainty as to which citizens with felony convictions are eligible to vote, and hopefully, prayerfully, prior to the 2020 primary and general elections and that's all I think all the supervisors want here.

THE COURT: Yeah, and that point was made last time. I mentioned Miami-Dade, and you may have told me the same thing.

MR. HERRON: Yes.

THE COURT: I heard the message. I thought it was

well delivered and correct. I say that because I didn't provide it. I mean, I understand.

MR. HERRON: Again, Your Honor, I understand you do.

THE COURT: My role is my role, and I can deal with the constitution, but the people that can provide clarity on this are in the legislature or the Governor's office.

MR. HERRON: Thank you, Your Honor. I appreciate it.

THE COURT: Thank you. Anything else on the defense side?

Yes, sir, Mr. Gaber?

MR. GABER: I'll try to be quick, Your Honor, I just wanted to rebut a little bit on the class certification issue. Before I do, I heard Mr. Jazil say that he was unable to find a case that said that you do a severability analysis in an as-applied challenge. I think the position then -- that the jump -- the statement that there's a fear that you would have to do this and then taking the position that you have to when there's no case law suggesting that, doesn't all square together, and also the idea that if the Florida Supreme Court gives a ruling that might bind the legislature in some way.

At the Florida Supreme Court hearing, the Governor changed the question that he was presenting to the State Supreme Court and no longer wanted to know what all Amendment 4 meant, but just narrowed it to the phrase "all terms of sentence," and left off "completion," left off the rest, including "probation

and parole" and said just tell me what these few words mean, and then that will avoid all the other issues, and we just want to know what that means.

Now, I'm not familiar with any form of interpretation that has you look at a narrow phrase, but --

THE COURT: I suspect the Florida Supreme Court can sort out what it needs to look at to interpret those words.

MR. GABER: But the point is that -- and the justices were -- seemed to like that idea and would leave "completion" off as perhaps the avenue to address this Court's ruling and other concerns, and so I don't think it's the case that we're likely to get a decision, regardless of what it is, that cuts off opportunities --

THE COURT: Oh, I see, so you think that he took off the table conversion to a civil lien?

MR. GABER: Right. That what "completion" means might not be some of the things that are in the statute and that could address the Court's constitutional concerns. And so my point is I don't think we're going to -- the Governor has changed the question such that they're not going to be bound in any way to resolve issues the Court raises.

THE COURT: And, of course, the Supreme Court doesn't have to rule on a request for an advisory opinion, but they've heard argument and surely they will rule, and even with just "all terms of sentence" they will decide whether that includes

financial obligations, and that's the question.

MR. GABER: And the last thing I want to say on -- because I'd like to get back to the class -- but the last thing I want to say about the severability issue is counsel has said several times that the Florida Supreme Court will decide whether the severability -- no, this case is before the federal courts, and though it's a question of state law, what the rules of severability is, if the Court even finds it needs to get to that -- we say you do not -- it's the federal courts that will be applying the state law to determine whether that's the case or not.

THE COURT: Usually when there's a federal injunction, the state courts don't get to say, yeah, but it doesn't matter.

MR. GABER: Right.

THE COURT: They're referenced along those lines in the '50s and '60s, not so much in this state as in some others. Yeah, that didn't work so well.

MR. GABER: On the issue of the class certification, one, to Your Honor's question trying to streamline the proceedings, I do think we -- you know, we would like to consider more -- in a more thoughtful way your suggestion as to restitution and fines and perhaps file something, whether or not we would continue to seek certification on that issue alone as Your Honor suggested.

The issue of commonality that was raised with respect

to the Twenty-fourth Amendment class, those are not -- those are issues that go to the merits of the claim and not to the class definition.

THE COURT: Yeah. Part of the argument of the defense was that I didn't grant a preliminary injunction so I couldn't certify a class. That's backwards. Yeah, I got it.

MR. GABER: The *DeBremaecker* case, I do want to -- though the Court mentioned ascertainability, the Court was clearly concerned about the definition that was proposed and that people in the peace movement who fear harassment. This case is nothing like that.

THE COURT: You're going to win on ascertainability.

MR. GABER: And the process -- I just want to say, the process issues that are raised are not about the class definition. They're about the procedure that the Court has said the State must put into place, and so whether or not that's a class doesn't change those questions. They'll come up regardless --

And I do want to -- I think some confusion's been created from the time of the PI order since and now more today with Your Honor's hypothetical about the John Doe who asserts an inability to pay and whether or not that person can register to vote based upon the Court's preliminary injunction order. It's our view that that is the case, that that person can register to vote right now, so long as the order is not stayed, and they can

do so based upon the Court's statement of constitutional law and the preliminary injunction. And I think some confusion has been created with regard to whether that is the case and so I think clarity on that would help the voters of Florida, given that the Secretary has refused to take a position publicly on that.

And then, Your Honor had asked if plaintiffs had wished for the PI to be extended to the class. We did, in our class certification motion, ask that that happen. I do think that having some further briefing on that, if the Court is -- if the Court certifies the class would be helpful, and so I would just add --

THE COURT: You can always file another motion.

MR. GABER: Right.

THE COURT: But I've ruled on that motion. And the ruling is on appeal, so if you assert that I should have granted the motion more broadly, the procedural way to deal with that is to file a new motion. It just -- that would just eliminate the complication of an injunction that's already on appeal. I don't say that to invite a new motion. I thought a good bit about the last one. I said what I meant and I meant what I said.

MR. GABER: I don't have anything further, Your Honor.

THE COURT: All right. Anything else, anybody?

Let me tell you where we are.

I had this set up on my schedule nicely, and then there was the delay in filing the notice of appeal, and I asked

some about it, but I understand. Look, it's -- there's some complexity to what you want to do and what you don't want to do.

I should tell you that -- somebody -- I guess Mr. Herron said he didn't want to get caught in the crossfire. I appreciate your responding to my questions. I do find it helpful to see what you have to say with matters of concern and, frankly, as a lawyer, I always thought I ought to be given a chance to respond to inquiries. Nothing was more irritating to me as a lawyer than to go have an oral argument and get back to the office and lose on some basis that they hadn't asked me about. I always thought they might not have liked my answer but they could have given me a chance, and it's been helpful here some. There was one very good exchange last time that really helped the analysis. So I appreciate you humoring me and responding to my questions.

I had the schedule set up where if the notice had come in, there'd been a motion to stay, I could have dealt with it there. I had the time blocked out to do it. Now it's caught me in a very difficult timing situation. I will do my best, but I have -- I have other matters I have to prepare for, and I have to be well prepared for those.

So to the extent there are just 24 hours in the day, I'll get the preparation done I have to do on other matters, and I'll get this order out, but those hearings are coming, and I can't move them and so all I can tell you is I'll do my best.

You think you're going to file later this week the motion to set a schedule in the Circuit?

MR. PRIMROSE: Yes, Your Honor, before the end of the week.

THE COURT: I think all you can tell the Circuit is that there's a motion to stay that's pending here. If I rule by then, that'd be great, but that would really be -- that would surprise me. I don't know if it would surprise you, and beyond that, there's really nothing you can tell the Circuit about that.

I'll get it done as quickly as I can. I would like a chance to rule on the motion to stay. The Circuit ordinarily would expect you to bring it here. I'm not going to sit on it longer than necessary. I'm not going to, you know, deny it by ignoring it. I will rule. But it may be -- I get it done before Christmas. I can't promise you I'll do it this week or next. I'll do my best.

Anything else that we can do to move the ball on this case? We're on track for an April trial. You're doing whatever discovery you want to do, and a lot of it's been done, and a lot of it's not very factual anyway.

MS. ADEN: Yes, Your Honor. Just quickly on the motion to stay, given the time frame that you set out, are you amenable to us filing our response? We had 2 weeks from Wednesday, if possible in light of the holidays, we'd love,

ideally with defendants' consent to file it two days later on the following Friday after it would be due?

THE COURT: Friday is when?

MS. ADEN: The 13th. Ominous.

THE COURT: Yeah, that's fine. I won't grant a stay before the 13th, and I'll read anything you file.

MS. ADEN: And with respect to the plaintiffs, we are definitely moving towards preparing for trial and continuing discovery consistent with the Court's scheduling order.

THE COURT: Good. All right. Anything else?

Thank you all.

We'll be in recess.

(Proceedings concluded at 12:14 PM on Tuesday, December 03, 2019.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Any redaction of personal data identifiers pursuant to the Judicial Conference Policy on Privacy are noted within the transcript.

/s/ Megan A. Hague 12/5/2019

Megan A. Hague, RPR, FCRR, CSR Date
Official U.S Court Reporter

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

ORDER CERTIFYING A CLASS AND SUBCLASS

These consolidated cases arise from "Amendment 4," a voter-initiated amendment to the Florida Constitution that automatically restores the right of most felons to vote, but only upon completion of all terms of sentence. Under a Florida statute and opinion of the Florida Supreme Court, "all terms of sentence" means not only imprisonment and supervision but also fines, restitution, and other financial obligations imposed as part of a sentence.

The plaintiffs assert that conditioning the ability to vote on payment of money is unconstitutional both across the board and more specifically as applied to felons who are genuinely unable to pay. The plaintiffs in one of the cases—the

"Raysor plaintiffs"—have moved to certify a class and subclass corresponding with the scope of the claims. The proposed class consists of felons who would be eligible to vote but for unpaid financial obligations; the proposed class is not limited to those unable to pay. The proposed subclass consists of felons who would be eligible to vote but for a financial obligation the felon is genuinely unable to pay.

I. Background

Florida's Constitution allows voter-initiated amendments. In 2018, Florida voters passed Amendment 4, which added a provision to the Florida Constitution automatically restoring the voting rights of some—not all—felons. The new provision became effective on January 8, 2019 and was codified as part of Florida Constitution article VI, section 4. The full text of section 4, with the new language underlined, states:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

Fla. Const. art. VI, § 4 (emphasis added).

The Florida Legislature adopted a statute—colloquially known as "SB7066"—that purports to implement Amendment 4. SB7066 explicitly provides that "completion of all terms of sentence" under Amendment 4 includes payment of all financial obligations imposed as part of the sentence—that is, "contained in the four corners of the sentencing document." Fla. Stat. § 98.0751(2)(a). SB7066 also explicitly provides that this includes financial obligations that the sentencing court has converted to a civil lien. *Id*. SB7066 became effective on July 1, 2019.

On June 28, 2019, the Raysor plaintiffs filed a four-count complaint against the Florida Secretary of State asserting the financial-obligations requirement discriminates against those unable to pay in violation of the Fourteenth Amendment (count one); imposes a poll tax or other tax in violation of the Twenty-Fourth Amendment (count two); is void for vagueness (count three); and denies procedural due process (count four). The complaint was later amended to add a claim under the National Voter Registration Act (count five). The case has been consolidated with four others that also challenge the requirement to pay money as a condition of reenfranchisement.

After an evidentiary hearing, a preliminary injunction was entered on October 18, 2019 in favor of all the individual plaintiffs against the Florida Secretary of State and the Supervisors of Elections of the counties where the individual plaintiffs are domiciled. The preliminary injunction has two parts. First,

an enjoined defendant must not take any action that both (a) prevents a plaintiff from *applying or registering* to vote and (b) is based only on failure to pay a financial obligation that the plaintiff *asserts* the plaintiff is genuinely unable to pay. Second, an enjoined defendant must not take any action that both (a) prevents a plaintiff from *voting* and (b) is based only on failure to pay a financial obligation that the plaintiff *shows* the plaintiff is genuinely unable to pay.

This means, in substance, that a plaintiff who *asserts* inability to pay can *register*, and a plaintiff who *shows* inability to pay can *vote*. The injunction specifically provided that it did not prevent the Secretary from notifying the appropriate Supervisor of Elections that a plaintiff has an unpaid financial obligation that will make the plaintiff ineligible to vote unless the plaintiff shows the plaintiff is genuinely unable to pay the financial obligation. The United States Court of Appeals for the Eleventh Circuit affirmed the injunction. *See Jones v. Governor of Fla.*, 950 F.3d 795 (11th Cir. 2020).

The Raysor plaintiffs have moved for class certification, but only for purposes of their Twenty-Fourth Amendment claim (count two) and inability-to-pay claim (count one). The plaintiffs do not seek class treatment of their other claims. This is permissible. *See* Fed. R. Civ. P. 23(c)(4) ("Particular Issues. When appropriate, an action may be brought or maintained as a class action with respect to particular issues."); *see also Jenkins v. United Gas Corp.*, 400 F.2d 28, 35 (5th

Cir. 1968) (Rule 23 gives the court "ample powers . . . to treat common things in common and to distinguish the distinguishable.").

The Secretary opposes class certification. The Governor of Florida, who is a defendant in some of the consolidated cases but not in *Raysor*, has joined the opposition.

II. Standing

A plaintiff who seeks to represent a class must have standing. *See, e.g.*, *Jones v. Firestone Tire & Rubber Co.*, 977 F.2d 527, 531 (11th Cir. 1992) (citing *Griffin v. Dugger*, 823 F.2d 1476, 1482 (11th Cir. 1987)). The Raysor plaintiffs—the proposed class representatives—are Bonnie Raysor, Diane Sherrill, and Lee Hoffman. They easily meet the standing requirement. Each plaintiff is a felon who would be eligible to vote but for financial obligations that were imposed as part of a felony sentence and that the plaintiff is genuinely unable to pay.

Ms. Raysor has outstanding fines and fees related to a felony conviction. *See* Raysor Decl., ECF No. 172-2 at 3. She is on a payment plan based on her income and will not be able to pay off her financial obligations until 2031. *Id.* She asserts she is unable to pay her financial obligations in full due to her limited income and her expenses for necessities including housing, food, and other basic needs. *Id.*

Ms. Sherrill has outstanding financial obligations related to a felony conviction. *See* Sherrill Decl., ECF No. 172-3 at 4. She receives public assistance.

Id. at 3. She asserts she is unable to pay her financial obligations because of her limited income and her expenses for necessities including housing, utilities, and groceries. *Id.* at 3-4.

Mr. Hoffman has outstanding financial obligations related to felony convictions. *See* Hoffman Decl., ECF No. 172-4 at 2-3. Mr. Hoffman receives disability and works part-time. *Id.* at 3. He asserts he is unable to pay his financial obligations based on his limited income and his expenses for necessities including housing, utilities, groceries, gas, and other basic living expenses. *Id.*

III. Rule 23(a)

Before certifying a class, a court must conduct a "rigorous analysis" under Federal Rule of Civil Procedure 23. *See, e.g.*, *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1266 (11th Cir. 2009). "Frequently that 'rigorous analysis' will entail some overlap with the merits of the plaintiff's underlying claim. That cannot be helped." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 351 (2011) (quoting *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 160 (1982)). The factual record, as opposed to "sheer speculation," must demonstrate that each Rule 23 requirement has been met. *Vega*, 564 F.3d at 1267. The class must satisfy all the requirements of Rule 23(a) and at least one of the requirements of Rule 23(b). *See, e.g.*, *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1005 (11th Cir. 1997).

The party who moves to certify a class has the burden of establishing that the Rule 23 elements are met. *Vega*, 564 F.3d at 1265. The Rule 23(a) elements are commonly referred to as "numerosity, commonality, typicality, and adequacy of representation." *Babineau v. Fed. Express Corp.*, 576 F.3d 1183, 1190 (11th Cir. 2009) (*quoting Valley Drug Co. v. Geneva Pharm., Inc.*, 350 F.3d 1181, 1187-88 (11th Cir. 2003)).

A. Numerosity

The numerosity element requires the class to be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). "[W]hile there is no fixed numerosity rule, 'generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors.' " *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986). "[A] plaintiff need not show the precise number of members in the class." *Evans v. U.S. Pipe & Foundry Co.*, 696 F.2d 925, 930 (11th Cir. 1983).

The numerosity requirement is plainly met for the Twenty-Fourth Amendment class. The Secretary does not assert the contrary. The record includes the Federal Rule of Civil Procedure 26(a)(2) report of Dr. Dan Smith indicating that in the 58 counties for which he had data, over 430,000 otherwise eligible felons are ineligible to vote solely because of outstanding financial obligations. *See* Smith Report, ECF No. 153-1 at 5, 20. That number was conservative because it

did not include the 9 counties for which Dr. Smith did not have data and did not include felons with only federal or out-of-state convictions. *Id.* at 7 n.3, 20.

The numerosity requirement is also met for the inability-to-pay subclass. For the fiscal year that runs from October 1, 2017 to September 30, 2018, the Florida Court Clerks & Comptrollers published an annual report on the payment of court-related fines, fees, and charges. *See* Fla. Court Clerks & Comptrollers, *2018 Annual Assessments and Collections Report, Statewide Summary—Circuit Criminal* (2018), https://flccoc.org/wp-content/uploads/2018/12/2018-Annual-Assessments-and-Collections-Report.pdf. The report noted three factors that affected collections of assessed fines and fees: incarceration, indigency, and judgment/lien status. *Id.* at 7. The report said 22.9% of the fines and fees assessed in Florida circuit courts were at risk of non-collection specifically because of indigency. *Id.* at 11. Taken together, Dr. Smith's report and the Florida Court Clerks & Comptrollers report show that many thousands of felons are unable to pay their relevant financial obligations because of indigency. Still others are unable to pay because the amount owed is out of reach even for a person who is not indigent.

B. Commonality

The commonality element requires that "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). The action "must involve issues that are susceptible to class-wide proof." *Murray v. Auslander*, 244 F.3d 807, 811

(11th Cir. 2001). A common contention must be "capable of classwide resolution" such that "determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Dukes*, 564 U.S. at 350.

This case will turn entirely on common issues with common answers. This is so for both the Twenty-Fourth Amendment claim and the inability-to-pay claim.

For the Twenty-Fourth Amendment, if the requirement to pay a financial obligation of a specific kind is an impermissible poll tax or other tax, that will be true of every class member who owes a financial obligation of that kind. Whether an exaction is an impermissible poll or other tax may not be the same for restitution, fines, and the several kinds of fees imposed as part of a felony sentence. But this means only that the common answer that will resolve the Twenty-Fourth Amendment claim may consist of several parts—that some exactions may be impermissible poll or other taxes while others are not. The commonality requirement does not preclude class treatment for questions with multi-part answers. The requirement is only for questions capable of classwide resolution. The question of what kind of exaction is an impermissible poll or other tax is such a question—the answer will resolve the Twenty-Fourth Amendment claim for all class members.

The same is true for the inability-to-pay claim. In asserting the contrary, the Secretary misunderstands the controlling substantive issue and the relief likely to

be granted if the plaintiffs prevail on the claim. The controlling substantive issue is whether it is unconstitutional for a state to condition a felon's ability to vote on the payment of money the felon is genuinely unable to pay. This is a common question that will have a single common answer—yes or no. This, without more, satisfies the commonality requirement.

The Secretary asserts that providing relief will require individual determinations of each subclass member's ability to pay, but that is wrong and would not preclude class certification anyway. Commonality requires common questions with common answers and is not defeated just because a case also presents individual issues. Indeed, nearly all class actions involve at least some individual questions, including, for example, whether an individual class member qualifies for whatever classwide relief may ultimately be granted. And here, the relief likely to be granted if the plaintiffs prevail is not a felon-by-felon determination in this court of inability to pay but instead an injunction requiring the Secretary to put in place a system under which felons are not precluded from voting based only on inability to pay. The system may be one put forward by the Secretary at trial or, in the absence of input from the Secretary, one adopted by the court. Either way, it will be a system put in place for all subclass members.

The Supreme Court has said, "What matters to class certification . . . is not the raising of common questions—even in droves—but, rather the capacity of a

classwide proceeding to generate common *answers* apt to drive the resolution of the litigation." *Dukes*, 564 U.S. at 350 (emphasis in original) (quoting Richard A. Nagareda, *Class Certification in the Age of Aggregate Proof*, 84 N.Y.U. L. Rev. 97, 132 (2009)). In this case common answers to common questions will resolve the litigation. The commonality requirement is satisfied.

C. Typicality

The typicality element requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). The plaintiffs must "possess the same interest and suffer the same injury as the class members." *Dukes*, 564 U.S. at 348-49 (quoting *E. Tex. Motor Freight Sys., Inc. v. Rodriguez*, 431 U.S. 395, 403 (1977)).

Here each named plaintiff has the same interest and suffered the same injury as each class and subclass member. Each would be eligible to vote but for a financial obligation imposed as part of a felony sentence—an obligation the plaintiff asserts the plaintiff is genuinely unable to pay. Nothing more is required.

The Secretary asserts, though, that none of the named plaintiffs owe restitution. This would not preclude class certification even if true; the named plaintiffs owe financial obligations that are sufficiently typical even if not identical to all the financial obligations at issue. And in any event the record shows that Mr. Hoffman was ordered to pay restitution. *See, e.g.*, ECF No. 148-29 at 14, 27. If it

turns out that Mr. Hoffman does not in fact owe restitution and that the restitution issues are so different from those presented by other financial obligations that the named plaintiffs' claims are not typical—a development unlikely for the Twenty-Fourth Amendment class and even more unlikely for the inability-to-pay subclass—the class definitions can be amended to exclude restitution.

The typicality requirement is satisfied.

D. Adequacy of Representation

The final Rule 23(a) requirement is that the class representative "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). This encompasses two separate inquiries: whether any substantial conflicts of interest exist between the representative and the class, and whether the representative will adequately prosecute the action. *See, e.g.*, *Valley Drug Co. v. Geneva Pharm., Inc.*, 350 F.3d 1181, 1189 (11th Cir. 2003). Class counsel also must be adequate. *See* Fed. R. Civ. P. 23(g).

The Raysor plaintiffs are adequate representatives. Their attorneys are adequate class counsel. The adequacy requirement is satisfied.

IV. Rule 23(b)(2)

Having met the requirements of Rule 23(a), the plaintiffs must also meet one of the requirements of Rule 23(b). Under Rule 23(b)(2), class treatment is appropriate when "the party opposing the class has acted or refused to act on

grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2).

This case presents the very paradigm of a proper (b)(2) class. The party opposing the class—the Secretary on behalf of the State of Florida—has refused to allow felons with unpaid financial obligations to vote, regardless of any inability to pay.

V. Ascertainability

The analysis to this point shows that the plaintiffs have met the requirements of Rule 23(a) and 23(b)(2). Rule 23 does not list ascertainability of class membership as an additional prerequisite to class certification. But the Secretary asserts ascertainability is required. And the Secretary asserts the plaintiffs have not met this requirement. The Secretary is wrong on both scores.

First, the law of the circuit is that ascertainability is not a requirement for certification of a (b)(2) class. The controlling case is *Carpenter v. Davis*, 424 F.2d 257 (5th Cir. 1970). There, in addressing a (b)(2) class, the court said, "It is not necessary that the members of the class be so clearly identified that any member can be presently ascertained." *Id*. at 260. The court said Rule 23(b)(2) commonly applies in "the civil-rights field where a party is charged with discriminating unlawfully against a class, usually one whose members are incapable of specific

enumeration." *Id*. at 261 (quoting Fed. R. Civ. P. 23(b)(2) advisory committee's notes to 1966 amendment). As a pre-*Bonner* decision of the Fifth Circuit, *Carpenter* is binding in this court. *See Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc).

The *Carpenter* holding makes sense. When a defendant has acted on grounds generally applicable to a class, so that injunctive or declaratory relief is appropriate respecting the class as a whole, there is ordinarily no reason to be concerned with precisely who is or is not a class member. If a defendant is engaged in an unlawful practice, an injunction requiring the defendant to stop can effectively end the practice; one need not know who fell prey to the practice in the past or is in line to do so in the future.

In asserting the contrary, the Secretary cites *DeBremaecker v. Short*, 433 F.2d 733 (5th Cir. 1970). There the court said that "in order to maintain a class action, the class sought to be represented must be adequately defined and clearly ascertainable." *Id*. at 734. The circumstances in *DeBremaecker* were markedly different from the case at bar, and in any event, to the extent of any conflict between *Carpenter* and *DeBremaecker*, the controlling decision is *Carpenter*, which was decided first. *See Monaghan v. Worldpay US, Inc.*, No. 17-14333, 2020 WL 1608155 at *5 (11th Cir. Apr. 2, 2020) ("Our adherence to the prior-panel rule is strict, but when there are conflicting prior panel decisions, the oldest one

controls."); *see also Thompson v. Merrill*, No. 2:16-cv-783-ECM, 2020 WL 411985 at *2-3 (M.D. Ala. Jan. 24, 2020) (recognizing that *Carpenter* predates and thus controls over *DeBremaecker*).

In any event, here the proposed class and subclass, at least as defined in this order, are sufficiently ascertainable to meet any such requirement. The state's records of financial obligations are a mess—that is one of the plaintiffs' other complaints—but the Secretary should hardly be heard to complain that it is impossible to figure out who has an unpaid financial obligation. And while no determination has been made—or is likely to be made in this litigation—as to which class members are genuinely unable to pay, the members of the inability-to-pay subclass will be those who *assert* genuine inability to pay.

This makes sense. Class membership typically turns on having a claim, not on showing at the outset that the claim will succeed on the merits. The goal is to provide the proper adjudication of the claim one way or the other, so that, win or lose, the claim is resolved. For felons who assert a constitutional right to vote because of genuine inability to pay, what matters is that they assert the claim—not that they will win either on the claim that they are in fact genuinely unable to pay or on the claim that conditioning the ability to vote on payment of an amount a person is unable to pay is unconstitutional.

Ascertaining who meets these class definitions will be no more difficult than figuring out who qualifies for relief in any typical class action. Class members often are required to submit a claim or otherwise take steps to take advantage of whatever relief ultimately becomes available.

If ascertainability is required—it is not—the plaintiffs meet the requirement.

VI. Necessity

Finally, the Secretary asserts that a class should not be certified if class treatment is unnecessary—if the full relief the plaintiffs seek is available in an individual action. The Secretary says the Twenty-Fourth Amendment class fails this requirement because if the plaintiffs prevail on this claim, the Secretary will simply abide by the ruling. The Secretary does not make the same assertion for the inability-to-pay claim. The distinction, the Secretary says, is that the Twenty-Fourth Amendment claim is a facial challenge, while the inability-to-pay claim is an as-applied challenge.

Rules 23(a) and (b)(2) do not refer to necessity. But class treatment adds a layer of complexity to any litigation. This order assumes that when class treatment would serve no purpose, a court can properly choose not to certify a class. *See, e.g.*, *United Farmworkers of Fla. Hous. Project, Inc. v. City of Delray Beach*, 493 F.2d 799, 812 (5th Cir. 1974).

Here, though, the Secretary's promise to abide by any ruling is not enough. After entry of a preliminary injunction in favor of the 17 individual plaintiffs, the Secretary advised Supervisors of Elections throughout the state that the ruling applied only to the 17 individuals. The March 2020 elections went forward on that basis—without any statewide effort to conform to the United States Constitution as interpreted by both this court and the Eleventh Circuit. Class members can hardly be faulted for asserting that, if the ruling on the merits ultimately is that they have a constitutional right to vote, the right should be recognized in an enforceable decision.

VII. Conclusion

The plaintiffs' Twenty-Fourth Amendment and inability-to-pay claims turn on issues that can properly be resolved in a single action, once and for all. Class treatment is proper.

IT IS ORDERED:

1. The plaintiffs' class-certification motion, ECF No. 172, as supplemented, ECF No. 209, is granted with modified class definitions.

2. A class is certified on the Raysor plaintiffs' Twenty-Fourth Amendment claim—count two in their amended complaint—consisting of all persons who would be eligible to vote in Florida but for unpaid financial obligations.

3. A subclass is certified on the Raysor plaintiffs' inability-to-pay claim—count one of their amended complaint—consisting of all persons who would be eligible to vote in Florida but for unpaid financial obligations that the person asserts the person is genuinely unable to pay.

4. The named plaintiffs Bonnie Raysor, Diane Sherrill, and Lee Hoffman are the class representatives.

5. Chad Dunn and Mark Gaber are class counsel.

6. Excluded from the class and subclass are the named plaintiffs in the other cases that have been consolidated with *Raysor* in this proceeding. The excluded individuals are Jeff Gruver, Emory Marquis Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Curtis D. Bryant, Latoya A. Moreland, Rosemary McCoy, Sheila Singleton, Kelvin Leon Jones, and Luis A. Mendez. The named plaintiff whose motion to withdraw is pending, Jesse D. Hamilton, is not excluded from the class and subclass.

SO ORDERED on April 7, 2020.

s/Robert L. Hinkle
United States District Judge

334-1

March 2, 2020

United States District Court
for the Northern District of Florida
Tallahassee Division

Kelvin Jones,

Plaintiffs,

v. Consolidated Case No. 4:19-cv-300

Ron DeSantis, etc., et al.,

Defendants.

Second Supplemental Expert Report of Daniel A. Smith, Ph.D.

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On Behalf of Plaintiffs Jeff Gruver, Emory Marquis "Marq" Mitchell, Betty Riddle, Kristopher Wrench, Keith Ivey, Karen Leicht, Raquel Wright, Steven Phalen, Clifford Tyson, Jermaine Miller, Curtis D. Bryant, Jr., Jesse D. Hamilton, LaToya Moreland, Florida State Conference of the NAACP, Orange County Branch of the NAACP, and League of Women Voters of Florida

Daniel A. Smith, Ph.D.

I. Background and Qualifications

1. This second supplemental declaration updates my original report, dated August 2, 2019, and my supplemental report, dated September 17, 2019, submitted in this case. My background and qualifications, in addition to my curriculum vitae and rate of pay, have been disclosed to Defendants by counsel for plaintiffs.

2. This declaration includes data from all of Florida's 67 counties. The data can be used to gauge the impact of SB7066 on the ability of persons of voting-age living in Florida who appear to be eligible to register and vote, but for legal financial obligations ("LFOs"), that is fines, fees, costs, and/or restitution assessed as part of a felony conviction, including, when possible, any civil liens stemming from those LFOs.[1] Although included in the public records request, fewer than a dozen of the 67 county clerks of court provided data on restitution and civil liens.[2]

[1] SB7066 conditions restoration of voting rights on the satisfaction of LFOs imposed "in the four corners of the sentencing document." Fla. Stat. § 98.075(2)(a). It is beyond the scope of this report to determine whether or how this limitation is applied, and the data that I have received from county clerks of court do not differentiate among outstanding LFOs, and may not include restitution or civil liens.

[2] Between June 4, 2019 and July 19, 2019, a team of researchers working in partnership with the ACLU-FL made public records request to all 67 county clerks of court for individual-level data for every person in their county, from 1980 to the present, with a felony conviction (guilty or no contest plea). Information from all available fields maintained in a county's Case Management System ("CMS") was requested, including full name, Florida Department of Corrections number, the FDLE's OBTS number, address, date of birth, gender, race, charges (offense category), convictions (prior and current convictions within the county), current

3. In formulating my opinions in this supplemental report, I utilize the same methods in my original report and supplemental reports. I draw on standard sources in political science analyses, including, but not limited to: publicly available data and reports produced by the Florida Department of Corrections ("FDC"), data from the state's county clerks of court and the association of the Florida Court of Clerks & Comptrollers ("FCCC"),[3] reports from the Florida Department of Law Enforcement ("FDLE"), and information from various state and local agencies, national public interest groups, and scholarly studies.

II. Summary of Findings

4. As I emphasized in my original report and in my supplemental reports, as far as I can determine, the State of Florida does not maintain a publicly available, unified, up-to-date, centralized database or repository that compiles information on whether an individual with a felony conviction has completed all the terms of his or her sentence, including parole, probation, or community control or supervision, or has satisfied any LFOs tied to a felony conviction, to say nothing

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status of supervision (parole, probation, release, etc.), any outstanding LFOs, and expected date of completion of supervision (or sentencing effective date and the length of incarceration or community supervision). Escambia, the final county to provide data, fulfilled the public records request in January 2020.

[3] Of the 67 counties, 12 clerks of court responded to the public records requests by generating their own data; each has a unique data format. In addition, 55 counties provided data through the FCCC. These counties have data files with identical formats; however, these FCCC counties employed varying rules for how they format their data. The idiosyncrasies and variance across the data files complicate the determination of the balance due of LFOs for each individual.

of such penalties when they are converted into civil liens. As such, it is unclear to me how an individual with a felony conviction could determine his or her eligibility to register and vote under the conditions established by SB7066. Equally problematic, in my expert opinion, is that the state's 67 county Supervisors of Elections and the Florida Secretary of State cannot definitively determine if an individual with a past felony conviction has outstanding disqualifying LFOs or is eligible to register and vote in Florida under SB7066. Even if the State of Florida somehow managed to create a database of eligible persons who were convicted of a felony in Florida with precise information about all LFOs tied to a felony conviction, such a database would almost assuredly exclude those persons who have a federal felony conviction or those who have moved to Florida with an out-of-state felony conviction.

5. As in my original and supplemental reports, and as explained below, my estimates of the number of persons in Florida with felony convictions (which exclude out-of-state and federal felony convictions) who are likely permitted under SB7066 to register to vote are conservative—that is, they are biased *against* inflating the number of persons with felony convictions who are otherwise eligible to vote under SB7066 but for their outstanding LFOs. For example, although these data were requested, most of the counties did not provide data on restitution owed or civil liens. As a result, my calculations likely underestimate the total amount of

outstanding LFOs for many individuals who owe restitution, or who have LFOs that have been converted into a civil lien.

6. Furthermore, my calculations regarding persons' LFO obligations only include persons in Florida with Florida state convictions, who have fulfilled the terms of their felony conviction (other than murder or sexual offense), including completion of incarceration and release from parole, probation, or community control or supervision. My calculations are based on data obtained from all 67 county clerks of court,[4] which I use to determine any outstanding LFOs a person who has otherwise met the conditions of a felony conviction might still owe.

7. There are certainly limits to my calculations, but they are intentionally conservative, in that they likely *underestimate* the number (and percentage) of individuals with felony convictions in Florida who have met all the terms of their sentence but who owe LFOs. Undoubtedly, there are likely additional individuals with past felony convictions who are eligible to have their voting rights restored in Florida but for outstanding LFOs, but I have no data from other states' criminal justice systems or the federal court system regarding the LFOs of individuals who

[4] As with my previous reports, this report does not include felons convicted in Escambia County who are in FDC's Offender Based Information System ("OBIS") database because the individual-level LFOs data received from the Escambia clerk of court did not provide the month or day of an individual's birthdate. An individual's full birthdate is needed to match a county's LFOs data to FDC's felon release data. This report, however, does include data on felons convicted in Escambia County who have been released from county control or supervision and who are not in FDC's OBIS database.

now reside in Florida. In addition, the data obtained directly from the Florida county clerks of court are by no means immune from errors. The clerks of court data obtained from the FCCC, working on behalf of many of the county clerks of court, have multiple formats regarding a felony conviction, different conventions of recording length of sentences and LFOs, and different ranges of dates of felony convictions included in their own local databases. As I describe in my initial report, there is no unique identification number for me to definitively link individuals across various data sources across the state's 67 counties and FDC's Offender Based Information System ("OBIS").[5] I have also uncovered numerous instances of missing data, data entry errors, and inconsistent or illogical data entries in county clerks of court official data, as well as FDC's data, all of which complicate my analysis. That said, I have taken every step to make sure my calculations do not overinflate the number of individuals with felony convictions in

[5] When attempting to link across big databases that lack a unique identifier, there is always a trade-off between coverage and precision. As I describe in my earlier reports, there will undoubtedly be some matching errors when linking individuals from FDC's OBIS database with individuals in the CMS databases maintained by the county clerks of court. My approach is to change all text in both databases to lowercase, removing all punctuation, concatenate a string consisting of a person's first name, last name, name suffix, date of birth, race code, and sex code. I then attempt to exactly match the concatenated strings across both datasets and across individual county datasets. Errors in any matching exercise can result from data that are temporally asynchronous across the various data sources, as well as from issues related to missing data, coding errors in the raw data, inconsistent and illogical data entries, and truncated data, all of which exist in the official administrative data I received through public records requests.

Florida, nor overinflate the number of individuals who are likely eligible to have their voting rights restored but who owe LFOs under SB7066 .

8. As in my original and supplemental reports, I provide breakdowns by race (e.g., whether someone is identified as black or white)[6] of those persons with felony convictions (other than murder or sexual offense) who have been released from FDC (as of January 2020)[7] or county control or supervision, including those who have outstanding LFOs and those who have a balance of $0.00 in LFOs.[8] I also provide information from two counties on LFOs owed by individuals released from county control or supervision who were convicted of a qualifying felony and

[6] When totals are provided, individuals of other racial/ethnic categories are included in the calculations.

[7] FDOC_Jan_2020.mdb database downloaded on January 21, 2020. FDC's OBIS data are available for download at: http://www.dc.state.fl.us/pub/obis_request.html. The OBIS database is made available purportedly "to aid in the recording of the offender's day-to-day activities as well as to record historical data" (State of Florida, Auditor General, Report No. 2014-202, June 2014, Department of corrections Offender Based Information System (OBIS), "Information Technology Operational Audit," available: https://flauditor.gov/pages/pdf_files/2014-202.pdf. Unfortunately, FDC's OBIS database—at least the database that is available for public download—does not provide any information regarding LFOs. The publicly available OBIS database also does not include reliable information about persons with felony convictions who were not placed under FDC's custody, but instead were in county jail, probation, or community control or supervision.

[8] Data from all available fields maintained in a county's CMS was requested from the 67 clerks of court, including an individual's full name, FDC number, the FDLE's OBTS number, address, date of birth, gender, race, charges (offense category), convictions (prior and current convictions within the county), current status of supervision (parole, probation, release, etc.), any outstanding LFOs, and expected date of completion of supervision (or sentencing effective date and the length of incarceration or community control or supervision).

whether they were represented by a public defender. In addition, I provide data from the FCCC's annual reports that show that county clerks of court in Florida have minimal expectation that a majority of formerly incarcerated individuals will be able to pay their assessed LFOs because they face significant economic barriers.

9. Overall, of the more than 1 million persons convicted of a qualifying felony in Florida and who have completed all terms of their sentence (including parole, probation, or community control or supervision), my estimates from across the state's 67 counties indicate that 77.4% of these individuals are *not* qualified to register or to vote under SB7066 due to outstanding felony-related LFOs. In other words, I estimate that slightly less than four-in-five of all persons in Florida with a felony conviction in Florida (other than murder or a sexual offense) and who have completed all terms of their sentence, are likely not qualified to register to vote under SB7066 due to outstanding felony-related LFOs. This disqualification rate of individuals with felony convictions able to regain their voting rights under SB7066 is quite consistent with my initial report, which included 373,256 individuals across 48 counties from data provided by the clerks of court and FDC, as well as my supplemental report.[9]

[9] To my knowledge, the county clerks of court are not required to have an FDC number for a person in their CMS database; it is usually only provided when a county clerk of court receives notice of a violation of probation. The CMS database does include an individual's Uniform Case Number ("UCN"), at least since January 1, 2003 after such a requirement was ordered in 1998 by the Supreme Court of Florida. Each UCN is a unique alpha/numeric string of characters that can be used to identify where a case was filed; the year in which the

III. Florida Does Not Maintain a Unified, Up-to-Date, Centralized Database or Repository of Persons with Felony Convictions and their related LFOs that is Publicly Available

10. I continue to maintain, as I wrote in my initial report, that as far as I can determine, "the State of Florida does not maintain a publicly available unified, up-to-date, centralized database or repository that compiles information on whether an individual with a felony has completed all the terms of his or her sentence, including parole, probation, or community control or supervision, or has satisfied any LFOs tied to a felony conviction, to say nothing of such penalties when they are converted into civil liens." I will not rehash here the reasoning I laid out in detail in that report, only to say that I am not aware of anything that should change my opinion on this matter.

11. Furthermore, even if an individual is able to identify all the LFOs he or she owes in one Florida county, he or she might have difficultly determining any outstanding LFOs he or she owes in another Florida county, in another state, or in the federal court system. On this point, I agree with the House sponsor of SB7066, who stated during the 2019 legislative session that "[t]here is no stakeholder in the State of Florida that can serve as a source of truth that somebody completed all

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case was filed; the court division/case type where the case was filed; the sequential number denoting the case; an identifier for multiple parties or defendants involved in a case; and the branch location where the case was filed. *See* Supreme Court of Florida, "Uniform Case Numbering System," available at: https://www.flcourts.org/content/download/219191/1981092/AO_Uniform_Case_Numbering_12-03-98_amended.pdf (last accessed July 23, 2019).

terms of their sentence."[10] This is because Florida's criminal justice system is highly decentralized,[11] and as such, relevant data are "spread out all over government," making it nearly impossible for state and local officials to compile the necessary data.[12] Thus, it is exceedingly difficult, if not practically impossible, for Supervisors of Elections, the Office of the Secretary of State, or third-party organizations conducting voter registration drives—much less a citizen in Florida who has been released from control or supervision for a qualifying felony—to determine whether an individual with a qualifying felony conviction is eligible to register and vote in the state.

12. Even if such a unified, centralized database was created by a state agency or private contractor that included whether an individual had met all the obligations of his or her LFOs tied to a felony conviction, I would remain highly

[10] *See* Video: Apr. 23, 2019, House Floor Hearing ("April 23 Hearing") at 7:04:00–7:04:07, https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2019041264.

[11] Florida's criminal justice system can perhaps be best described as a network of local and state agencies that handle criminal cases, beginning with an arrest and ending with the disposition of the case. *See* HOUSE OF REPRESENTATIVES STAFF ANALYSIS, CS/HB 7071 PCB JDC 18-02, "Criminal Justice Data Transparency," 2017. Available at: https://www.flsenate.gov/Session/Bill/2018/7071/Analyses/h7071a.JUA.PDF (last accessed June 30, 2019).

[12] *See* Video: February 14, 2019, House Comm. Joint Hearing at 1:03:30–1:04:05, https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2019021160 (last accessed June 1, 2019).

skeptical of its reliability. This is because the databases maintained by the county clerks of court are, at times, unreliable.

13. Perhaps a few examples from a randomly drawn county, Brevard County, suffice to show this point. Examples of data errors that exist in the CMS of the county clerk of courts abound, so my focus here on Brevard County here should be taken as illustrative of database problems existing in nearly every county, and not as an indictment of the Brevard clerk of the court.

14. My analysis indicates that nearly 15,000 individuals in Brevard County with a felony conviction were not incarcerated in Florida state prison, were adjudicated guilty and did not have that adjudication withheld, did not commit murder or a sex crime (in Brevard County or any other Florida county), have a release date prior to or on June 30, 2019, and had a sentence imposed date year of 1960 or thereafter. Of the nearly 15,000 otherwise eligible individuals released from Brevard County control or supervision (so, excluding those in FDC's database), roughly 30% owe $0.00 in LFOs. More than half of the nearly 15,000 individuals with felony convictions who have been released from Brevard County control or supervision owe more than $500.00 in LFOs. Roughly two-thirds of all those released from county control or supervision are white individuals and one-third are black individuals. Black individuals with a felony conviction who have been released from county control or supervision are nearly 9 percentage points less likely to owe $0.00 in LFOs than comparable white individuals.

15. Within a single county clerk of court's CMS database, such as that of Brevard County, an individual may appear multiple times with different names and different birthdates, which in my opinion will make it extremely difficult, if not impossible, for Supervisors of Elections, the Office of the Secretary of State, third-party organizations conducting voter registration drives, or even an individual with a qualifying felony conviction to determine whether he or she is eligible to register and vote in Florida.

16. For example, there is a woman released from Brevard County who is listed in Brevard County's CMS database with two different spellings of her middle name. This might seem innocuous, but it is not. In one record, the county clerk of court lists that she still owes more than $200.00 in LFOs from a felony conviction in 2004; in another record, that has a different spelling of her name, she still owes over $700.00 in LFOs from a felony conviction in 2007. Same residence, same date-of-birth, but separate records. Perhaps the woman pays off the $200.00 in LFOs she thinks she owes after relying on the record that happens to have the correct spelling of her name. She then proceeds to register and vote in the county, not knowing there is a separate record because of the clerk's misspelling of her name. Has she violated the terms of SB7066?

17. Or take another example drawn from Brevard County. An individual who certainly appears to be the same person—there are separate records of an individual with exactly the same name—is listed multiple times in the county's

CMS database under two different dates-of-birth. The date-of-birth in both entries is very close—it's only off by a month, likely a scrivener's error—but in the clerk's database he is identified in two separate records, one for a felony conviction in 2017 and another for a felony conviction in 2018. The problem for this individual is that one record indicates that he owes roughly $1,000.00 in LFOs, whereas the other record indicates he owes $0.00 in LFOs. If the correct date-of-birth is contained in the record where he owes $0.00 in LFOs, he might very well register to vote and cast a ballot in the next election, even though he likely still owes $1,000.00 in LFOs, but under a record with an incorrect birth date. Upon registering, has he violated the terms of SB7066?

18. Examples are plentiful, even from just one county. There's a man listed twice in the county's CMS database, one with a "Jr." suffix in his name and the other with no suffix. Same exact date-of-birth, same race, and same address for two felony convictions, one handed down in 1996 and the other in 2013. For one, he owes $0.00 in LFOs; for the other, he owes over $3,000.00 in LFOs. Let's assume a third party group assists him in registering to vote, querying the county's database using his correct name and date-of-birth, which indicates that he owes $0.00. Has the group and the individual violated the terms of SB7066 if he registers and votes, but in actuality, still owes over $3,000.00 in LFOs?

19. These examples come from simple queries of one county's CMS database. To my knowledge, there is no centralized database in Florida that

provides current information about the status of an individual's LFOs across counties, or even LFOs in a county that have been converted into civil liens. As such, county clerks of court may not even have the capacity to produce the necessary information to determine whether a person with a felony conviction is eligible to vote with regard to outstanding LFOs. If the clerks themselves are unable to provide this information, how is an individual, an advocacy group, or a Supervisor of Elections supposed to confirm if all LFOs have been paid by an individual attempting to register to vote?[13]

20. Furthermore, even if such a statewide database existed of eligible persons convicted of a qualifying felony in a Florida state court and who have been released from all control or supervision and who have paid off all their LFOs, it would most certainly not have information about persons residing in Florida who have completed all the terms of a federal or out-of-state felony sentence, much less if they have any outstanding felony-related LFOs.

[13] As I wrote in my initial report, there is every indication that several clerks of the court do not have the capacity to provide individuals accurate information about their LFOs. "Due to budget constraints," wrote a staff member from a clerk of the court in response to a public records request, "we lack the resources necessary to fulfill your request as presented," including "data on sentencing," but that "[o]n an optimistic note, much of what you requested will be available through the Florida Department of Law Enforcement in 2021 when, in cooperation with Florida's Clerks, the Legislature-mandated Criminal Justice Transparency statute is scheduled to be fully realized." Email correspondence from Tom Jackson, Communications Officer and Deputy Clerk, Pasco Clerk of the Court, July 18, 2019.

IV. Over 1 Million Floridians with Felony Convictions Have Been Released from FDC or County Control/Supervision, and 77.4% Owe More Than $0.00 in Outstanding LFOs

21. **Table 1** summarizes—separately for FDC and county control or supervision, and also combined—the number and percentage of the more than 1 million eligible or otherwise eligible individuals who owe $0.00 or more in outstanding LFOs, according to official records obtained by the 67 county clerks.

Table 1:
LFOs Balance Due of Eligible Persons with Felony Convictions, FDC and County Data (and Combined)

	FDC		County		FDC + County	
	Count	**%**	**Count**	**%**	**Count**	**%**
Owe $0.00 LFOs	25,752	11.1%	200,567	26.1%	226,319	22.6%
Owe >$0.00 LFOs	207,021	88.9%	567,469	73.9%	774,490	77.4%
Total	232,773	100.0%	768,036	100.0%	1,000,809	100.0%

22. Consistent with the findings in my original and supplemental reports, but now extended to all 67 counties and drawing on FDC's updated January 2020 release data, **Table 1** reports that 25,752 of the 232,773 (11.1%) individuals who have been released from FDC[14] control or supervision, and 200,567 of the 768,036 (26.1%) individuals with a felony conviction who were not in FDC control or supervision and who have been released from county control or supervision, have a

[14] *See* Florida Department of Corrections, "Public Records Requests for the OBIS Database," http://www.dc.state.fl.us/pub/obis_request.html. FDC acknowledges that "information in this [OBIS] file may not reflect the true current location, status, release date, or other information regarding an inmate." Furthermore, FDC explicitly "makes no guarantee as to the accuracy or completeness of the information contained herein," that is, in its OBIS database.

balance of $0.00 outstanding LFOs. Taken together, then, an estimated 226,319 of the 1,000,809 (22.6%) of the individuals for whom I have data have completed payment of their LFOs. The remaining 774,490 individuals who I have identified across Florida's counties, or 77.4% of all otherwise eligible individuals who have fulfilled the terms of their felony conviction, have outstanding LFOs and are thus likely to be disenfranchised under SB7066.

V. LFOs Balance Due of Eligible Persons with Felony Convictions, FDC and County Data (and Combined), by Race

23. Consistent with my previous reports, my analysis reveals racial disparities exist across persons who have met the terms of their felony conviction but who have outstanding LFOs. **Table 2** summarizes my calculations broken down by race. The rate of black individuals with a felony conviction (combined FDC and county) who are otherwise qualified to register to vote but for outstanding LFOs, is more than 8 percentage points lower than the comparable rate of white individuals. As **Table 2** shows, among white individuals with a felony conviction who have been released from control or supervision and who are otherwise eligible to obtain their voting rights, 13.5% from FDC, 29.7% from county, and 26.0% overall (combined FDC and county) have a balance of LFOs of $0.00. In contrast, among black individuals with a qualifying felony conviction who have been released from control or supervision, only 8.0% from FDC, 21.0%

from county, and 17.8% overall (combined FDC and county) have a balance of LFOs of $0.00.

24. To summarize: fewer than one in five (17.8%) black individuals released from control or supervision, who have a qualifying felony conviction, are eligible to register and vote under SB7066, as they still owe LFOs; in contrast, more than one in four (26.0%) white individuals released from control or supervision, who have a qualifying felony conviction, are eligible to register to vote or vote under SB7066.

Table 2:
Estimates of LFOs Balance Due of Eligible Persons with Felony Convictions, FDC and County Data (and Combined), by Race

White	**FDC**		**County**		**FDC + County**	
	Count	**%**	**Count**	**%**	**Count**	**%**
Owe $0.00 LFOs	17,523	13.5%	131,694	29.7%	149,217	26.0%
Owe >$0.00 LFOs	112,714	86.5%	311,662	70.3%	424,376	74.0%
Total	130,237	100.0%	443,356	100.0%	573,593	100.0%
Black	**FDC**		**County**		**FDC + County**	
	Count	**%**	**Count**	**%**	**Count**	**%**
Owe $0.00 LFOs	8,125	8.0%	64,245	21.0%	72,370	17.8%
Owe >$0.00 LFOs	93,351	92.0%	241,171	79.0%	334,522	82.2%
Total	101,476	100.0%	305,416	100.0%	406,892	100.0%

VI. LFOs Balance Due of Eligible Persons with Felony Convictions (Released from FDC and County Control/Supervision), by Race

25. Across the state's 67 counties, it is also possible to calculate ranges of outstanding amounts of LFOs owed by individuals—as well as by black and white

individuals—who otherwise have completed all the terms of their felony convictions. The following figures are based on data received directly from the county clerks of court or on their behalf as provided by the FCCC. In keeping with this and previous reports, **Table 3** includes data for individuals with felony convictions dating as far back to 1997, although most of the LFOs from the counties date back only to the early 2000s. It provides the number of persons and the amounts of LFOs owed in graduated dollar amounts, broken down by race. As the numbers in **Table 3** bear out, overall, of the 774,490 individuals (released from FDC and county control/supervision) who have outstanding LFOs of any amount, 610,252 (78.8%) owe at least $500, and 458,163 (59.2%) owe more than $1,000. Also, as **Table 3** reveals, among persons who owe LFOs of any amount, black individuals are more likely to owe over $500, as well as over $1,000, compared to individuals.

Table 3:

Combined LFOs Balance Due of Eligible Persons with Felony Convictions (FDC and County Control/Supervision), by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	226,319	22.6%	72,370	17.8%	149,217	26.0%
Up to $100	47,318	4.7%	16,072	3.9%	30,315	5.3%
Up to $250	34,102	3.4%	12,880	3.2%	20,537	3.6%
Up to $500	82,818	8.3%	33,750	8.3%	47,353	8.3%
Up to $1,000	152,089	15.2%	60,826	14.9%	87,320	15.2%
Up to $5,000	279,778	28.0%	119,168	29.3%	154,574	26.9%
Up to $10,000	32,207	3.2%	13,652	3.4%	17,493	3.0%

> $10,000	146,178	14.6%	78,174	19.2%	66,784	11.6%
Total	1,000,809	100.0%	406,892	100.0%	573,593	100.0%

26. In the following section, I present separately data for eligible persons with felony convictions who are *not* in FDC's OBIS database and those who are in FDC's OBIS database.

VII. LFOs Balance Due of Eligible Persons with Felony Convictions who are *Not* in FDC's OBIS Database, by Race

27. **Table 4** provides the amount of LFOs owed by 768,036 individuals with felony convictions who are *not* found in FDC's OBIS inmate release database. These individuals were not convicted of murder or a sex crime under SB7066, have a release date prior to June 30, 2019, and have met all the terms of the felony sentence.[15] As mentioned previously, of these individuals, roughly one in four—26.1%—have paid off their LFOs related to a felony offense.

28. **Table 4** also provides the racial breakdown (black and white individuals) of those released from county control or supervision who owe LFOs in the various categories. As **Table 4** reveals, only 21.0% of black individuals who have otherwise met all the terms of their felony conviction are likely to owe $0.00

[15] The summary information about LFOs owed by individuals with qualifying felony convictions was received either directly from the clerks or via the FCCC. Table 4 includes data on individuals who: (1) are found in one or more county's CMS database; (2) are not found in FDC's OBIS database; (3) were not convicted of murder or a sexual offense as defined by SB7066; and (4) have met the terms of their felony sentence as of June 30, 2019. Individuals whose outstanding LFOs appear to be negative are dropped.

in LFOs, compared to 29.7% of white individuals. In addition, black individuals are disproportionately more likely than white individuals to owe over $10,000 in LFOs. In my opinion, it is clear from **Table 4** that black individuals who have otherwise met all the terms of their felony conviction at the county-level are significantly less likely to be able to gain or re-gain their voting rights under SB7066, as compared to similar white individuals, because of the amount of outstanding LFOs tied to their felony conviction.

Table 4:
LFOs Balance Due of Eligible Persons with Felony Convictions who are *Not* in FDC's OBIS Database, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	200,567	26.1%	64,245	21.0%	131,694	29.7%
Up to $100	38,314	5.0%	12,661	4.1%	24,758	5.6%
Up to $250	26,912	3.5%	9,780	3.2%	16,463	3.7%
Up to $500	63,824	8.3%	25,306	8.3%	36,877	8.3%
Up to $1,000	113,769	14.8%	43,659	14.3%	66,362	15.0%
Up to $5,000	174,750	22.8%	69,651	22.8%	99,545	22.5%
Up to $10,000	16,967	2.2%	6,471	2.1%	9,477	2.1%
> $10,000	132,933	17.3%	73,643	24.1%	58,180	13.1%
Total	768,036	100.0%	305,416	100.0%	443,356	100.0%

VIII. LFOs Balance Due of Eligible Persons with Felony Convictions who are *in* FDC's OBIS Database, by Race

29. Finally, using the same methodology in my previous two reports which link an individual in FDC's OBIS inmate release database to that same

individual in the data provided by county clerks of court, it is possible to provide estimates of the number of persons who were convicted of a felony (other than those convicted of murder or a sexual offense) in each county, who had a release date prior to January 2020, who have completed all the terms of their felony sentence under the authority of FDC, but who are not eligible to register to vote under SB7066 because they owe LFOs tied to a felony conviction.

30. Drawing on inmate release data from FDC's updated January 2020 OBIS database, merged with LFOs data drawn provided by the county clerks of court, **Table 5** calculates the number of individuals are prohibited under SB7066 from registering or voting, even though they have been released from FDC control or supervision, because they have outstanding LFOs tied to a felony conviction. **Table 5** also provides the racial breakdown of black and white individuals across the counties who have been released from FDC control or supervision—that is, they completed all the terms of their sentence, including parole, probation, or community control or supervision—and any outstanding LFOs tied to their felony conviction(s).

31. Overall, I calculate there to be 232,773 individuals in FDC's OBIS inmate released database, including 130,237 white individuals and 101,476 black individuals, who are qualified to re-gain their voting rights but for outstanding LFOs. These individuals were adjudicated guilty, were under the control of FDC, were not convicted of murder or a sex crime, and since 1997 were released from

control or supervision. By linking these individuals to the databases provided by the clerks of court (all except Escambia),[16] it is possible to approximate the amounts of outstanding LFOs tied to a felony conviction. **Table 5** breaks down by each range of estimated minimum outstanding LFOs by the race of the individual (black and white).[17] Overall, only 11.1% of these individuals— just 25,752 individuals out of the 232,773 released from FDC control or supervision—owe $0 in LFOs tied to their felony conviction. Of those who have outstanding LFOs, 73.8% owe over $500 and 57.4% owe more than $1,000.

[16] The analysis does not include felons convicted in Escambia County, as the Escambia clerk of court did not provide data that included an individual's complete birthdate, making it impossible to merge county-provided LFO data with FDC's OBIS database.

[17] As in my original and supplemental reports, matching records across FDC's October 1, 2019 OBIS database and the clerks of court data is based on an exact match between first name, last name, name suffix, date of birth, race code, and sex code. Records with missing first names are not part of the match. Individuals with a negative LFOs balance due are not included, as this would indicate (implausibly) that an individual overpaid a county clerk of court. There are over 7,400 such individuals with a negative LFO balance; the bulk (over 6,400) are found in Duval County, indicating data entry/data processing errors made by the county clerk of the court. Finally, this report assumes individuals whose name suffix in the FDOC database is either "J" or "JRR" are juniors (e.g., "Jr"). Because of data reliability concerns, individuals with county sentence imposed dates prior to 1960 are excluded from the analysis, as are individuals in FDC's OBIS release database released prior to October 1, 1997. Roughly 17.4% of individuals in FDC's OBIS inmate release database that were matched with county LFOs data were in more than one of the 66 counties and had positive LFOs in more than one county.

Table 5:
LFOs Balance Due of Eligible Persons with Felony Convictions who are *in* FDC's OBIS Database, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	25,752	11.1%	8,125	8.0%	17,523	13.5%
Up to $100	9,004	3.9%	3,411	3.4%	5,557	4.3%
Up to $250	7,190	3.1%	3,100	3.1%	4,074	3.1%
Up to $500	18,994	8.2%	8,444	8.3%	10,476	8.0%
Up to $1,000	38,320	16.5%	17,167	16.9%	20,958	16.1%
Up to $5,000	105,028	45.1%	49,517	48.8%	55,029	42.3%
Up to $10,000	15,240	6.5%	7,181	7.1%	8,016	6.2%
> $10,000	13,245	5.7%	4,531	4.5%	8,604	6.6%
Total	232,773	100.0%	101,476	100.0%	130,237	100.0%

32. As **Table 5** makes clear, only 8.0% of black individuals, compared to 13.5% of white individuals who have been released from FDC control or supervision, appear to be eligible to register and vote under SB7066 because they have paid off their LFOs. Black individuals released from FDC control or supervision are also more likely than similar white individuals to owe between $250 and $10,000 in LFOs across the counties.

33. In my opinion, it is clear from **Table 5** that black individuals released from the control or supervision of FDC are significantly less likely to be able to re-gain their voting rights, as compared to comparable white individuals with felony convictions, as a result of the amount of outstanding LFOs tied to a felony conviction.

IX. LFOs and the FCCC's Annual Assessments and Collections Reports

34. In this section, I provide some additional evidence that many of the individuals LFOs remain unpaid by those who are indigent. It does not surprise me that fewer than one-in-four of the more than 1 million individuals in Florida who have been convicted of a felony and have been released from the control or supervision of FDC or county authorities are likely to be able to re-gain their voting rights because of outstanding LFOs. Indeed, all one needs to do is consult the FCCC and any "Annual Assessments and Collections Report" that it has published over the years. According to the FCCC, circuit criminal, county criminal, and juvenile court divisions use a "risk factor" methodology to assess which associated cases are likely to have a "minimal collections expectation." Such conditions include whether a "defendant was incarcerated, indigent, or had a judgment/lien case status."[18] According to the FCCC's various annual reports, "Risk factor amounts include all mandatory and discretionary fines, court costs,

[18] See, variously, FLORIDA COURT CLERKS & COMPTROLLERS, "Annual Assessments and Collections Report" (2014-2018). Links to the FCCC's five most recent reports are available at: https://finesandfeesjusticecenter.org/content/uploads/2019/01/2018-Annual-Assessments-and-Collections-Report.pdf, https://finesandfeesjusticecenter.org/content/uploads/2019/01/2017-Annual-Assessments-and-Collections-Consolidated-Summary-SMUSHED-2.pdf, https://finesandfeesjusticecenter.org/content/uploads/2019/01/2016-Fl-Court-Clerks-and-Comptrollers-Annual-Assessments-and-Collections-Consolidated-Summary-Report-2015-2016.pdf, https://finesandfeesjusticecenter.org/content/uploads/2019/01/2015-Assessments-and-Collections-Report-2014-2015.pdf, and https://finesandfeesjusticecenter.org/content/uploads/2019/01/2014-Clerk-Annual-Assessments-and-Collections-Report-2013-2014-2.pdf.

monetary penalties, and fees, service charges and costs." In its 2018 report, for example, the FCCC's statewide summary (page 11) for the 2017-2018 fiscal year (October 1, 2017 to September 30, 2018), calculates the total Risk Factor Impacts expected LFOs (for people who are incarcerated, indigent, or judgment/lien) to be $226,976,841, which amounts to 85.79% of the "total amount actually assessed" in fiscal year 2018. The total amount of LFOs actually assessed statewide in 2018 in the criminal courts was $264,557,647.[19] If we eliminate those individuals who were assessed LFOs but who remained incarcerated during the time period, we can calculate—according to the FCCC's 2018 report—a total of $119,041,561 in LFOs for the non-incarcerated community (that is, $264,572,609 (total LFOs assessed) minus $145,516,086 (LFOs of those still incarcerated)).

35. The FCCC also reports that $81,460,756 of LFOs assessed in 2017-2018 fall into the indigent or judgment/lien categories. If we divide $81,460,756 by $119,041,561, the FCCC's own data reveals that 68.4%, or more than two-thirds, of all LFOs assessed to non-incarcerated returning citizens in fiscal year 2018 fall into the category of "minimal collections expectation." That is, these individuals according to the FCCC are either indigent or had their LFOs converted into a civil

[19] This amount is calculated by totaling three figures on pages 10 and 11 of the FCCC's 2018 report: (1) the $191,959,237 in mandatory fines, court costs, and other monetary penalties; (2) the $21,019,347 in discretionary fines, court costs, and other monetary penalties; and (3) the $51,579,063 in mandatory fees, service charges, and costs.

judgment/lien, a common mechanism used in Florida by the courts when individuals are unable to pay their LFOs.

36. My assessment of the FCCC's "Annual Assessments and Collections Report" from the other four fiscal years is that they follow a similar pattern, that is, the FCCC concedes in its own reports that it has minimal collections expectations for a supermajority of the LFOs assessed on non-incarcerated individuals on account of the fact that these individuals are unable to pay. These figures likely include individuals on probation/parole, and might include those convicted of murder or felony sex offense, but it certainly provides strong evidence of many individuals in Florida who face significant financial barriers when assessed LFOs.

37. Using the annual assessments and collections reports in Florida from 2013-2018, I find that Florida had minimal collections expectations for between 58.2% to 68.4% of all fines and fees it assessed to returning citizens outside of incarceration during this time based on inability to pay.[20]

38. The financial hardships that people with felony offenses face are reflected in the expected collections rate for felony offenses as compared to misdemeanor offenses. The collections performance standard set by the Florida

[20] *See* Fines, Fees, and Justice Center, "Annual Assessments and Collections Report [Florida, 2013-2018], available at: https://finesandfeesjusticecenter.org/articles/annual-assessments-and-collections-report-florida-2013-2018/.

Clerks of Court Operations Corporation is only 9% for felony cases but 40% for misdemeanor cases.[21]

39. Analysis of federal government data supports the conclusions drawn from the FCCC's Annual Assessments and Collections Reports that a comparatively high percentage of persons with a past conviction will be unable to pay outstanding LFOs. Why might this be? Income is lower among people incarcerated, even before their incarceration.[22] After a conviction, there is a significant incarceration "wage penalty" estimated to range between 10–30% between those with a conviction and those without,[23] with earnings decreases in the first year following release from incarceration.[24] The unemployment rates among formerly incarcerated persons between the ages of 25-44 years old exceeds 27%—over four times that of the general public (5.8%) and greater than the total U.S.

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[21] Assessment, Collection and Distribution of Fines and Fees in Criminal Cases, No. 19-14 (November 2019), pg. 7, available at: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1914rpt.pdf.

[22] *See* Prison Policy Initiative (2015), available at: https://www.prisonpolicy.org/reports/income.html) ("incarcerated people had a median annual income of $19,185 prior to their incarceration, which is 41% less than non-incarcerated people of similar ages.").

[23] *See* Sara Wakefield and Christopher Uggen, "Incarceration and Stratification," *Annual Review of Sociology* 36 (2010): 387-406.

[24] Adam Looney and Nicholas Turner, "Work and opportunity before and after incarceration," The Brookings Institution, March 2018, available at: https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf.

unemployment rate during any historical period, including the Great Depression (24.9%).[25] Homelessness rates are also higher for persons formerly incarcerated, as "2% of formerly incarcerated people were homeless in 2008 (the most recent year for which data are available), a rate nearly 10 times higher than among the general public").[26] In short, it is clear from the data that individuals face significant economic barriers as a result of a conviction. As a scholar of Florida politics, it comes as little surprise to me, as the FCCC concedes in its own reports, that there is minimal expectation that a majority of formerly incarcerated individuals will be able to pay their assessed LFOs because they face significant economic barriers.

X. In the Two Counties for Which Data is Available, a Supermajority of Returning Citizens Were Afforded a Public Defender

40. In this final section, I provide some additional insight into the question of whether SB7066 is likely to deny persons with a past felony conviction access to the franchise due to indigency. Although the data that I received from the 67 clerks of court and FDC do not include specific information about the ability or inability of an individual with a qualifying felony conviction to pay outstanding LFOs, two counties (Escambia and Lake) provided information about whether an

[25] *See* Prison Policy Initiative, "Out of Prison & Out of Work: Unemployment among formerly incarcerated people," July 2018, available at: https://www.prisonpolicy.org/reports/outofwork.html.

[26] Prison Policy Initiative, "Nowhere to Go: Homelessness among formerly incarcerated people," August 2018, available at: https://www.prisonpolicy.org/reports/housing.html.

individual convicted of a qualifying felony was represented by a public defender or not. As such, it is possible to determine the amount of outstanding LFOs owed by individuals in the two counties who have a felony conviction and who have been released from control or supervision, and who were represented by a public defender, versus those who were not. It is my understanding that the standard to qualify for public defender services is governed by state law. In order to qualify to be represented by a public defender, a criminal defendant in Florida attests to his or her income and assets, which must be less that 200 percent of the federal poverty guidelines and meet other criteria. Fla. Stat. Ann § 27.52.

41. As I explain above, persons with a past conviction tend to be worse-off economically both at the time of the conviction and as a result of the conviction. Thus, I reviewed data on assignment of a public defender at the time of conviction, which would have required a finding of indigency, as a proxy for an individual lacking the financial means to pay off his or her outstanding LFOs.

42. Drawing on records provided by the Escambia County clerk of courts of individuals who were *not* in FDC's OBIS database, I am able to determine that 72% of the more than 18,000 individuals released from county control or supervision with a felony conviction other than murder or a sexual offense were represented by a public defender.[27]

[27] Escambia County and Lake County were the only counties among the state's 67 clerks of court that included data that documented which individuals were assigned a public defender. The data from these two counties likely understates the rate of

43. **Table 6** provides a breakdown of dollar ranges of LFOs owed by all individuals eligible for restoration but for their outstanding LFOs, as well as black and white individuals, who were represented by a public defender in Escambia County, and **Table 7** does the same for those convicted of a qualifying felony and who have been released who were not represented by a public defender. Over 65% of all released individuals from Escambia county control or supervision with a qualifying felony conviction and who were represented by a public defender—a proxy here for indigency—owe outstanding LFOs. Over 45% of all convicted felons who were represented by a public defender in the county owe more than $500, with 15.7% owing more than $1,000 in outstanding LFOs. Black individuals (30.3%), compared to comparable white individuals (39.1%) who were represented by a public defender, are less likely to owe $0.00 in LFOs and more likely to owe between $250 and $5,000 in outstanding LFOs.

44. As **Table 7** reveals, both black and white individuals convicted of a qualifying felony, but who were *not* represented by a public defender in Escambia County, are much more likely (56.4%) than those convicted of a qualifying felony

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public defender assignments statewide because: (1) data were only available for persons *not* in FDC's OBIS database, and these individuals are less likely to have outstanding LFOs in general, and if they do owe LFOs, they are likely to be of lower amounts, compared to those *in* FDC's OBIS database; and (2) compared to the 26.1% of persons *not* in FDC's OBIS database who have a $0.00 balance in LFOs (see **Table 4**), these two counties have higher rates of individuals not in the FDC database who have $0.00 balance of LFOs (40.7% in Escambia County and 32.8% in Lake County).

and represented by a public defender (34.7%) to owe $0.00 in LFOs, and about half as likely to owe more than $500 in LFOs.

45. It is clear from my analysis of data provided by the Escambia County clerk of court that over 60% of all individuals convicted of a felony *not* in the FDC OBIS system, and who were represented by a public defender owe more than $500 in LFOs.

Table 6:
Escambia County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions Represented by a *Public Defender*, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	4,557	34.7%	1,906	30.3%	2,525	39.1%
Up to $100	683	5.2%	257	4.1%	416	6.5%
Up to $250	612	4.7%	242	3.9%	345	5.4%
Up to $500	1,362	10.4%	669	10.6%	652	10.1%
Up to $1,000	3,806	29.0%	1,939	30.9%	1,726	26.7%
Up to $5,000	2,059	15.7%	1,258	20.0%	766	11.9%
Up to $10,000	29	0.2%	12	0.2%	17	0.3%
> $10,000	10	0.08%	3	0.05%	7	0.11%
Total	13,118	100.00%	6,286	100.00%	6,454	100.00%

Table 7:
Escambia County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions *Not* Represented by a *Public Defender*, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	2,831	56.4%	836	45.9%	1,886	62.7%
Up to $100	261	5.2%	81	4.4%	174	5.8%
Up to $250	186	3.7%	80	4.4%	104	3.5%
Up to $500	447	8.9%	185	10.1%	241	8.0%
Up to $1,000	731	14.6%	325	17.8%	368	12.2%

Up to $5,000	537	10.7%	305	16.7%	221	7.3%
Up to $10,000	14	0.3%	7	0.4%	5	0.2%
> $10,000	16	0.3%	4	0.2%	11	0.4%
Total	5,023	100.0%	1,823	100.0%	3,010	100.0%

46. Similar to the analysis for Escambia County, I am able to draw on records provided by the Lake County clerk of courts to determine that 71% of the more than 21,000 individuals released from county control or supervision with a felony conviction other than murder or a sexual offense were represented by a public defender.[28]

47. **Table 8** provides a breakdown of dollar ranges of LFOs owed by all individuals, as well as black and white individuals, who were represented by a public defender in Lake County, and **Table 9** does the same for those convicted of a qualifying felony and who have been released who were not represented by a public defender. Overall, less than 29% of all released individuals with a qualifying felony conviction in Lake County who were represented by a public defender have $0.00 in LFOs, and over two-thirds of all convicted felons in the county who were represented by a public defender owe more than $500, with over 55% owing more than $5,000 in outstanding LFOs. Black and white individuals represented by a public defender are quite comparable regarding both the

[28] Information concerning whether an individual was represented by a public defender or otherwise is missing for 702 (3.2%) of the cases in the data I received from Lake County; these cases are dropped from my analysis.

percentage who owe $0.00 in LFOs and those across the various ranges of outstanding LFOs.

48. As **Table 9** reveals, white individuals convicted of a qualifying felony, but who were *not* represented by a public defender in Lake County, are more likely than those convicted of a qualifying felony and represented by a public defender to owe $0.00 in LFOs, but that is not the case for black individuals.

49. As with Escambia County, my analysis of LFOs owed by individuals released from Lake County who were represented by a public defender excludes individuals in the county released from FDC control or supervision; these individuals in Lake County, and statewide more generally, are considerably more likely to have outstanding LFOs than individuals released from county control or supervision. Furthermore, among non-FDC individuals, Lake's percentage of people (either represented by a public defender or not) who owe $0.00 in LFOs is considerably higher than the statewide average of 26.3%.

Table 8:
Lake County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions Represented by a *Public Defender*, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	4,317	28.7%	1,336	32.5%	2,777	34.7%
Up to $100	295	2.0%	89	2.2%	182	2.3%
Up to $250	92	0.6%	23	0.6%	48	0.6%
Up to $500	363	2.4%	112	2.7%	219	2.7%
Up to $1,000	1,354	9.0%	407	9.9%	751	9.4%
Up to $5,000	6,174	41.1%	1,754	42.6%	3,202	40.0%

Up to $10,000	1,255	8.4%	210	5.1%	401	5.0%
> $10,000	1,167	7.8%	183	4.4%	428	5.3%
Total	15,017	100.0%	4,114	100.0%	8,008	100.0%

Table 9:
Lake County, LFOs Balance Due of Otherwise Eligible Persons with Felony Convictions *Not* Represented by a *Public Defender*, by Race

	Balance due, All		**Balance due, *Black***		**Balance due, *White***	
LFOs Owed	**Count**	**%**	**Count**	**%**	**Count**	**%**
$0	2,139	35.6%	470	31.3%	1,465	43.0%
Up to $100	226	3.8%	45	3.0%	169	5.0%
Up to $250	127	2.1%	28	1.9%	85	2.5%
Up to $500	305	5.1%	82	5.5%	175	5.1%
Up to $1,000	678	11.3%	186	12.4%	327	9.6%
Up to $5,000	1,640	27.3%	510	33.9%	814	23.9%
Up to $10,000	378	6.3%	91	6.1%	155	4.6%
> $10,000	521	8.7%	92	6.1%	216	6.3%
Total	6,014	100.0%	1,504	100.0%	3,406	100.0%

50. Studies in Volusia and Lee Counties found similar results. A study of cases in Volusia County from fiscal years 2010-2014 found 69% of defendants were adjudicated indigent and 62% of all LFOs were assessed against individuals found indigent.[29] Likewise, a survey conducted by the Lee County Clerk of Court

[29] *See* Why Crime Doesn't Pay: Examining Felony Collections, Circuit Court Clerk (May 2015), Appendix F, available at: https://www.ncsc.org/~/media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2015/Why%20Crime%20Doesnt%20Pay-Examining%20Felony%20CollectionsMurphy.ashx).

of experts in this field found that 92.3% of survey respondents indicated that inability to pay is a significant factor in the low collections rates for LFOs.[30]

XI. Conclusion

51. Despite the absence of data on out-of-state and federal convictions of persons with felony convictions living in Florida, and the inconsistent and often unreliable correctional data from various State of Florida agencies or clerks of court that are needed to establish more definitively which persons with Florida non-disqualifying felony convictions who reside in Florida might be eligible to vote, there is little doubt that the financial requirements of SB7066 will severely limit the ability of otherwise eligible Floridians with a past felony conviction to be able to register or vote. This is because there is a large share of individuals who still have outstanding LFOs originally assessed as part of their felony conviction. Due to outstanding LFOs, my analysis finds that a little more than one-in-five of the 1,000,809 individuals identified as having a felony conviction other than murder or a sexual offense, who have been released from either county or FDC control or supervision, are likely to be qualified to register to vote under SB7066. The rate of an individual released from either county or FDC control or supervision who owes $0.00 in LFOs is lower for black individuals in nearly every one of the state's 67 counties.

[30] *Id.* at 36.

52. In sum, my findings should be taken as conservative due to the limitations of available data. I do not have accurate or comprehensive data on federal or out-of-state felony convictions, and even within the Florida criminal justice systems, I do not have comprehensive or systematic data on individuals convicted of a felony who were never referred to FDC, e.g., those who served time in a county jail or under county control or supervision. This is because, to the best of my knowledge, no such database exists in the State of Florida.

53. Because of missing and unreliable data, I am unable to cross-reference whether an individual with an LFO balance of $0.00 in one county has outstanding debt from a felony conviction in all other counties, and the available data from FDC and the county clerks of court only go back as far as the 1990s. Short of calling each county clerk of court to identify, on an individual basis, LFOs owed by as many as a million people—which still may not yield results—I have not uncovered a database that allows me to determine whether LFOs have been converted into a civil lien, or to track restitution obligations not recorded or updated by the clerks of court. In addition, I do not have data to confirm that those I have identified meet other voter eligibility requirements (such as mental competence and U.S. citizenship). I would like to reserve the right to continue to supplement my declarations in light of additional facts, data, and testimony.

54. I also provide evidence from five years of Florida's own data indicating that Florida has minimal collections expectations for the majority of

fines and fees it assessed to non-incarcerated individuals between 2013-2018. And I provide evidence from two counties showing that more than seven-in-ten individuals released from supervision for a felony conviction other than murder or a sex offense were represented by a public defender, and studies from two additional counties showing significant LFOs assessed against those who are indigent. Many of these individuals, who would be eligible to register to vote but for their outstanding LFOs, are unlikely to be able to pay their LFOs.

55. I declare under penalty of perjury that the foregoing is true and correct. Executed this 2nd day of March, 2020, at Alachua County, Florida.

Daniel A. Smith, Ph.D.

345-16

From: Howard Simon <HSimon@aclufl.org>
To: Jackie Lee; Desmond Meade; Mila Al-Ayoubi; Lenore Anderson; Robert Rooks; dj@davidjohnsongroup.com; Marc Solomon; Doug Dodson; Kirk Bailey; Raymer Maguire; Graham Boyd; Ryan Johnson; amy@rjadvisors.org; Robert Hoffman; "Faiz Shakir (fshakir@aclu.org)"
Cc: Marc Mauer; dalvarez@mercuryllc.com; Baylor Johnson; dho@aclu.org; Julie Ebenstein; ssmith@aclu.org
Subject: Calculating/Messaging on the Number of People who Could be affected by Amendment 4
Attachments: image001.png

To: Executive Board
2nd Chances team

From: Howard Simon
Executive Director
ACLU of Florida

Marc Mauer
Executive Director
The Sentencing Project

Date: February 11, 2018

Re: The number of people who could be impacted by Amendment 4

We have been concerned that several speakers and organizational allies (as well as the press) have been using different numbers for the returning citizens who could be affected when Amendment 4 is approved by the voters. We have seen figures ranging from 1.2 million to 1.8 million.

Not only might this make the campaign look disorganized, but more importantly, by using a number that reflects the entire population of people with felony convictions, we could be inadvertently supporting the narrative that the ballot issue is about (as some in the media have characterized it) "felons voting" or "voting rights for felons," rather than the narrative we want to advance – 2nd chances for those who have successfully completed the terms of their sentence and, thereby, should be able to fully participate in their community

This memo is an effort to determine the most reasonable estimate of the number of those who would be affected by Amendment 4.

Summary

- We start with the total Florida disfranchised population in 2016 (people currently incarcerated, currently released on probation or parole, and "post-sentence" individuals) as estimated by The Sentencing Project: 1,686,318

- From that number we need to deduct the following groups:
  (1) those convicted of murder or a felony sex offense
  (2) those currently incarcerated in prison
  (3) those serving a felony sentence in a county jail
  (4) those currently under felony probation or parole supervision
  (5) those who have not paid fees or fines
  (6) those who have not paid court mandated victim restitution.

Florida's Disenfranchised Population in 2016	
Prison Population	102,555
Parole Population	4,208
Felony Probation	86,886

Felony Jail Population	4,822
Post-Sentence Population	1,487,847
Total Disenfranchised Population	**1,686,318**
Source: The Sentencing Project's national report: 6 Million Lost Voters, 2016.	

According to The Sentencing Project report, the "post-sentence population" is an estimated 1.48 million. But from that number we need to deduct those convicted of murder and felony sex offenses, who would not be eligible under Amendment 4. Looking at 2016 data from the Florida State Courts Administrator (see p. 3-13 of their report), 3,066 people had a criminal disposition for murder or a sex offense in FY 2015-16, representing about 1.8% of the total dispositions of 167,009. Using the 1.8% figure for the total of 1.48 million results in about 26,781 (say 27,000) people being ineligible for rights restoration under the provisions of Amendment 4.

But there are two points to be aware of that suggest this figure could be either a low or high estimate: 1) the data are only from one year, so in the "high crime" years of the 1980s/early 90s the proportion of murders was probably higher, which would raise the number of ineligible people somewhat; but, 2) people convicted of murder and felony sex offenses are less likely to have been released from prison and/or parole due to longer sentences, so fewer of them would be in the "ex-felon" category.

So overall, with these figures we might want to say, "about 1.4 million," could be affected.

Fines and fees exclusions

Many felony sentences, whether to prison or probation, include a requirement of a mix of fines, fees, and restitution. In Florida, a 2007 analysis by the Department of Corrections found that of 80,000 people awaiting rights restoration nearly 40% had not completed restitution payments. The Department did not try to assess the level of non-payment of fines and fees.

Assuming that about 1.4 million people have completed the supervision portion of their sentence (for crimes other than murder or felony sex offenses) then the 40% level of non-payment would reduce the population eligible for rights restoration to about 840,000.

So, taking the 1.4 million number, some additional portion would be reduced for non-payment of fines and fees, though there are no good estimates for this population. A key issue, though, is that the state has the power to waive payment of fines and fees if it chooses to do so. However, it cannot use this power for non-payment of restitution.

Conclusion

Based on this research and because neither we nor the state has any hard data on the fines/fees population, we would be technically correct – and we hope that we can all agree going forward -- to describe the scale of the impact of Amendment 4 as follows:

> Under Amendment 4, as many as 1.4 million Floridians who have completed supervision of a felony sentence have earned a 2nd chance to fully participate in their community and could be eligible for the restoration of their ability to vote upon payment of fines, fees, and restitution.

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346-1

Expert Report of Michael Barber

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1 Introduction

I have been retained by counsel for the Secretary of State of Florida in Kelvin Jones, et al., Plaintiffs, v. Ron DeSantis, et al., Defendants, Consolidated Case No. 4:19-cv-300, currently pending in the U.S. District Court for the Northern District of Florida. I have been asked to provide information about how different language used in ballot initiatives, such as Amendment 4 in Florida, can impact likely support for the initiative. I discuss how "message testing" different ways of phrasing the ballot question or emphasizing particular aspects of the initiative can reveal how different framing can alter support or opposition toward the same proposal. I detail political science and political psychology research suggesting why different messages can alter support for a ballot initiative. I then show several recent cases of how ballot language was debated in actual initiatives in the past and how supporters and opponents of these initiatives fought hard to have their preferred wording appear on the ballot. I then discuss evidence of similar message testing by proponents of Amendment 4 in Florida in the years leading up to the 2018 campaign. I show how they found various different ways of framing the initiative led to different levels of support in public opinion surveys, and once the most popular framing was established proponents of the amendment worked to stay on that framing throughout the 2018 campaign.

2 Background and Qualifications

I am an assistant professor of political science at Brigham Young University and faculty fellow at the Center for the Study of Elections and Democracy in Provo, Utah. I received my PhD in political science from Princeton University in 2014. In my position as a professor of political science, I have conducted research on a variety of election-related topics in American politics and public opinion. Much of this research has been published in peer-reviewed journals, including many of our discipline's top journals. My c.v., which details my publication record, is attached to this report as Appendix A. Much of my research

uses advanced statistical methods for the analysis of quantitative data. I have worked on a number of research projects that use "big data" that include millions of observations, including a number of state voter files and campaign contribution lists, including in Florida. The data and methods I use here are consistent with my training in statistical analysis and are well-suited for this type of analysis in political science and quantitative analysis more generally. My complete c.v. with a complete listing of my education and publications is appended to the end of this document.

I teach a number of undergraduate courses in American politics and quantitative research methods.[1] These include classes about political representation, Congressional elections, statistical methods, and research design.

I have worked as an expert witness in a number of election-related cases, including in Florida. Cases in which I have testified at trial or by deposition are listed in my cv, which is attached to the end of this report.

3 How Ballot Language Impacts Initiative Support

Social scientists have long known that people's views on political issues can be impacted by how the particular issue is framed. For examples, political protests can be framed as either a disruptive public safety or as an exercise in constitutionally guaranteed free speech. Depending on the frame, people are more or less likely to support such activities.[2] Scholars have long studied framing effects across a variety of different contexts, including survey question wording, vote choice, ballot initiatives, and political opinions more generally. Literally thousands of studies across political science and psychology have studied the impact of framing, the ability and limits of frames, which types of messages are more impactful, which types of people — the "deliverer" of the frame — are more likely to sway opinion, and

[1]The political science department at Brigham Young University does not offer any graduate degrees.

[2]Druckman, James N. "The implications of framing effects for citizen competence." Political behavior 23, no. 3 (2001): 225-256.

which types of people are more likely to be moved.[3] For example, a Google Scholar search for "issue framing" yields more than 1,000,000 returns of published studies on the topic.

Rabin (1998) offer the most commonly cited definition of a framing effect as when two "logically equivalent (but not transparently equivalent) statements of a problem lead decision makers to choose different options[4] (pg. 36)." Druckman (2001) offers a slightly different, but similar definition in saying, "a framing effect is said to occur when, in the course of describing an issue or event, a speaker's emphasis on a subset of potentially relevant considerations causes individuals to focus on these considerations when constructing their opinions[5] (pg. 1041)." Druckman continues by saying:

> Scholars have investigated two related aspects of such framing effects. Some examine how different frames cause individuals to base their opinions on different considerations with little attention to overall opinions (e.g., the focus is on how frames alter the importance of different considerations). For example, Kinder and Sanders (1990) show that a frame emphasizing how affirmative action provides an undeserved advantage to African Americans causes Caucasians to oppose af-

[3]Berinsky, Adam J., and Donald R. Kinder. "Making sense of issues through media frames: Understanding the Kosovo crisis." The Journal of Politics 68, no. 3 (2006): 640-656.; Chong, Dennis. "How people think, reason, and feel about rights and liberties." American journal of political science (1993): 867-899.; Chong, Dennis. "Creating common frames of reference on political issues." Political persuasion and attitude change (1996): 195-224.; Cobb, Michael D., and James H. Kuklinski. "Changing minds: Political arguments and political persuasion." American Journal of Political Science (1997): 88-121.; Druckman, James N. "The implications of framing effects for citizen competence." Political behavior 23, no. 3 (2001): 225-256.; Entman, Robert M. "Framing: Toward clarification of a fractured paradigm." Journal of communication 43, no. 4 (1993): 51-58.; Feldman, Stanley, and John Zaller. 1992. "The Political Culture of Ambivalence: Ideological Responses to the Welfare State." American Journal of Political Science 36(1): 268–307.; Iyengar, Shanto. Is anyone responsible?: How television frames political issues. University of Chicago Press, 1994.; Kuklinski, James H., and Norman L. Hurley. "On hearing and interpreting political messages: A cautionary tale of citizen cue-taking." The Journal of Politics 56, no. 3 (1994): 729-751.; Lupia, Arthur. "Who can persuade whom? Implications from the nexus of psychology and rational choice theory." (2002).; Nelson, Thomas E., Rosalee A. Clawson, and Zoe M. Oxley. "Media framing of a civil liberties conflict and its effect on tolerance." American Political Science Review 91, no. 3 (1997): 567-583.; Nelson, Thomas E., Zoe M. Oxley, and Rosalee A. Clawson. "Toward a psychology of framing effects." Political behavior 19, no. 3 (1997): 221-246.; Sniderman Paul, M., and M. Theriault Sean. "The Structure of Political Argument and the Logic of Issue Framing." International Society of Political Psychology, Amsterdam (1999).; Tversky, Amos, and Daniel Kahneman. "The framing of decisions and the psychology of choice." science 211, no. 4481 (1981): 453-458.

[4]Rabin, Matthew. "Psychology and economics." Journal of economic literature 36, no. 1 (1998): 11-46.

[5]Druckman, James N. "On the limits of framing effects: Who can frame?." Journal of Politics 63, no. 4 (2001): 1041-1066.

> firmative action due, in large part, to racial considerations (e.g., racial prejudice). When shown a reverse discrimination frame, Caucasians still oppose affirmative action; however, in this case, they base their decision on their direct interests (see Berinsky and Kinder 2000; Gross and D'Ambrosio 1999 for interesting related uses). Others focus on how different frames alter overall opinions with less explicit attention to the underlying considerations. Sniderman and Theriault (1999) find, for example, that when government spending for the poor is framed as enhancing the chance that poor people can get ahead, individuals tend to support increased spending. On the other hand, when it is framed as resulting in higher taxes, individuals tend to oppose increased spending.[6]

Nelson and Kinder (1996) offers a succinct explanation as to why framing effects exist at all.[7] They say:

> Framing is a ubiquitous feature of political discourse, but it is something else as well. Because frames permeate public discussions of politics, they in effect teach ordinary citizens how to think about and understand complex social policy problems. When frames suggest what the essence of an issue is, they provide a kind of mental recipe for preparing an opinion. Citizens are almost always in possession of a variety of considerations that might all plausibly bear on any particular issue. Many of these considerations may contradict one another, leaving citizens often confused and conflicted about where to stand (Chong 1993; Hochschild 1981). Frames help to resolve this confusion by declaring which of the many con-

[6]Kinder, Donald R., and Lynn M. Sanders. "Mimicking political debate with survey questions: The case of white opinion on affirmative action for blacks." Social cognition 8, no. 1 (1990): 73-103.; Berinsky, Adam J., and Donald R. Kinder. "Making sense of issues through media frames: Understanding the Kosovo crisis." The Journal of Politics 68, no. 3 (2006): 640-656.; Gross, Kimberly Ann, and Lisa D'Ambrosio. "Media framing, causal attribution and emotions: an experimental investigation of the framing of emotion response." In annual meeting of the American Political Science Association, Atlanta, GA, September, vol. 2, no. 5. 1999.; Sniderman Paul, M., and M. Theriault Sean. "The Structure of Political Argument and the Logic of Issue Framing." International Society of Political Psychology, Amsterdam (1999).

[7]Nelson, Thomas E., and Donald R. Kinder. "Issue frames and group-centrism in American public opinion." The Journal of Politics 58, no. 4 (1996): 1055-1078.

> siderations is relevant and important, and which should be given less attention. Elites wage a war of frames because they know that if their frame becomes the dominant way of thinking about a particular problem, then the battle for public opinion has been won (Manheim 1991; Skocpol 1994).[8]

As demonstrated above, framing can not only serve to remind people of past considerations, they can also highlight and bring to mind fundamental judgments about right, wrong, fairness, prejudice, justice, mercy, forgiveness, and equality. And this can be true in not only in a political context, but when making moral judgements ostensibly outside of the political arena. For example, philosophers have found that a particular framing of the "trolley problem", which takes place outside of any political, or policy consideration, can dramatically alter people's decision-making and expressed preferences. In the simplest version of the trolley problem, one must decide whether to pull a lever, which will divert a hypothetical trolley to save five individuals stranded on the track, but in doing so the trolley will be diverted towards one person, who will die, in order to avoid the deaths of the five. Beginning with its introduction by Foot (1967), the trolley problem has prompted a great deal of debate in philosophy and psychology (e.g. Thomson 1976; 2008; Christensen and Gomila 2012).[9] Notably, subjects are more willing to accept pulling a lever to save five at the expense of one than they are when the problem is framed differently and they are asked "push" one person in front of the oncoming trolley in order to save the five (cf. Lanteri, Chelini, and Rizzelo 2008; Greene and Haidt 2002; Waldmann and Dieterich 2007).[10] In

[8]Chong, Dennis. "How people think, reason, and feel about rights and liberties." American journal of political science (1993): 867-899.; Hochschild, Jennifer L. What's fair?: American beliefs about distributive justice. Harvard University Press, 1981.; Manheim, Jarol B. All of the people, all the time: Strategic communication and American politics. ME Sharpe, 1991.; Skocpol, Theda. 1994. "From Social Security to Health Security? Opinion and Rhetoric in U.S. Social Policy Making." PS: Political Science & Politics 27: 21-25.

[9]Foot, Philippa. "The problem of abortion and the doctrine of double effect." (1967).; Thomson, Judith Jarvis. "Killing, letting die, and the trolley problem." The Monist 59, no. 2 (1976): 204-217.; Thomson, Judith Jarvis. "Turning the trolley." Philosophy & Public Affairs 36, no. 4 (2008): 359-374.; Kahane, Guy. "Sidetracked by trolleys: Why sacrificial moral dilemmas tell us little (or nothing) about utilitarian judgment." Social neuroscience 10, no. 5 (2015): 551-560.

[10]Lanteri, Alessandro, Chiara Chelini, and Salvatore Rizzello. "An experimental investigation of emotions and reasoning in the trolley problem." Journal of Business Ethics 83, no. 4 (2008): 789-804.; Greene, Joshua,

both frames one person is dying at the behest of the person who either pulls the lever to divert the trolley or pushes the individual into the path of the trolley to save five people. However, when framing the question as a passive act (i.e. pulling a level) versus a dynamic action (i.e. pushing the individual), people respond quite differently.

In the context of ballot initiatives and referenda, past research has found that small changes in the presentation (or frame) of a ballot question can change the expressed opinion of voters. These biases can depend on specific word choices (Schuldt et al., 2011) or the complexity of ballot wordings (Reilly and Richey, 2009).[11] The magnitude of these framing effects is also influenced by the knowledge and information the individual already has about the issue (Hobolt, 2009).[12] Much of the status quo literature attaches the bias to risk aversion or uncertainty, where voters are hesitant to approve a change in policy that they have little information about, or that has uncertain consequences for the voter or society at large. Chong and Druckman (2007) further argue that the influence of framing effects is dependent on the strength and repetition of the frame, individual motivations, and the amount of information and risk involved in the decision.[13]

In his study of direct legislation (including initiatives and referenda) Magleby (1984) discusses the importance of framing the initiative in a way that will garner the largest support from the public. On this topic he says, "A successful ballot proposition campaign sets out to define the measure in such a way as to increase the chances of victory on election day. By deciding which issues to raise and on which themes to focus, each side seeks to structure the debate. In the absence of the party cue, voters are more dependent on the two sides to

and Jonathan Haidt. "How (and where) does moral judgment work?." Trends in cognitive sciences 6, no. 12 (2002): 517-523.; Waldmann, Michael R., and Jörn H. Dieterich. "Throwing a bomb on a person versus throwing a person on a bomb: Intervention myopia in moral intuitions." Psychological Science 18, no. 3 (2007): 247-253.

[11]Schuldt, Jonathon P., Sara H. Konrath, and Norbert Schwarz. ""Global warming" or "climate change"? Whether the planet is warming depends on question wording." Public opinion quarterly 75, no. 1 (2011): 115-124.; Reilly, Shauna, and Sean Richey. "Ballot question readability and roll-off: The impact of language complexity." Political Research Quarterly 64, no. 1 (2011): 59-67.

[12]Hobolt, Sara Binzer. "Framing Effects in Referendums on European Integration: Experimental Evidence." (2009).

[13]Chong, Dennis, and James N. Druckman. "A theory of framing and opinion formation in competitive elite environments." Journal of communication 57, no. 1 (2007): 99-118.

simplify the choice and help organize the electoral decision[14] (pg. 168)." He includes many different examples of direct legislation in California, which is known for its large number of citizens initiatives, constitutional amendments, and referenda. With reference to messaging about the initiative, he states, "The battle over defining the proposition is one of the most important aspects of initiative politics. It is not uncommon in a statewide initiative campaign for the campaign to focus on only a very small part of the proposition (pg. 168)."

Barber et al. (2017) show using a survey experiment that ballot initiative language can have large impacts on support for the proposal. In this study, the authors asked respondents their view on five different hypothetical initiatives across different policy areas[15]. Respondents were randomly grouped into three categories. The first group was asked whether or not they supported the initiative in question with no additional information. The second group was asked if they supported the initiative, but these individuals were told that supporting the initiative would remove a pre-existing right from the impacted group (i.e. removing the right to marry from gay couples). The third group was asked if they supported the initiative and were informed that support for the initiative would extend rights to more individuals (i.e. extending the right to marry to gay couples). While in all three cases people were asked if they supported the initiative, those who were in the "remove rights" group were less likely to be in favor of the initiative. As the authors state, "[W]e find that voters are affected by small changes in the framing of ballot initiatives. We find that status quo bias can change the share of voters supporting a policy by up to eight percentage points and this effect is concentrated among less informed voters. Since many elections are decided by narrow margins, the estimated magnitude of the effect in this paper could potentially be enough to change the outcome of ballot initiatives. Therefore, policy makers and issue advocacy groups should consider carefully the ballot language and the amount of information

[14]Magleby, David B. Direct legislation: Voting on ballot propositions in the United States. Johns Hopkins University Press, 1984.

[15]The five policies were same-sex marriage, voting rights for the mentally ill, Indian gambling, same day voter registration, and medical marijuana. Barber, Michael, David Gordon, Ryan Hill, and Joseph Price. "Status Quo Bias in Ballot Wording." Journal of Experimental Political Science 4, no. 2 (2017): 151-160.

that is presented to voters at the polls (pg. 158)."

Similar studies have found that small changes in initiative language can sway support one way or the other. For example, statewide initiatives involving gay marriage (Hastings ad Cann 2014), voter ID laws (Burnett and Kogan 2015), education policy (Moses and Farley 2011), taxes (Binder, Childers, and Johnson 2015), and the environment (Deborah 2001), among other policies.[16]

4 Examples of Disagreements about Ballot Language

Several recent ballot initiatives illustrate the way in which proponents care deeply about how the initiative is framed on the ballot. For example, in 2008, proponents of Proposition 8 in California, which placed a prohibition on same-sex marriages into the California constitution, were upset that the attorney general, who ultimately controls the content of the ballot, placed the initiative on the ballot with the description, "eliminates right of same-sex couples to marry." Proponents of the amendment had collected signatures to place the measure on the ballot using the much different description that the initiative would "provide that only marriage between a man and a woman is valid or recognized in California." Proponents of the initiative went to court over the change, but ultimately lost.[17]

A similar situation occurred in Washington state in 2018 over an initiative that would have placed a tax on carbon. I-1631 proponents were careful to frame the initiative by avoiding the use of the word "tax". Carbon Washington, one of the groups who worked in support of I-1631, said of this decision, "I-1631 is different from the other two approaches

[16]Burnett, Craig M., and Vladimir Kogan. "When does ballot language influence voter choices? Evidence from a survey experiment." Political Communication 32, no. 1 (2015): 109-126. Hastings, Jeff, and Damon Cann. "Ballot titles and voter decision making on ballot questions." State and Local Government Review 46, no. 2 (2014): 118-127. Moses, Michele S., and Amy N. Farley. "Are ballot initiatives a good way to make education policy? The case of affirmative action." Educational Studies 47, no. 3 (2011): 260-279. Binder, Michael, Matthew Childers, and Natalie Johnson. "Campaigns and the mitigation of framing effects on voting behavior: A natural and field experiment." Political Behavior 37, no. 3 (2015): 703-722. Deborah, Lynn Guber. "Environmental Voting in the American States: A Tale of Two Initiatives." State and Local Government Review 33, no. 2 (August 2001): 120–32.

[17]`https://oag.ca.gov/system/files/attachments/press_releases/n1597_ruling_on_proposition_8.pdf`

in that it is structured as a 'fee', rather than a 'tax.' A fee has the political benefit of avoiding the dreaded "t" word — tax. More importantly, a 'fee' legal structure limits the uses of revenue from the policy to addressing carbon/pollution issues, not broader issues like rural economic development (as in 6203) or tax reform (as in I-732). However, from a pricing perspective, the difference between a fee and tax is not so important.[18]" This perfectly illustrates the importance of framing. While, by their own admission, the outcome is essentially the same, structuring the initiative as a fee rather than a tax was seen to have important political benefits to the initiatives success.[19] Again, the issue went to court[20] with the court siding with proponents of the initiative, allowing it to be described as a pollution fee rather than a tax.[21]

5 How Campaigns Test Potential Ballot Language

Given that small differences in ballot initiative language can have substantial impacts on the outcome of an initiative, campaigns invest significant time and attention towards understanding which framing will yield the largest support, working to ensure that language is used on the official ballot and voter guides, and then campaigning to the public using that particular frame. This is also true for candidates, parties, and interest groups that are all deciding how to frame the policies they are either in favor of or opposed to. A contemporary example from an organization that often does message testing for political issues helps illustrate the point.

Data for Progress, a liberal leaning interest group, provides an excellent example of how typical message testing takes place. They recently released two different policy memos detailing message testing for a variety of components of the "Green New Deal," and "Medi-

[18] https://carbonwa.org/1631-compare-recent-carbon-pricing-proposals-washington-state/

[19] The initiative did not ultimately pass, however, we are not able to observe the counterfactual outcome in which the word tax, rather than fee, is used.

[20] https://www.wethegoverned.com/wp-content/uploads/2018/03/Petition-Ballot-title-Challenge-Mar-26-18.pdf

[21] https://www.sos.wa.gov/_assets/elections/initiatives/ballottitleletter_1482.pdf

care for All", two large policy proposals being debated among the current 2020 Democratic presidential candidates as well as among elected officials in Congress more generally. In each memo, they note a variety of methods used in their research. In researching messaging for the "Green New Deal", they held a series of focus groups to hear voters positive and negative reactions to a variety of policies and messages about those policies.[22] For example, they describe showing respondents ten different elements of the Green New Deal and asked them to rank them according to their preferences. In their memo discussing Medicare for All they describe a series of survey experiments in which various positive and negative components of the policy are shown to voters to gauge which arguments in favor and against the policy moved voters the most. They find, "A wide range of polling data as well as the electoral record of the 2018 midterms suggest that Medicare for All does not threaten the Democratic Party's electoral chances. Even when voters are presented with arguments for and against Medicare for All, they support the policy. A hypothetical Democratic candidate running on Medicare for All leads Trump, even with three separate Trump arguments tested[23] (pg. 5)" These example reports are attached to the end of this report as Appendices B and C.

While this case is about Amendment 4 in Florida, which is not topically related to the Green New Deal or Medicare for All, the efforts taken by Data for Progress illustrate common ways in which groups work to home in on the most persuasive and popular messaging for their campaigns. Furthermore, in the next section I discuss similar message testing by the Amendment 4 campaign. The materials discussed below closely resemble the types of message testing shown here and are common when refining both a campaign for or against a policy agenda or ballot initiative.

[22] http://filesforprogress.org/memos/green_new_deal_messaging.pdf
[23] http://filesforprogress.org/memos/medicare_for_all.pdf

6 Message Testing of Amendment 4 in Florida

Several exhibits from the deposition of Desmond Meade show that similar message testing took place in the lead up to and during the campaign for Amendment 4 in Florida. I will describe each exhibit and how it shows either the method by which message testing took place or the results of such testing. I will consider each exhibit in turn in the order in which they were filed.

Exhibit 4 (See Appendix B in this report) is titled "Florida Rights Restoration Research Briefing" and contains information suggesting that various early (the slide is dated September 2, 2014, more than four years before the Amendment was to be voted on) message testing took place to see how different framing of the future proposition could increase support for Amendment 4. The third slide, titled "What do people think right now?" shows results from a survey in which there appears to be initial support for restoration of voting rights after release from incarceration of 42% while the second bullet shows that different messaging that includes "completion of all sentence terms including restoration" increases support to 47%. The inclusion of fines and fees as part of the restitution process is clearly a part of the early message testing as the final slide notes pros and cons of this particular formulation of the early amendment language. Under "Full Sentence Pros," the presentation notes that the amendment language polls higher, while under "Full sentence cons," the presentation reflects on how the more restrictive language, while garnering more popular support, "restores voting rights to less people" and may have a "disparate impact on the poor" because of the possible inability to "pay fines and restitution." There are two important points to take from this slide. First, the presentation suggests that the particular language and scope of the Amendment was in development many years prior to the actual vote in 2018 and the payment of fines and fees was clearly a part of that internal debate. Second, the presentation suggests that proponents of the bill considered the phrase "completion of the whole sentence" included fines and fees since they note the two together in their discussion of the pros and cons of including this language in the future ballot initiative text.

Exhibit 5 is titled "Voting Restoration Amendment Telephone Survey March 2017" and contains information about a telephone survey conducted between March 21st and March 30th, 2017 of likely 2018 and 2020 voters in Florida. How voters were deemed "likely" to vote is unclear, but campaigns and research groups frequently use statistical models of voting to predict people's likelihood of turning out to vote[24] The survey included 1,005 interviews, which is typical for a public opinion survey so as to produce a margin of error around 3%, which is also reported on the slide.

The two slides that are titled "Supporter Messaging" appear to show the results of a variety of different messages that were read to respondents regarding Amendment 4. The bottom of the second "Supporter Messaging" slide shows the question text that was read to respondents: "Next I'd like to read you statements from people who support the Voting Restoration Amendment. After each one, please tell me how convincing that statement is as a reason to vote for the amendment - very convincing, somewhat convincing, not too convincing, or not at all convincing." The first "Supporter Messaging" slide then shows the different statements that were read to people. For example, the first statement, abbreviated as "Second chances and forgiveness" reads: "Americans believe in second chances and that people can earn forgiveness. Restoring a person's ability to vote is the right thing to do for those who have turned their life around and have become contributing members of their communities." The second statement, abbreviated "Do not vote during sentence" reads: "Under this amendment, people who commit felonies do not have the opportunity to vote while they serve their sentence, but one they have completed their entire sentence, including probation, parole, *and pail all fines*, they have earned back the right to vote again (emphasis added)." Clearly, the payment of fines and fees was a part of this particular message among six different messages presented to respondents.

The following slide shows the results of reading these six messages to respondents.

[24]See Barber, Michael J., Christopher B. Mann, J. Quin Monson, and Kelly D. Patterson. "Online polls and registration-based sampling: A new method for pre-election polling." Political Analysis 22, no. 3 (2014): 321-335.

Respondents reacted favorably to the "Do not vote during sentence" messages, which contained the reference to the payment of fines, with 75% of them providing either a "very convincing" or "somewhat convincing" response.

Exhibit 6 shows summary results from a variety of different surveys and focus groups that took place in 2013 and 2014. The section titled "Phase 1" describes the results of a survey of 507 registered likely 2016 voters conducted in October 2013. The subheading "Results and Analysis" present proportions in support or opposition of potential voter restoration petition language with larger support when "all sentence terms (probation and parole), and including (fees, fines, community service, etc.)" is included. It appears support increased from 42% to 47% in these two versions of the question.

The second titled "Phase III" shows summary results from a different survey conducted in August 2014 of 816 registered voters. The "Results & Analysis" section describes the outcomes from a few of the different messages tested in the survey. The document specifically refers to "#3 language" and "#5" language". The text of "#5 language" reads "The amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence include [sic] probation and parole." The next bullet point discusses the approval among voters for "two carve outs of murder and sexual offenses (64% approve, 22% disagree, 13% undecided). Those convicted of murder or who are convicted sexual offenders would continue to be barred from voting unless the Governor and cabinet restore their voting right on an individual case by case basis." Interestingly these two messages together essentially comprise the exact wording of the final ballot initiative.[25]

The bullet point titled "Strategic Imperatives" provides a summary of the message testing. A key sentence under this bullet is "This is the first way to preempt the oppositions strongest message against the amendment." As I discussed in the earlier section of this report, proponents and opponents of ballot initiatives invest heavily in trying to frame the initiative in a way that is most beneficial to their desired outcome. This exhibit shows

[25] See `https://dos.myflorida.com/media/699824/constitutional-amendments-2018-general-election-english.pdf` and `https://ballotpedia.org/Florida_official_sample_ballots,_2018`

exactly the type of message testing that groups regularly engage in.

And while it is impossible to determine exactly what did and did not impact an electoral outcome—and by how much—it is nevertheless possible to provide estimates of the likely impact of different variables using social science methods statistical inference[26]. An ideal method for estimating the causal impact of a particular treatment (in this case particular ballot language), is through random assignment. By randomizing the presence or absence of particular ballot language, we can be assured that any differences we observe are due to the treatment's presence rather than other variables that may correlate with voters' expressed preferences on the amendment in question. Barber et. al (2017) summarizes this principle well, "One of the challenges with using naturally occurring variation in the wording of different ballot measures is that it is heavily influenced by the political culture of the state and incumbent government. Differences in election outcomes across wording choices may reflect differences in unobserved characteristics across states rather than a causal effect of the wording choice. Since randomly assigning ballot wording is infeasible in real elections, we instead approximate the voting experience through a randomized survey experiment[27]." The materials in Exhibits 4-7 demonstrate a version of this method by showing respondents potential ballot language and gauging their support for the initiative depending on which potential language they are shown. Exhibit 4 shows that "Voters are divided initially on restoration of voting rights after release from incarceration (42%/ 40%, with 18% undecided) We increase our margin (47% 34%, with 19% undecided) when support increases for a version that includes completion of all sentence terms including restitution." This shows the inclusion of "completion of all sentence terms including restitution appears to increase support by about 5 percentage points. Similar results are shown in Exhibit 6 in the Phase III section. Here we see "70% with #3 language 'The amendment restores the voting rights of Floridians with felony convictions after they complete their time in prison' and 77% with #5

[26]Angrist, Joshua D., and Jörn-Steffen Pischke. Mostly harmless econometrics: An empiricist's companion. Princeton university press, 2008.

[27]Barber, Michael, David Gordon, Ryan Hill, and Joseph Price. "Status Quo Bias in Ballot Wording." Journal of Experimental Political Science 4, no. 2 (2017): 151-160.

'The amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence include probation and parole' - a cautiously optimistic path to victory is starting to emerge." Here it appears that the inclusion of "all terms of their sentence include probation and parole" increased support by approximately 7 percentage points. Given that Amendment 4 passed with just under 65% of the voter's support and needed to reach a threshold of 60% under the Florida constitution, it is likely that the particular inclusion of this language was pivotal to the passage of the amendment.[28]

While the above materials show that significant message testing took place in the years leading up to the 2018 campaign for Amendment 4 a natural question is whether or not this testing was used in the actual campaign materials. If the proponents of the amendment spent years of time developing the most persuasive message, we would then expect them to stick to that message in their campaign to the voters. Several materials from the campaign show this to be the case.

In an article published on Vox.com, Susanne Manning, a probationer with the Florida Rights Restoration Coalition is quoted about who exactly Amendment 4 will impact. She says Amendment 4 "is going to affect people who have been waiting forever," she said. "People who have done their time. People who have finished their sentence, done their probation, paid their court costs, paid their fines, paid their restitution — and have still been waiting." Similarly, in the same article Desmond Meade, president of the Florida Rights Restoration Coalition, said of the Amendment "At the end of the day, when a debt is paid, it's paid.[29]" These public statements, which hue closely to the different messages noted in the various message testing materials discussed above, clearly refer to the payment of dues, including court costs, fines, and restitution.

[28]Statistics is never 100% certain of anything, but we can place bounds of certainty on our estimates. In this case, the estimates presented in Exhibit 4 do not contain information necessary to create a margin of error, which quantifies our uncertainty. Exhibit 6 does tell us the survey contained 816 respondents, which would leave a margin of error of 4.26%, indicating that we are 95% confident the impact of the change in ballot language is between 2.7% and 11.3% with our best estimate being a 7 percentage point difference.

[29]https://www.vox.com/policy-and-politics/2018/10/17/17978502/florida-amendment-4-felons-vote-disenfranchisement, accessed March 1, 2020.

Similarly, an email sent by Howard Simon, president of the Florida American Civil Liberties Union of Florida, on February 11, 2018 to members of the ACLU as well as the Florida Rights Restoration Coalition, including Desmond Meade, discussed particular messaging that the campaign had decided to use and how that messaging would impact the estimated number of former felons eligible for reenfranchisement (See Appendix C in this report). In addition to coordinating on messaging during the campaign, the ACLU of Florida contributed more than $300,000 in the 2018 election cycle to Floridians for a Fair Democracy, the political action committee sponsoring the Amendment that is chaired by Desmond Meade. The national ACLU also contributed more than $5,000,000 toward the campaign[30] (See Appendix F). In the email he states, "We have been concerned that several speakers and organizational allies (as well as the press) have been using different numbers for the returning citizens who could be affected when Amendment 4 is approved by the voters." He continues by noting the need to adhere to messaging that has been shown (in the materials discussed earlier in this section, see Appendix B) to increase public support for the Amendment. "Not only might this make the campaign look disorganized, but more importantly, by using a number that reflects the entire population of people with felony convictions, we could be inadvertently supporting the narrative that the ballot issue is about (as some in the media have characterized it) "felons voting" or "voting rights for felons," *rather than the narrative we want to advance – 2nd chances for those who have successfully completed the terms of their sentence and, thereby, should be able to fully participate in their community* (emphasis added)." He then lists many of the particular groups noted in the message testing materials that, when included or excluded, increased support for the Amendment, stating "From that number [total Florida disfranchised population in 2016] we need to deduct the following groups: (1) those convicted of murder or a felony sex offense (2) those currently

[30]While Florida does have contribution limits for political candidates, there are no limits on the amount of money an individual or organization can contribute to a ballot initiative campaign. See: Barber, Michael J. "Ideological donors, contribution limits, and the polarization of American legislatures." The Journal of Politics 78, no. 1 (2016): 296-310 and `https://ballotpedia.org/Campaign_finance_requirements_in_Florida`

incarcerated in prison (3) those serving a felony sentence in a county jail (4) those currently under felony probation or parole supervision (5) those who have not paid fees or fines (6) those who have not paid court mandated victim restitution." This email from Howard Simon shows that as part of the internal discussions among proponents of Amendment 4, it was important to them to stay focused on the most popular components of the Amendment. We know that these were some of the most popular components of the Amendment because the internal message testing discussed earlier shows the change in public support when each of these component parts is included or excluded from the ballot language. For example, Exhibit 6 of the Meade deposition notes, "Two carve outs of murder and sexual offenses (64% approve, 22% disagree, 13% undecided)." Regarding those currently incarcerated (points 2 and 3 in the email message above), Exhibit 6 of the Meade deposition states, "70% with #3 language 'The amendment restores the voting rights of Floridians with felony convictions after they complete their time in prison"' Points 4 through 6 in the Simon email regarding probation, parole, and the payment of fines and fees as part of completion of the entire sentence and restitution is noted in the messaging material, particularly in Exhibit 6 when it states, "77% with #5 'The amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence include [sic] probation and parole' - a cautiously optimistic path to victory is starting to emerge."

An opinion editorial written prior to the 2018 vote on Amendment 4 by Reggie Garcia, a clemency lawyer and an expert in clemency and parole cases in Florida, shows that the campaign was framing the Amendment to the public to include the payment of fines and fees in addition to the completion of incarceration and any parole and probation. The articles states, "To be eligible, these felons must complete 'all terms of sentence including parole or probation.' That means they would have paid restitution, court costs and fees, and completed community service, house arrest, jail, and/or prison sentences, plus any other special conditions of parole or probation." Again we see that the public messaging adhered closely to that which polled most positively in the message testing prior to the

campaign, which included the payment of fines and fees as part of the completion of their entire sentence[31].

While these examples all took place prior to the passage of Amendment 4 in November 2018, there is also ample material from after its passage confirming that the proponents of the Amendment thought that fines and fees were included in the ballot language. For example, an ACLU letter sent on December 13, 2018 to then Florida Secretary of State Drezner continues to include the payment of fines as a component part of the completion of one's sentence to be eligible for reenfranchisement. They state, "The phrase 'completion of all terms of sentence' includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual's sentence. These financial obligations may include restitution and fines, imposed as part of a sentence or a condition of probation under existing Florida statute. Fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register (See Appendix D in this report)."

Similar statements are made in later emails from the ACLU of Florida in cooperation with other organizations, including the FRRC. In a letter sent on January 21, 2019 to the Florida Senate Criminal Justice Committee by the ACLU of Florida says, "[T]he clear and unambiguous language states that all *terms of their sentence* must be completed. Thus, if there is a financial obligation that is explicitly a *term of the sentence*, such obligation would need to be satisfied prior to automatic restoration of voting rights. In contrast, fees and fines that are not explicit terms of the sentence would not need to be satisfied before an individual's voting rights are restored (emphasis in original, see Appendix D in this report)." A later email sent by the ACLU of Florida in conjunction with a number of other groups,

[31]The op-ed appeared in a number of Florida newspapers, including the Miami Herald, Tampa Bay Times, and Tallahassee Democrat: https://www.miamiherald.com/opinion/op-ed/article219954405.html; https://floridapolitics.com/archives/274850-reggie-garcia-amendment-4-will-save-taxpayers-money-give-felons-a-second-chance; https://www.tampabay.com/opinion/columns/column-amendment-4-will-save-taxpayers-money-and-give-felons-a-second-chance-20180921/; https://www.tallahassee.com/story/opinion/2018/09/18/florida-amendment-4-save-money-give-felons-chance-opinion/1343670002/

including the Florida Rights Restoration Coalition, on March 11, 2019 to Florida Secretary of State Lee states, "We understand a sentence may include monetary obligations such as restitution, fines, and fees imposed as part of a sentence under existing Florida statute. Monetary obligations not specifically identified as part of a sentence need not be discharged before 'completion of sentence."'

After hearing arguments on this case, the Florida Supreme Court held the belief that Amendment 4's language included the payment of fines and fees. In their January 2020 decision, the advisory opinion states, "It is beyond dispute that the Sponsor expressed the intention that "all terms of sentence" include all LFOs ordered by the sentencing judge (pg. 11, Appendix E)." So while there appears to be some disagreement about the payment of fines and fees outside of those mandated as part of a sentence, there seems to be unanimous agreement between the ACLU, FRRC, and the Florida Supreme Court that payment of fines and fees included in the term of the sentence appear to be required before the voter is reenfranchised under Amendment 4.

7 Conclusion

Decades of scholarly research shows that voters can be influenced by framing effects on a variety of issues, policies, and even non-political considerations. Research shows that these framing effects occur in ballot initiatives and referenda as well. Given this, supporters and opponents of ballot initiatives spend a significant amount of time and money testing various messages to find those that are the most persuasive in either direction. Furthermore, they work hard to ensure that the particular title, language, and description of the initiative includes the messages that they have found to be most persuasive. These messages are also used throughout the campaign leading up to the election. I provided two particular examples, one in California and one in Washington State in which proponents and opponents of the initiative felt the particular wording of the initiative was so important as to warrant going to

court in an effort to change it. I then showed an example of a group that frequently message tests different policies and issues as an example of the type of data these groups collect to decide on what framing will have the largest impact and be most persuasive. These include both focus groups and polling in which respondents are asked their view on a variety of possible messages connected to the issue at hand. Finally, I discussed several exhibits from the deposition of Desmond Meade that show similar message testing by the Amendment 4 campaign prior to the 2018 election in which Amendment 4 passed in Florida. The exhibits show both focus group work and multiple rounds of polling across a number of years to refine their message, which eventually led to the particular language used in the ballot initiative. From those materials, it is clear that a discussion of the "completion of the whole sentence" and "paid all fines" was a part of the message testing process for the campaign, and that proponents of Amendment 4 conveyed this to the public as part of their campaign to pass the initiative. Furthermore, their quantitative analysis suggests that the inclusion of this provision was instrumental in garnering enough public support for the initiative to pass the 60% threshold needed to enact a constitutional amendment in Florida.

Appendix A - curriculum vitae

Michael Jay Barber

CONTACT INFORMATION

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Provo, UT 84602

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http://michaeljaybarber.com
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ACADEMIC APPOINTMENTS

Brigham Young University, Provo, UT

2014 - present Assistant Professor, Department of Political Science
2014 - present Faculty Scholar, Center for the Study of Elections and Democracy

EDUCATION

Princeton University Department of Politics, Princeton, NJ

Ph.D., Politics, July 2014

- Advisors: Brandice Canes-Wrone, Nolan McCarty, and Kosuke Imai
- Dissertation: "Buying Representation: the Incentives, Ideology, and Influence of Campaign Contributions on American Politics"
- 2015 Carl Albert Award for Best Dissertation, Legislative Studies Section, American Political Science Association (APSA)

M.A., Politics, December 2011

Brigham Young University, Provo, UT

B.A., International Relations - Political Economy Focus, April, 2008

- *Cum Laude*

RESEARCH INTERESTS

American politics, congressional polarization, political ideology, campaign finance, survey research

PUBLICATIONS

15. **"Campaign Contributions and Donors' Policy Agreement with Presidential Candidates"**, with Brandice Canes-Wrone and Sharece Thrower
Forthcoming at *Presidential Studies Quarterly*
14. **"Issue Politicization and Interest Group Campaign Contribution Strategies"**, with Mandi Eatough
Forthcoming at *Journal of Politics*
13. **"Conservatism in the Era of Trump"**, with Jeremy Pope
Forthcoming at *Perspectives on Politics*
12. **"Legislative Constraints on Executive Unilateralism in Separation of Powers Systems"**, with Alex Bolton and Sharece Thrower
Forthcoming at *Legislative Studies Quarterly*
11. **"Electoral Competitiveness and Legislative Productivity"**, with Soren Schmidt
Forthcoming at *American Politics Research*

10. **"Does Party Trump Ideology? Disentangling Party and Ideology in America"**, with Jeremy Pope
American Political Science Review, 2019, 113 (1) 38–54
9. **"The Evolution of National Constitutions"**, with Scott Abramson
Quarterly Journal of Political Science, 2019, Vol. 14, No. 1: 89–114
8. **"Who is Ideological? Measuring Ideological Responses to Policy Questions in the American Public"**, with Jeremy Pope
The Forum: A Journal of Applied Research in Contemporary Politics, 2018, 16 (1) 97–122
7. **"Status Quo Bias in Ballot Wording"**, with David Gordon, Ryan Hill, and Joe Price
The Journal of Experimental Political Science, 2017, 4 (2) 151–160.
6. **"Ideologically Sophisticated Donors: Which Candidates Do Individual Contributors Finance?"**, with Brandice Canes-Wrone and Sharece Thrower
American Journal of Political Science, 2017, 61 (2) 271–288.
5. **"Gender Inequalities in Campaign Finance: A Regression Discontinuity Design"**, with Daniel Butler and Jessica Preece
Quarterly Journal of Political Science, 2016, Vol. 11, No. 2: 219–248.
4. **"Representing the Preferences of Donors, Partisans, and Voters in the U.S. Senate"**
Public Opinion Quarterly, 2016, 80: 225–249.
3. **"Donation Motivations: Testing Theories of Access and Ideology"**
Political Research Quarterly, 2016, 69 (1) 148–160.
2. **"Ideological Donors, Contribution Limits, and the Polarization of State Legislatures"**
Journal of Politics, 2016, 78 (1) 296–310.
1. **"Online Polls and Registration Based Sampling: A New Method for Pre-Election Polling"** with Quin Monson, Kelly Patterson and Chris Mann.
Political Analysis 2014, 22 (3) 321–335.
0. **"Causes and Consequences of Political Polarization"** In *Negotiating Agreement in Politics*. Jane Mansbridge and Cathie Jo Martin, eds., Washington, DC: American Political Science Association: 19–53. with Nolan McCarty. 2013.

- Reprinted in *Solutions to Political Polarization in America*, Cambridge University Press. Nate Persily, eds. 2015
- Reprinted in *Political Negotiation: A Handbook*, Brookings Institution Press. Jane Mansbridge and Cathie Jo Martin, eds. 2015

Available Working Papers

"A Revolution of Rights in American Founding Documents"
with Scott Abramson and Jeremy Pope (Under Review)

"Ideology as a Second Language"
with Jeremy Pope

"Ideological Disagreement and Pre-emption in Municipal Policymaking"
with Adam Dynes

"Estimating Neighborhood Effects on Turnout from Geocoded Voter Registration Records."
with Kosuke Imai

Works in Progress

"Who's the Partisan: Are Issues or Groups More Important to Partisanship?"
with Jeremy Pope

"Super PAC contributions in Congressional Elections"

"Preferences for Representational Styles in the American Public"
with Ryan Davis and Adam Dynes

"Partisanship and Trolleyology"
with Ryan Davis

Invited Presentations

"Are Mormons Breaking Up with Republicanism? The Unique Political Behavior of Mormons in the 2016 Presidential Election"

- Ivy League LDS Student Association Conference - Princeton University, November 2018, Princeton, NJ

"Issue Politicization and Access-Oriented Giving: A Theory of PAC Contribution Behavior"

- Vanderbilt University, May 2017, Nashville, TN

"Lost in Issue Space? Measuring Levels of Ideology in the American Public"

- Yale University, April 2016, New Haven, CT

"The Incentives, Ideology, and Influence of Campaign Donors in American Politics"

- University of Oklahoma, April 2016, Norman, OK

"Lost in Issue Space? Measuring Levels of Ideology in the American Public"

- University of Wisconsin - Madison, February 2016, Madison, WI

"Polarization and Campaign Contributors: Motivations, Ideology, and Policy"

- Hewlett Foundation Conference on Lobbying and Campaign Finance, October 2014, Palo Alto, CA

"Ideological Donors, Contribution Limits, and the Polarization of State Legislatures"

- Bipartisan Policy Center Meeting on Party Polarization and Campaign Finance, September 2014, Washington, DC

"Representing the Preferences of Donors, Partisans, and Voters in the U.S. Senate"

- Yale Center for the Study of American Politics Conference, May 2014, New Haven, CT

Conference Presentations

Washington D.C. Political Economy Conference (PECO):

- 2017 discussant

American Political Science Association (APSA) Annual Meeting:

- 2014 participant and discussant, 2015 participant, 2016 participant, 2017 participant, 2018 participant

Midwest Political Science Association (MPSA) Annual Meeting:

- 2015 participant and discussant, 2016 participant and discussant, 2018 participant

Southern Political Science Association (SPSA) Annual Meeting:

- 2015 participant and discussant, 2016 participant and discussant, 2017 participant

Teaching Experience

Poli 315: Congress and the Legislative Process

- Fall 2014, Winter 2015, Fall 2015, Winter 2016, Summer 2017

Poli 328: Quantitative Analysis

- Winter 2017, Fall 2017

Poli 410: Undergraduate Research Seminar in American Politics

- Fall 2014, Winter 2015, Fall 2015, Winter 2016, Summer 2017

Awards and Grants

2019 BYU Mentored Environment Grant (MEG), American Ideology Project, $30,000

2017 BYU Political Science Teacher of the Year Award

2017 BYU Mentored Environment Grant (MEG), Funding American Democracy Project, $20,000

2016 BYU Political Science Department, Political Ideology and President Trump (with Jeremy Pope), $7,500

2016 BYU Office of Research and Creative Activities (ORCA) Student Mentored Grant x 3

- Hayden Galloway, Jennica Peterson, Rebecca Shuel

2015 BYU Office of Research and Creative Activities (ORCA) Student Mentored Grant x 3

- Michael-Sean Covey, Hayden Galloway, Sean Stephenson

2015 BYU Student Experiential Learning Grant, American Founding Comparative Constitutions Project (with Jeremy Pope), $9,000

2015 BYU Social Science College Research Grant, $5,000

2014 BYU Political Science Department, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), $3,000

2014 BYU Social Science College Award, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), $3,000

2014 BYU Center for the Study of Elections and Democracy, 2014 Washington DC Mayoral Pre-Election Poll (with Quin Monson and Kelly Patterson), $2,000

2012 Princeton Center for the Study of Democratic Politics Dissertation Improvement Grant, $5,000

2011 Princeton Mamdouha S. Bobst Center for Peace and Justice Dissertation Research Grant, $5,000

2011 Princeton Political Economy Research Grant, $1,500

Other Scholarly Activities

Expert Witness in NANCY CAROLA JACOBSON, et al., Plaintiffs, vs. LAUREL M. LEE, et al., Defendants. Case No. 4:18-cv-00262 MW-CAS (U.S. District Court for the Northern District of Florida)

Expert Witness in COMMON CAUSE, et al., Plaintiffs, vs. LEWIS, et al., Defendants. Case No. 18-CVS-14001 (Wake County, North Carolina)

Expert Witness in Kelvin Jones, et al., Plaintiffs, v. Ron DeSantis, et al., Defendants, Consolidated Case No. 4:19-cv-300 (U.S. District Court for the Northern District of Florida)

Additional Training

EITM 2012 at Princeton University - Participant and Graduate Student Coordinator

Computer Skills

Statistical Programs: R, Stata, SPSS, parallel computing

Updated December 26, 2019

Appendix B - Exhibits from Deposition of Desmond Meade

Florida Rights Restoration Research Briefing September 2, 2014

HAMILTON CAMPAIGNS

Faith in Florida
Unlocking the Power of People

BRENNAN CENTER FOR JUSTICE

EXHIBIT 4
Desmond Meade
Date: January 14, 2020
REPORTER: NINETTE BUTLER
RPR, CRR, CRC, RSA, FPR

POP Agenda

- **Purpose:**
  - To summarize campaign progress to-date and discuss immediate next steps.
- **Outcomes:**
  - Present research highlights to-date and recommendations on policy choices to test of final phase of research;
  - Present the pros and cons of our options moving forward;
  - Answer questions and get feedback from stakeholders.
- **Process:**
  - 10:00am: Welcome & Review of Agenda (*Desmond*)
  - 10:05am: Campaign Summary & Research Highlights (*Mila Al-Ayoubi*)
  - 10:15pm: Hamilton Campaigns Recent Findings (*Dave Beattie*)
  - 10:30am: Weighing Our Options (*Myrna Perez*)
  - 10:40am: Group Q & A (*Desmond Meade*)
  - 11:00am: Adjourn

What do the people think right now?

- Voters are divided initially on restoration of voting rights after release from incarceration **(42%/40%, with 18% undecided)**
- We increase our margin **(47%/34%, with 19% undecided)** when support increases for a version that includes completion of all sentence terms including restitution.
- The increase in support when all sentence terms are specified occurs mainly among Democrats, boosting their support from **55% to 70%.**

What do the people think right now?

Focus Group Key Findings:

- Ballot summary language that presents both sides of punishing someone when they are convicted of a crime, and restoring the right to vote after they have completed their sentence, was the preferred formulation for respondents in these focus groups.

- We cannot rebrand the term felony. A felony is a serious crime to voters and we need our messaging and communications to reflect that.

What do the people think right now?

Focus Group Key Findings:

- Two consistent questions about the ballot summaries were raised by participants in every group:

1. Does the return of voting rights apply to all felons, regardless of the crime?

2. Does the return of the right to vote apply after prison time or after completion of the whole sentence?

Weighing our options?

Pros and Cons of Policy Choices:

- Full sentence pros
  - Cleaner language
  - Polls higher
  - Reduces post passage backlash
  - Less opposition arguments
- Full sentence cons
  - Disparate impact on the poor – unable to pay fines and restitution
  - Restores voting rights to less people
- Post time served pros
  - Restores voting rights to more impacted people More people get their voting rights faster
- Post time served cons
  - Harder fight to win 60% + 1% approval
  - Opposition can use "didn't pay back full debt" argument

EMC RESEARCH
MARKET & OPINION RESEARCH SERVICES

NORTH STAR OPINION RESEARCH

Voting Restoration Amendment Telephone Survey March 2017

Methodology

- Telephone survey of likely November 2020 voters in the State of Florida
- Survey conducted March 21st – 30th, 2017
- 1,005 total interviews
  - Likely 2020 Voters n=1,005, margin of error: ± 3.1%
  - Likely 2018 Voters n=750, margin of error: ± 3.6%
- Interviews conducted by trained, professional interviewers, and included cellphones and landlines

Please note that due to rounding, some percentages may not add up to exactly 100%.

EMC RESEARCH
MARKET & OPINION RESEARCH SERVICES

NORTH STAR
OPINION RESEARCH

Attitudes Toward Voting Restoration Amendment

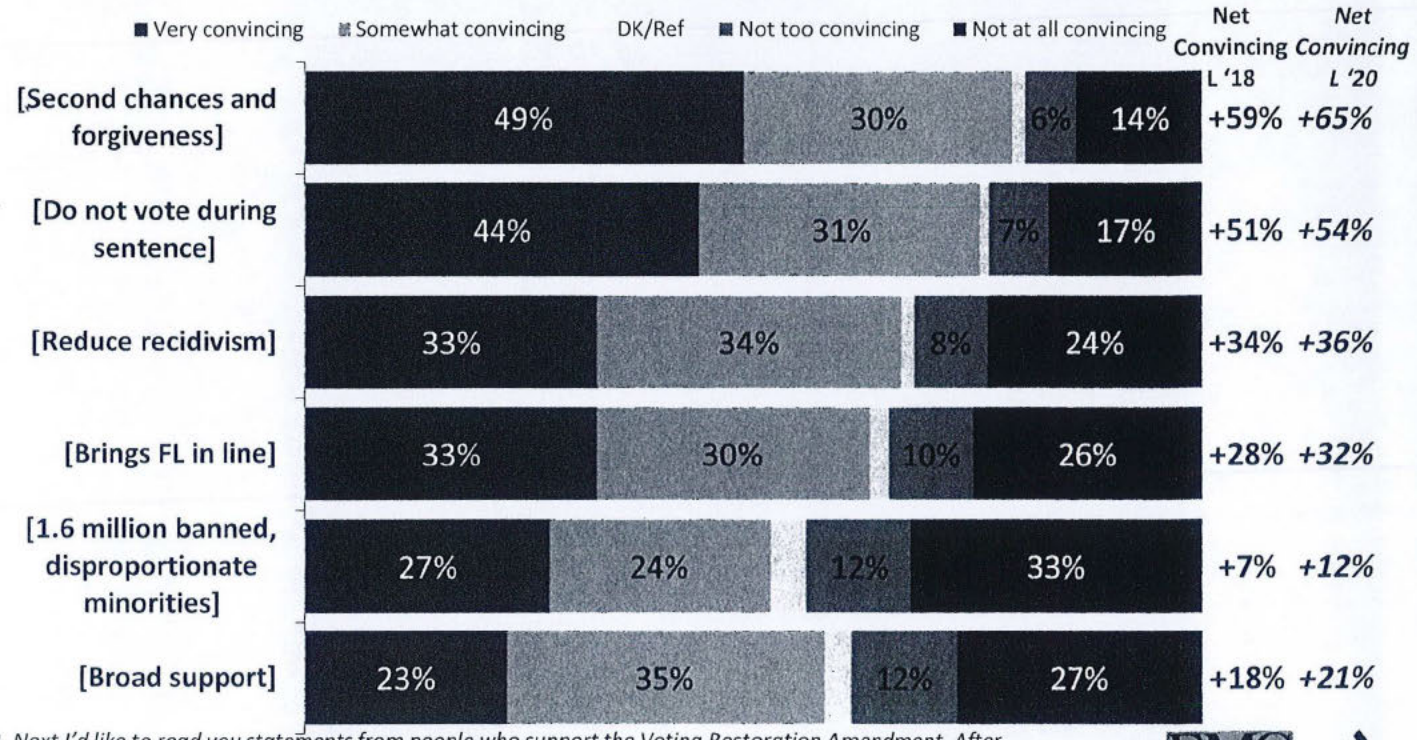
Supporter Messaging

% = Likely '18/Likely '20

- **[Second chances and forgiveness – 49%/49% Very Convincing]** Americans believe in second chances and that people can earn forgiveness. Restoring a person's ability to vote is the right thing to do for those who have turned their life around and have become contributing members of their communities.
- **[Do not vote during sentence – 44%/44% Very Convincing]** Under this amendment, people who commit felonies do not have the opportunity to vote while they serve their sentence, but once they have completed their entire sentence, including probation, parole, and paid all fines, they have earned back the right to vote again.
- **[Reduce recidivism – 33%/33% Very Convincing]** The Florida Department of Law Enforcement has shown that people with felony convictions who were given the right to vote back after completing their sentence are much less likely to commit crimes again in the future. This amendment keeps us safer and saves taxpayers money by helping people become responsible, contributing members of the community.
- **[Brings FL in line – 33%/33% Very Convincing]** Florida is one of only three states that has a lifetime ban on voting for any felony conviction, unless restored by the Governor and Cabinet. This amendment updates our criminal justice system to bring Florida in line with the rest of the country.
- **[1.6 million banned, disproportionate minorities – 27%/28% Very Convincing]** There are over 1.6 million people in Florida who are banned for life from voting, and a disproportionate share are poor, African American or Hispanic. This amendment returns fairness to the historically-biased Florida criminal justice system.
- **[Broad support – 23%/23% Very Convincing]** This measure has broad support across the state from faith leaders, law enforcement, Democrats, and Republicans.

Supporter Messaging

Both top testing messages perform with notable intensity across each electorate. Both have to do categorically with the idea that restitution of rights is possible if 'dues are paid;' echoing the verbatim sentiment given at the beginning of the survey. Those which include an emotional appeal are particularly effective, indicating voters do respond to humanizing messages more than perfunctory ones.



Q17-22. Next I'd like to read you statements from people who support the Voting Restoration Amendment. After each one, please tell me how convincing that statement is as a reason to vote for the amendment – very convincing, somewhat convincing, not too convincing, or not at all convincing.

Conclusion

- An attempt at a 2018 ballot is a viable option for the campaign – voters show a propensity towards supporting the amendment and a reliable base preexists across important subgroups.
  - Support for the amendment is largely driven by race and partisanship and somewhat by age. Both Likely '18 and Likely '20 Republican voters give a majority support to the measure in the initial vote. However, Republicans are consistently among the subgroups with under the 60% threshold for support needed for passage.

  Even those who feel that voting is a privilege innately, though not explicitly, recognize it as a right and vice versa. Attempting to establish this campaign as a referendum on constitutional rights vs. privilege is likely to unnecessarily complicate the environment.

- The most effective overall and intensely effective messages on both sides are thematically centered on the idea that voting is something that can be taken away and "earned" back once "dues are paid" – or something that can be permanently revoked retributively. To build support, emotional appeal, like invoking broader beliefs of forgiveness and second chances, strengthens the persuasive value of the support messages.

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polling indicated an 11% gap needed to win, there was cause for optimism in the fact that the undecided group is nearly double the gap we need to swing, showing that there is plenty of room to changing hearts and minds over time. In 2014, we tested the temperature of likely 2016 Florida voters on this issue, as well as tested voter response to voting restoration for returning citizens post completion of sentence versus post release from incarceration. These results helped the coalition to decide on the final ballot language.

The Campaign completed the following research phases that answered questions on: **how aggressive the policy change could be and what the ballot initiative language, summary and title should say to be both impactful and remain constitutional**. The Coalition would like to make special note that the vast majority of the 2014 research program was a massive participatory event the collaborated the ideas of a multitude of legal experts, directly impacted individuals, professional pollsters, national and local organizations that represent a wide variety of constituency groups, dedicated activists, organizers, clergy from multiple faith traditions, political stakeholders, funders, voter psychologists, race experts, communication gurus and many more. The Coalition believes that this wide net of shared analysis was the only way to be able to discover the most creative and effective language, summary, tittle and messaging, to-date. The Coalition hopes to continue to find more ways through this same process to continue refining and strengthening the campaign narrative and targeted messages to will create an even wider margin of victory in either 2018 or 2002:

Here is a summary of the results and analysis that guided the Coalition research choices and final decisions on Voter Restoration petition language, summary and title:

Phase I: *Viability Testing* conducted by Lake Research (financed by Advancement Project) in October 2013.

- Description:
  - Statewide survey of 507 registered likely 2016 voters
  - 5 minute live calls
- Results & Analysis:
  - Voters are divided initially on restoration of voting rights after release from incarceration (42% support, 40% against, with 18% undecided), but the margin increases (47% support 34% against, **with 19% undecided**), but only after being given a version that includes completion of **all sentence terms (probation and parole), and including restitution (fees, fines, community service, etc.).**
  - The increase in support when all sentence terms are specified occurs mainly among Democrats, boosting their support from 55% to 70%.

Phase 2: *Messaging Testing* conducted by Hamilton Campaigns (financed by Advancement Project) in June 2014.

- Description:
  - 5 Focus Groups, in-person
  - 2 Jacksonville, 1 Orlando, 2 Miami testing Black, Hispanic and White Women demographics (heavily weighted base)
- Results & Analysis:
  - Ballot summary language that presents both sides of punishing someone when they are convicted of a crime, and **restoring the right to vote after they have completed their sentence, was the preferred formulation for respondents in these focus groups.**

- **We cannot rebrand the term felony.** A felony is a serious crime to voters and we need our messaging and communications to reflect that.
- Two consistent questions about the ballot summaries were raised by participants in every group – **does the return of voting rights apply to all felons, regardless of the crime, and does the return of the right to vote apply after prison time or after completion of the whole sentence.**
- Among the focus group participants, **the strongest overall messages revolved around the concept of punishment and second chances,** that when you do a crime and serve your sentence, you should have the chance to go on with your life. **This was followed closely by Florida being an outlier (criminal justice modernization frame)** that requires the governor and cabinet to take action and that the system disproportionately punishes African Americans and Hispanics.

Phase III: *Ballot Summary Testing* conducted by Hamilton Campaigns in partnership with Wild Swan Resources (financed by PICO National Network) in August 2014.

- Description:
  - Online testing of 816 registered voters
  - Sampled 55 items with weighted persuasion (85% white; 38% D, 36% R, 26% I)
- Results & Analysis:
  - The online survey tested public opinion on different elements of policy options separately (completion of sentence/completion of time in prison, including fees and fines/excluding fees and fines, violent/nonviolent convictions and murder/sexual offenses/sexual predators).
  - Full sentence versus Complete Prison Time
    - 70% with #3 language "The amendment restores the voting rights of Floridians with felony convictions after they complete their time in prison" and
    - **77% with #5 "The amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence include probation and parole" – a cautiously optimistic path to victory is starting to emerge.**
  - Two carve outs of murder and sexual offenses (64% approve, 22% disagree, 13% undecided). "Those convicted of murder or who are convicted sexual offenders would continue to be barred from voting unless the Governor and cabinet restore their voting right on an individual case by case basis."
  - Likelihood of signing a restoration petition – 64% approve, 36% disagree
  - Strategic Imperatives:
    - **Excluding murderers and sex offenders is central to developing potentially passable ballot language. Keeping these carve outs will affect approximately 2% if the eligible population for voting restoration. This is the first way to preempt the oppositions strongest message against the amendment.**
    - **Completion of the whole sentence, including probation and parole, is much stronger ballot language, albeit less aggressive.**
  - Impact information on the 1.5M returning citizens by policy choices:
    - 1,541,602 Returning Citizens (as of 2010 by way of the Sentencing Project Report):
      - Off Papers = 1,323,360: 85.8%
      - Jail = 6,525: 00.5%
      - Probation = 103,318: 6.7%
      - Parole = 4, 093: 00.2%
      - Prisoners = 104,306: 6.8%

Common Questions

Two questions were brought up by participants in each group:

1. Does the return of voting rights apply to all felons, regardless of the crime?

2. Does the return of voting rights apply after prison or after the completion of the whole sentence?

Participants in all groups were hesitant to support the amendment because they do not want murderers, rapists or child molesters to vote, nor people who are still on parole or probation.

HAMILTON CAMPAIGNS

Appendix C

Price, Tara R (TAL - X35631)

From: Howard Simon <HSimon@aclufl.org> <HSimon@aclufl.org>
Sent: Monday, February 12, 2018 9:15 AM
To: Jackie Lee; Desmond Meade; Mila Al-Ayoubi; Lenore Anderson; Robert Rooks; dj@davidjohnsongroup.com; Marc Solomon; Doug Dodson; Kirk Bailey; Raymer Maguire; Graham Boyd; Ryan Johnson; amy@rjadvisors.org; Robert Hoffman; 'Faiz Shakir (fshakir@aclu.org)'
Cc: Marc Mauer; dalvarez@mercuryllc.com; Baylor Johnson; dho@aclu.org; Julie Ebenstein; ssmith@aclu.org
Subject: Calculating/Messaging on the Number of People who Could be affected by Amendment 4

To: Executive Board
2nd Chances team

From: Howard Simon
Executive Director
ACLU of Florida

Marc Mauer
Executive Director
The Sentencing Project

Date: February 11, 2018

Re: The number of people who could be impacted by Amendment 4

We have been concerned that several speakers and organizational allies (as well as the press) have been using different numbers for the returning citizens who could be affected when Amendment 4 is approved by the voters. We have seen figures ranging from 1.2 million to 1.8 million.

Not only might this make the campaign look disorganized, but more importantly, by using a number that reflects the entire population of people with felony convictions, we could be inadvertently supporting the narrative that the ballot issue is about (as some in the media have characterized it) "felons voting" or "voting rights for felons," rather than the narrative we want to advance – 2nd chances for those who have successfully completed the terms of their sentence and, thereby, should be able to fully participate in their community

This memo is an effort to determine the most reasonable estimate of the number of those who would be affected by Amendment 4.

Summary

- We start with the total Florida disfranchised population in 2016 (people currently incarcerated, currently released on probation or parole, and "post-sentence" individuals) as estimated by The Sentencing Project: 1,686,318

- From that number we need to deduct the following groups:
  (1) those convicted of murder or a felony sex offense
  (2) those currently incarcerated in prison
  (3) those serving a felony sentence in a county jail
  (4) those currently under felony probation or parole supervision
  (5) those who have not paid fees or fines
  (6) those who have not paid court mandated victim restitution.

Florida's Disenfranchised Population in 2016	
Prison Population	102,555
Parole Population	4,208
Felony Probation	86,886
Felony Jail Population	4,822
Post-Sentence Population	1,487,847
Total Disenfranchised Population	**1,686,318**

Source: The Sentencing Project's national report: 6 Million Lost Voters, 2016.

According to The Sentencing Project report, the "post-sentence population" is an estimated 1.48 million. But from that number we need to deduct those convicted of murder and felony sex offenses, who would not be eligible under Amendment 4. Looking at 2016 data from the Florida State Courts Administrator (see p. 3-13 of their report), 3,066 people had a criminal disposition for murder or a sex offense in FY 2015-16, representing about 1.8% of the total dispositions of 167,009. Using the 1.8% figure for the total of 1.48 million results in about 26,781 (say 27,000) people being ineligible for rights restoration under the provisions of Amendment 4.

But there are two points to be aware of that suggest this figure could be either a low or high estimate: 1) the data are only from one year, so in the "high crime" years of the 1980s/early 90s the proportion of murders was probably higher, which would raise the number of ineligible people somewhat; but, 2) people convicted of murder and felony sex offenses are less likely to have been released from prison and/or parole due to longer sentences, so fewer of them would be in the "ex-felon" category.

So overall, with these figures we might want to say, "about 1.4 million," could be affected.

Fines and fees exclusions

Many felony sentences, whether to prison or probation, include a requirement of a mix of fines, fees, and restitution. In Florida, a 2007 analysis by the Department of Corrections found that of 80,000 people awaiting rights restoration nearly 40% had not completed restitution payments. The Department did not try to assess the level of non-payment of fines and fees.

Assuming that about 1.4 million people have completed the supervision portion of their sentence (for crimes other than murder or felony sex offenses) then the 40% level of non-payment would reduce the population eligible for rights restoration to about 840,000.

So, taking the 1.4 million number, some additional portion would be reduced for non-payment of fines and fees, though there are no good estimates for this population. A key issue, though, is that the state has the power to waive payment of fines and fees if it chooses to do so. However, it cannot use this power for non-payment of restitution.

Conclusion

Based on this research and because neither we nor the state has any hard data on the fines/fees population, we would be technically correct – and we hope that we can all agree going forward -- to describe the scale of the impact of Amendment 4 as follows:

> Under Amendment 4, as many as 1.4 million Floridians who have completed supervision of a felony sentence have earned a 2nd chance to

fully participate in their community and could be eligible for the restoration of their ability to vote upon payment of fines, fees, and restitution.

Howard Simon
Executive Director
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4343 West Flagler Street, Suite 400, Miami, FL 33134
T/786.363.2706
Click here to sign up for breaking news from the ACLU

Appendix D

January 21, 2019 DELIVERED VIA EMAIL

Florida Senate Criminal Justice Committee
The Capitol
400 S. Monroe Street
Tallahassee, FL 32399

RE: Written Comments: Amendment 4, the Voting Restoration Amendment

Dear Chair Perry and Senate Criminal Justice Committee members:

On behalf of more than 130,000 members and supporters state-wide, the American Civil Liberties Union (ACLU) of Florida provides this written testimony to be considered by the Senate Criminal Justice Committee Workshop on Amendment 4 (Jan. 22, 2019). We respectfully request that this guidance be included in the record of the meeting and made available to the public in the committee packet/record meeting notes.

ACLU Florida

4343 W. Flagler St.
Miami, FL
(786) 363-2700
aclufl.org

Kirk Bailey
Political Director

Background:
On November 6, 2018, Florida voters approved Amendment 4, the Voting Restoration Amendment, with a vote of 64.55 % in support. The Amendment's passage reflects the clear will of the people to grant a second chance to individuals with prior felony convictions who have paid their debt to society and recognizes the paramount importance of the right to vote to those who have made past mistakes and served their time.

Amendment 4 is Self-Executing
Amendment 4 is self-executing -- the mandatory provisions of the amendment went into effect on the implementation date (Jan. 8, 2019). This is the very position that the State of Florida has acknowledged in its own legal filings in the *Hand v. Scott* case. The Amendment alters Florida Constitution Article VI, Section 4. Disqualifications, to state as follows:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction ***shall terminate*** and ***voting rights shall be restored*** upon completion of all terms of sentence including parole or probation. (emphasis added)
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights. [...].

That language is specific, unambiguous, and mandatory. As the Florida Supreme Court stated in its unanimous opinion approving the amendment for placement on the ballot, "Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to ***automatically restore voting rights to felony offenders***, except those convicted of murder or felony sexual offences, upon completion of all terms of their sentence. (emphasis added.) *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So. 2d 1202,1208 (Fla. 2017).

Since these mandatory provisions are now in the Florida constitution, the legislature does not need to pass implementing legislation in order for the amendment to go into effect.

ACLU Florida

Process to Confirm Eligibility is Already in Place

The existing provisions of Chapter 98 of the Florida Statutes provide the Department of State with sufficient authority to coordinate across state and local agency databases to identify impacted individuals, to promptly and efficiently register those individuals who wish to do vote, and to confirm their eligibility in the same way the Department confirms the eligibility of all other Florida residents when they complete a voter registration application.

We understand that the current registration process includes the following steps:

- An individual returns a completed voter registration form to the Supervisor of Elections;
- The Supervisor transmits an electronic copy of the application to the Department of State Division of Elections;
- The individual who completed the form is at that time considered registered and will receive a voter ID card in the mail;
- The Department of State then has the duty to review the voter's registration to determine if there is credible information that the voter is ineligible;

This is the very same process that should be used to register those impacted by Amendment 4.

Completion of all Terms of Sentence

The plain language of the Amendment makes clear that voting rights shall automatically be restored upon completion "all terms of their sentence including parole or probation." The Amendment does not apply to those who have completed a sentence for murder or a felony sex offense. Individuals in those

categories can only have their right to vote restored by the Governor and the Board of Executive Clemency.

The constitutional amendment regarding "completion of all terms of sentence" *explicitly included completion of probation and parole*. The amendment was silent on whether any financial obligations would need to be satisfied before the voting disqualification automatically terminated.

However, the clear and unambiguous language states that all *terms of their sentence* must be completed. Thus, if there is a financial obligation that is explicitly *a term of the sentence*, such obligation would need to be satisfied prior to automatic restoration of voting rights. In contrast, fees and fines that are not explicit terms of the sentence would not need to be satisfied before an individual's voting rights are restored.

ACLU Florida

We have urged the Department of State to take this view in reviewing the eligibility of registered voters as outlined in Chapter 98, Florida Statutes. We do not believe that implementing legislation is necessary and are deeply concerned that any such legislation will only result in additional delays to the restoration of voting rights as approved by the people of Florida.

Existing Voter Registration Forms are Sufficient

The uniform stateside voter registration application is sufficient to immediately register individuals impacted by the Amendment's provisions. Question #2 of that form asks individuals to "*affirm that I am not a convicted felon, or if I am, my right to vote has been restored.*" The responsibility of the citizen is to honestly affirm that, to the best of their knowledge, they have completed the terms of their sentence and thus their voting rights have been restored. Individuals may also register via the Florida Online Voter Registration System at https://registertovoteflorida.gov/. The responsibility then switches to the state, as it does with all newly registered voters, to confirm that nothing in its databases credibly demonstrates that the individual is not eligible.

Conclusion

In closing, we appreciate your desire to ensure that the will of the people is implemented as smoothly as possible. We strongly believe that any bill that purports to be implementing legislation in this area will only result in unnecessary delays and additional burdens on constitutionally recognized eligible voters.

Florida's citizens spoke clearly on election day – 1.4 million disenfranchised individuals deserve a second chance. This home-grown citizen's initiative will

only be thwarted or delayed through any legislative attempts at implementation. As stated above, the responsibility is on the Department of State to verify eligibility, as it does with all registrations.

Thank you for your consideration of the above and please do not hesitate to contact me at kbailey@aclufl.org (786) 363-2713, if you have any questions or would like any additional information.

Sincerely,

Kirk Bailey

ACLU Florida

Kirk Bailey
Political Director

Cc: Micah Kubic, Executive Director of the ACLU of Florida
Kara Gross, Legislative Director, ACLU of Florida

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC19-1341

ADVISORY OPINION TO THE GOVERNOR

RE: IMPLEMENTATION OF AMENDMENT 4, THE VOTING RESTORATION AMENDMENT

APPENDIX TO THE INITIAL BRIEF OF GOVERNOR RON DESANTIS

Joe W. Jacquot (FBN 189715)
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Counsel for Governor Ron DeSantis

INDEX

Governor Ron DeSantis respectfully submits the appendix to his initial brief pursuant to Florida Rule of Appellate Procedure 9.220.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of September 2019, a copy of this appendix was served by electronic service through the Florida Court's E-Filing Portal, which will send a copy of this filing to all counsel of record.

/s/ Joshua E. Pratt
JOSHUA E. PRATT
Assistant General Counsel

Counsel for Governor Ron DeSantis

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this appendix is typed in Times New Roman 14-point font and complies with Florida Rule of Appellate Procedure 9.210(a).

/s/ Joshua E. Pratt
JOSHUA E. PRATT
Assistant General Counsel

Counsel for Governor Ron DeSantis

December 13, 2018

The Honorable Ken Detzner
Secretary of State
State of Florida
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Re: Implementation of Amendment 4, the Voting Restoration Amendment

Dear Secretary Detzner:

On November 6, 2018, Florida voters approved Amendment 4, the Voting Restoration Amendment with a vote of 64.55 % in support, reflecting the clear will of the people of Florida that those individuals with felony convictions who have paid their debt to society have their eligibility to vote restored to them. We write to request that you take immediate administrative action to coordinate with relevant state and local agencies as required by Chapter 98 Florida Statues and to provide guidance to relevant state and local agencies on the proper administration of voting registration for this newly enfranchised population of Florida's citizens as soon as possible. To that end, we would like to take this opportunity to share our analysis and views on various provisions of the Amendment and corresponding issues.

Amendment 4 is Self-Executing

Amendment 4 is self-executing in that the mandatory provisions of the amendment are effective on the implementation date (Jan. 8, 2019). This is the very position that the State of Florida has

acknowledged in its own legal filings in the *Hand v. Scott* case. The Amendment alters Florida Constitution Article VI, Section 4. Disqualifications, to state as follows:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights. [...].

That language is specific and unambiguous. As the Florida Supreme Court stated in its unanimous opinion approving the amendment for placement on the ballot, "Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to ***automatically restore voting rights to felony offenders***, except those convicted of murder or felony sexual offences, upon completion of all terms of their sentence. (emphasis added.) *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So. 2d 1202,1208 (Fla. 2017).

Since these mandatory provisions will now be in the Florida constitution, the Legislature does not need to pass implementing legislation in order for the amendment to go into effect. That said, the Legislature should exercise its normal and proper oversight function of relevant state agencies to ensure that they implement the amendment in accordance with the will of Florida's voters and without delay.

The burden is on the state, not the individual, to establish whether a voter is ineligible utilizing current administrative practices, databases and resources as defined in Chapter 98 and other relevant provisions of the Florida Statutes.

The plain language of the Amendment makes clear that it restores the voting rights of Floridians with felony convictions after they complete "all terms of their sentence including parole or probation." The Amendment does not apply to those who have completed a sentence for murder or a felony sex offense. Individuals in those categories can only have their right to vote restored by the Governor and the Board of Executive Clemency.

Pursuant to Article XI, Section 5 (3), the Amendment goes into effect on January 8, 2019. Thus, starting January 8th, any individual with a felony conviction who has completed all the terms of

their sentence should register to vote by completing a voter registration form.

Completion of all terms of Sentence

The phrase "completion of all terms of sentence" includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual's sentence. These financial obligations may include restitution and fines, imposed as part of a sentence or a condition of probation under existing Florida statute. Fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register. We urge the Department to take this view in reviewing the eligibility of individuals registered to vote as outlined in Chapter 98, Florida Statutes.

Existing Voter Registration Forms are Sufficient

We assert that the uniform stateside voter registration application is sufficient to immediately register individuals impacted by the Amendment's provisions. Question #2 of that form asks individuals to "*affirm that I am not a convicted felon, or if I am, my right to vote has been restored."* The responsibility of the citizen is to honestly affirm that, by completing the terms of their sentence, their voting rights have been restored. Individuals may also register via the Florida Online Voter Registration System at https://registertovoteflorida.gov/.

Process to Confirm Eligibility is Already in Place

The existing provisions of Chapter 98 of the Florida Statutes provide the Department with sufficient authority to coordinate across state and local agency databases to identify impacted individuals, to promptly and efficiently register to vote those individuals who wish to do so, and to confirm their eligibility in the same way the Department confirms the eligibility of all other Florida residents when they complete a voter registration application.

We understand that the current registration process includes the following steps:

- An individual returns a completed voter registration form to the Supervisor of Elections;
- The Supervisor transmits an electronic copy of the application to the Department of State Division of Elections;
- The individual who completed the form is at that time considered registered and will receive a voter ID card in the mail;
- The Department of State then has the duty to review the voter's registration to determine if there is credible information that the voter is ineligible;

This is the very same process that should be used to register those impacted by Amendment 4.

In closing, we appreciate the difficult task you face in administering elections in Florida. We hope that the discussion above will help you ensure that Amendment 4 is implemented in a timely and smooth fashion, without delay or undue burden on individual eligible voters. Florida's citizens spoke clearly on election day and we look forward to working with you to ensure their will is carried out.

Thank you for your attention to this important matter.

Sincerely,

Desmond Meade,
Executive Director, Florida Rights Restoration Coalition

Melba Pearson,
Interim Executive Director
ACLU of Florida

Patricia Brigham,
President
League of Women Voters of Florida

Kira Romero-Craft,
Managing Attorney
LatinoJustice PRLDEF

cc: Maria Matthews, Director, Division of Elections
Florida State Association of Supervisor of Elections

March 11, 2019

The Honorable Laurel Lee
Secretary of State
State of Florida
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Re: Implementation of Amendment 4, the Voting Restoration Amendment

Dear Secretary Lee:

We, the undersigned, reflect the broad coalition of organizations that led the effort to pass Amendment 4, the Voting Restoration Amendment, in 2018. Foremost, we are led by the Florida Rights Restoration Coalition that represents returning citizens in Florida. We also include a collection of legal non-profits who are experts in voting rights, criminal law and the intersection of the two, with many decades of experience in these areas of the law.

On November 6, 2018, Florida voters approved Amendment 4 with a vote of 64.55 % in support, reflecting the clear will of the people of Florida that those individuals with felony convictions who have completed their sentence have their eligibility to vote restored to them. Since that time, extensive public discussion has ensued regarding the implementation of Amendment 4 and the scope of its terms.

As you know, your office is required by Chapter 98 of the Florida Statutes to provide guidance to relevant state and local agencies on the proper administration of voter registration for this newly enfranchised population of Florida's citizens as soon as possible. As key stakeholders in the passage of Amendment 4, we write to request that you take immediate administrative action to coordinate with relevant state and local agencies on the following urgent topics: Amendment 4 is self-executing and needs no further implementing legislation; legal financial obligations owed by impoverished people should not be a barrier to the right to vote; and murder and felony sexual offenses as defined below are the only offenses that Amendment 4 does not cover. To that end, we have researched the above-mentioned issues and would like to take this opportunity to share our views on various provisions of the Amendment and corresponding issues.

Amendment 4 is Self-Executing

As we have previously stated, Amendment 4 is self-executing in that the mandatory provisions of the amendment are effective on the implementation date (Jan. 8, 2019). The Amendment altered Florida Constitution Article VI, Section 4, disqualifications, to state as follows:

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.

(b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights. [...].

That language is specific and unambiguous. As the Florida Supreme Court stated in its unanimous opinion approving the Amendment for placement on the ballot, "Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to ***automatically restore voting rights to felony offenders***, except those convicted of murder or felony sexual offences, upon completion of all terms of their sentence." *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So. 3d 1202, 1208 (Fla. 2017) (emphasis added).

Since these mandatory provisions are in the Florida Constitution, the Legislature does not need to pass implementing legislation for the Amendment's terms to be in effect. That said, the Legislature should exercise its normal and proper oversight function of relevant state agencies to ensure that they implement the Amendment in accordance with the will of Florida's voters and without delay.

Florida law makes clear that the burden is on the state, not the individual, to establish if a voter is ineligible by using current administrative practices, databases and resources as defined in Chapter 98 and other relevant provisions of the Florida Statutes.

The plain language of Amendment 4 restores the voting rights of Floridians with felony convictions after they complete "all terms of their sentence including parole or probation." The Amendment does not apply to those who have completed a sentence for murder or a felony sexual offense. Individuals in those categories can only have their right to vote restored by the Board of Executive Clemency.

Offenses Within the Scope of Amendment 4

Murder

Article VI, Section 4 now states that "no person convicted of murder […] shall be qualified to vote until restoration of civil rights. [...]." We urge you to specify that only the following offenses fall under this constitutional provision: Fla. Stat. Ann. § 782.04(1)(a), (2), (3), and (4).

Felony Sexual Offense

The Florida Constitution states that "no person convicted of […] a felony sexual offense shall be qualified to vote until restoration of civil rights. [...]. We urge you to specify that only following offenses fall under this constitutional provision:

- Sexual battery (Fla. Stat. Ann. § 794.011, *excluding* subsection 10).
- Unlawful sexual activity with certain minors (Fla. Stat. Ann. § 794.05).
- Lewd/lascivious offense committed upon or in the presence of persons less than 16 years of age (Fla. Stat. Ann. § 800.04).
- Sexual performance by a child (Fla. Stat. Ann. § 827.071).
- Selling or buying of minors (for portrayal in a visual depiction engaging in sexually explicit conduct) (Fla. Stat. Ann. § 847.0145).

Terms of Sentence

Article VI, Section 4 states "voting rights shall be restored upon completion of all terms of sentence including parole or probation." We urge you to specify that individuals will have their voting rights restored automatically upon completion of any term of imprisonment and terms of parole or probation.

We understand a sentence may include monetary obligations such as restitution, fines, and fees imposed as part of a sentence under existing Florida statute. Monetary obligations not specifically identified as part of a sentence need not be discharged before "completion of sentence."

Generally, monetary obligations are considered conditions of probation under Florida statutes and therefore monetary obligations generally have been fulfilled when probation ends. There are also situations where a person is discharged from probation and parole without having fully paid all monetary obligations. Logically, election officials should be able to rely on the judgment of the criminal justice system when defining completion of sentence. Consequently, a sentence is complete when a person is discharged from supervision (incarceration and parole or probation)—as is consistent with rules in the vast majority of U.S. states and the Florida Constitution. This approach is the most reasonable option, because it offers clarity to both prospective voters and elections officials.

Finally, disenfranchisement on the basis of poverty is anathema to American jurisprudence and violates the fundamental principles on which this country was founded. When anyone completes all terms of their criminal sentence and parole or probation, even if they have a civil financial obligation (which is not part of a criminal sentence), their right to vote should be automatically

restored under Amendment 4. Implementation of Amendment 4 should stand for the principle that financial inability to pay is not an insurmountable barrier to the right to vote.

Process to Confirm Eligibility is Already in Place

We renew our assertion that the uniform statewide voter registration application is sufficient to immediately register individuals impacted by the Amendments' provisions. Question #2 of that form asks individuals to "*affirm that I am not a convicted felon, or if I am, my right to vote has been restored.*" The responsibility of the citizen is to affirm that, to the best of their knowledge, they have completed the terms of their sentence and their voting rights have been restored. Individuals may also register via the Florida Online Voter Registration System at https://registertovoteflorida.gov/.

The existing provisions of Chapters 97 and 98 of the Florida Statutes provide the Department of State, Division of Elections (the "Department") with sufficient authority to coordinate across state and local agency databases to identify impacted individuals, to promptly and efficiently register to vote those individuals who wish to do so, and to confirm their eligibility in the same way the Department confirms the eligibility of all other Florida residents when they complete a voter registration application.

We understand that the current registration process includes the following steps:

- An individual returns a completed voter registration form to the Supervisor of Elections (the "Supervisor");
- The Supervisor transmits an electronic copy of the application to the Department;
- The individual who completed the form is at that time considered registered and will receive a voter ID card in the mail;
- The Department then has the duty to review the voter's registration to determine if there is credible information that the voter is ineligible; and
- The Supervisor cannot delay the processing of a voter registration application and must notify an applicant of the disposition of the applicant's voter registration application within 5 business days after the registration information is entered into the statewide voter registration system.

This is the very same process that should be used to register those impacted by Amendment 4.

We also understand that once an applicant is deemed eligible to vote, that individual cannot be removed from the rolls unless: he or she requests in writing to be removed; a Supervisor receives notice from another state's election official that the voter has registered out-of-state; the voter fails to respond to an address confirmation final notice, thereby becoming an inactive voter, and does not vote or engage in voter registration record activity for two subsequent general election

cycles; or the voter is convicted of a felony after registration. These protections from improper voter purges extend to those impacted by Amendment 4.

We appreciate the difficult task you face in administering elections in Florida. We hope that the discussion above will help you ensure that Amendment 4 is implemented in a timely and smooth fashion, without delay or undue burden on individual eligible voters. Florida's citizens spoke clearly on Election Day and we look forward to working with you to ensure their will is carried out.

We would be happy to meet with you at any time to discuss these issues and lend our expertise to your efforts. Thank you for your attention to this important matter.

Sincerely,

Florida Rights Restoration Coalition
ACLU of Florida
Advancement Project - National Office
Brennan Center for Justice
Dēmos
LatinoJustice PRLDEF
League of Women Voters of Florida
New Florida Majority
SPLC Action Fund

cc:
Sen. Bill Galvano
Sen. Keith Perry
Sen. Dennis Baxley
Representative Jose Oliva
Representative Paul Renner
Representative James Grant

Appendix E

Supreme Court of Florida

No. SC19-1341

ADVISORY OPINION TO THE GOVERNOR RE: IMPLEMENTATION OF AMENDMENT 4, THE VOTING RESTORATION AMENDMENT.

January 16, 2020

PER CURIAM.

By letter dated August 9, 2019, Governor Ron DeSantis requested the opinion of the justices of this Court as to the interpretation of a portion of the Florida Constitution upon a question affecting his executive powers and duties. We have jurisdiction. *See* art. IV, § 1(c), Fla. Const.

Specifically, the Governor requests advice regarding the meaning of certain language that was added to article VI, section 4 of the Florida Constitution by the approval on November 6, 2018, of an initiative petition—commonly referred to as "Amendment 4"—that restores the voting rights of certain convicted felons "upon completion of all terms of sentence including parole or probation." Art. VI, § 4(a), Fla. Const. The Governor asks whether the phrase "all terms of sentence" encompasses legal financial obligations (LFOs)—fines, restitution, costs, and

fees—ordered by the sentencing court. We answer in the affirmative, concluding that "all terms of sentence" encompasses not just durational periods but also all LFOs imposed in conjunction with an adjudication of guilt.

The Governor's letter in relevant part states:

> I request your interpretation of whether "completion of all terms of sentence" encompasses financial obligations, such as fines, fees and restitution ("legal financial obligations" or "LFOs") imposed by the court in the sentencing order.
>
> Prior to Amendment 4's placement on the ballot, this Court was asked to determine whether the amendment met the legal requirements under Florida's Constitution. On March 6, 2017, during a colloquy between the justices and Amendment 4's sponsor, Floridians for a Fair Democracy ("Sponsor"), this Court was assured the Amendment presented a "fair question" and "clear explanation" to voters. Transcript of Oral Argument at 2, *Advisory Op. to the Attorney General Re: Voting Restoration Amend.*, 215 So. 3d 1202 (Fla. 2017) (Nos. SC16-1785 and SC16-1981). Addressing a question posed by Justice Polston as to whether "completion of [all] terms" included "full payment of any fines," the Sponsor responded, "Yes, sir . . . All terms means all terms within the four corners." *Id.* at 4. Justice Lawson similarly asked, "You said that terms of sentence includes fines and costs . . . that's the way it's generally pronounced in criminal court, would it also include restitution when it was ordered to the victim as part of the sentence?" *Id.* at 10. The Sponsor answered, "Yes." *Id.* Justice Pariente posited the inclusion of fees, fines, and restitution as part of the completion of sentence "would actually help the state because if fines, costs and restitution are a requirement . . . for those that want to vote, there's a big motivation to pay unpaid costs, fines and restitution." *Id.* at 11. Ultimately, the Court found Amendment 4 clearly and unambiguously informed voters the chief purpose of the proposed amendment was to "automatically restore voting rights to felony offenders, except those convicted of murder or felony sexual offenses, *upon completion of all terms of their sentence*." *Advisory Op.*, 215 So. 3d at 1208 (emphasis added).

In alignment with the colloquy with the Florida Supreme Court, after Amendment 4 was approved by voters, the ACLU of Florida, League of Women Voters of Florida, LatinoJustice, and the Florida Rights Restoration Coalition delivered a letter to former Secretary of State Ken Detzner regarding implementation of Amendment 4. Exhibit 1, December 13, 2018 Letter. In part, the letter explained,

> The phrase "completion of all terms of sentence" includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual's sentence. *The financial obligations may include restitution and fines, imposed as part of a sentence or a condition of probation under existing Florida statute. Fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register.* We urge the Department to take this view in reviewing eligibility of individuals registered to vote as outlined in Chapter 98, Florida Statutes.

Ex. 1, p. 3 (emphasis added).

During the 2019 Legislative Session, legislators in both chambers debated legislative implementation of Amendment 4. Ultimately, both chambers passed CS/SB 7066 and, on June 28, 2019, I signed it into law. *See* Ch. 2019-162, Laws of Fla. In relevant part, chapter 2019-162, section 25, Laws of Florida, creating section 98.0751, Florida Statutes, provided guidance on restoration of voting rights and determination of ineligibility pursuant to the amendment of Article VI, section 4 of the Florida Constitution. Section 98.0751, Florida Statutes, defines "[c]ompletion of all terms of sentence" as "any portion of a sentence that is contained in the four corners of the sentencing document." § 98.0751(2)(a), Fla. Stat. (2019). The Legislature provided five categories of terms included in the sentencing document: . . . (5) full payment of LFOs ordered by the court as part of the sentence. *See* § 98.0751(2)(a)l.-5., Fla. Stat. (2019).

On June 15, 2019, Luis Mendez filed a complaint in the Northern District of Florida seeking injunctive and declaratory relief and mandamus challenging chapter 2019-162, Laws of Florida. In

part, Mendez alleges chapter 2019-162, Laws of Florida, violates Article VI, section 4 of the Florida Constitution because it adds requirements for the restoration of voting rights above what was prescribed in the Florida Constitution. Additional complaints were filed by numerous plaintiffs, including organizations referenced above, alleging provisions of chapter 2019-162, Laws of Florida violate the First, Eighth, Fourteenth and Twenty-Fourth Amendments of the United States Constitution. These challenges are only directed at chapter 2019-162, Laws of Florida, and do not question the constitutionality of Article VI, section 4 of the Florida Constitution.

Article IV, section 1(a) of the Florida Constitution prescribes the supreme executive power shall be vested in the Governor, that he "shall take care that the laws be faithfully executed" and "transact all necessary business with the officers of government." Article IV, section 6 of the Florida Constitution places direct administration and supervision of all functions of the executive branch, including the Department of State, under the constitutional authority of the Governor. *See also* § 20.02(3), Fla. Stat. (the administration of any executive branch entity shall at all times be ["]under the constitutional executive authority of the Governor"); § 20.10, Fla. Stat. (creating the Department of State, headed by the Secretary of State who is appointed by the Governor). Furthermore, the Secretary of State is the chief elections officer with the responsibility to maintain uniformity in the interpretation and implementation of voter registration and election laws. *See* § 97.012, Fla. Stat.

. . . .

I, as Governor of Florida, . . . want to ensure the proper implementation of Article VI, section 4 of the Florida Constitution and, if applicable, chapter 2019-162, Laws of Florida. This includes the ability to direct the Department of State to fully implement Article VI, section 4 of the Florida Constitution by determining whether a convicted felon has completed *all* terms of their sentence, including the satisfaction of LFOs. I will not infringe on the proper restoration of an individual's right to vote under the Florida Constitution.

Understanding there is ongoing litigation in federal court challenging chapter 2019-162, Laws of Florida under the First, Eighth, Fourteenth and Twenty-Fourth Amendments of the United States Constitution, I do not ask this Court to address any issues regarding chapter 2019-162, Laws of Florida or the United States Constitution.

> Therefore, I respectfully request an opinion of the Justices of the Supreme Court of Florida as to the question of whether "completion of all terms of sentence" under Article VI, section 4 of the Florida Constitution includes the satisfaction of all legal financial obligations—namely fees, fines and restitution ordered by the court as part of a felony sentence that would otherwise render a convicted felon ineligible to vote.

Letter from Governor Ron DeSantis to Chief Justice Charles T. Canady dated August 9, 2019, at 1-4 (some alterations in original) (footnote omitted).

After concluding that the Governor's request was within the purview of article IV, section 1(c) of the Florida Constitution, we agreed to exercise our discretion to provide an advisory opinion. We also permitted interested parties to file briefs and to present oral argument before the Court. *See* art. IV, § 1(c), Fla. Const.[1] During oral argument, counsel for the Governor made clear that the Governor requests advice solely as to the narrow question of whether the phrase

1. Timely initial briefs were submitted by the following: (1) Governor Ron DeSantis; (2) The Florida Senate; and Bill Galvano, in his official capacity as President of the Florida Senate; (3) The Florida House of Representatives; (4) Secretary of State, Laurel M. Lee; (5) Adam Richardson; (6) Mark R. Schlakman, joined by The Florida Association of Criminal Defense Lawyers; (7) Fair Elections Center; (8) The American Civil Liberties Union Foundation of Florida, American Civil Liberties Union Foundation, NAACP Legal Defense and Educational Fund, Inc., Brennan Center for Justice at NYU School of Law, Florida State Conference of Branches and Youth Units of the NAACP, Orange County Branch of the NAACP, and League of Women Voters of Florida; (9) Jennifer LaVia and Carla Laroche; and (10) Bonnie Raysor, Diane Sherrill, and Lee Hoffman.

"all terms of sentence" includes LFOs ordered by the sentencing court. We answer only that question.

The arguments presented by the interested parties generally fall into one of two categories. On the one hand, the Governor, the Florida Senate, the Florida House of Representatives, and the Secretary of State (collectively, the State Parties) all argue that "all terms of sentence" includes all LFOs ordered by the sentencing judge. They largely rely on plain language, case law, and the common understanding of penalties imposed for criminal acts. On the other hand, the remaining interested parties (collectively, the Non-State Parties) present varying arguments against some or all LFOs being included within the scope of "all terms of sentence." Some Non-State Parties argue that "all terms of sentence" refers to durational periods rather than to obligations and thus contemplates only periods of imprisonment and supervised release. Others assume that "all terms of sentence" refers to obligations including some LFOs, but they argue for the exclusion of certain LFOs. These latter Non-State Parties focus on what they label as punitive aspects of a sentence and on what they consider to be the technical components of a criminal sentence.

The answer to the Governor's question largely turns on whether "all terms of sentence" encompasses all obligations or only durational periods. We conclude that the phrase, when read and understood in context, plainly refers to obligations

and includes "all"—not some—LFOs imposed in conjunction with an adjudication of guilt. Before explaining our opinion, we briefly address our jurisdiction as well as the Secretary of State's concerns that the events leading up to the adoption of Amendment 4 and the subsequent legal challenges to chapter 2019-162 amount to a "bait and switch" attempt to amend our State's governing document.

JURISDICTION

Article IV, section 1(c) of the Florida Constitution authorizes the Governor to "request in writing the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting the governor's executive powers and duties." Upon receiving such a request, "the justices shall determine whether the request is within the purview of article IV, section 1(c)." Fla. R. App. P. 9.500(b). Here, we readily concluded that the Governor's question is answerable. In particular, the question affects the Governor's constitutional responsibility to "take care that the laws be faithfully executed," art. IV, § 1(a), Fla. Const., and the exercise of his clemency powers, art. IV, § 8(a), Fla. Const.

Certain Non-State Parties nevertheless question our jurisdiction, but their arguments are meritless. These Non-State Parties argue, for example, that it is inappropriate for this Court to issue an advisory opinion on the constitutionality of a statute and that the Governor in effect impermissibly seeks advice regarding the

necessity or validity of chapter 2019-162 and the interpretation of its provisions. But neither the existence of chapter 2019-162 nor the possibility that our advice may touch upon that legislation precludes us from answering the Governor's question. Indeed, though the Governor's request does not ask us directly to address the constitutionality of chapter 2019-162, we note that this Court since 1968[2] has issued advisory opinions to the Governor addressing the validity of legislation that affected his executive powers and duties. *E.g.*, *In re Advisory Opinion of Governor Civil Rights*, 306 So. 2d 520, 521-22 (Fla. 1975) (concluding that the Florida Correctional Reform Act of 1974—an act that had already been signed into law and that purported to reinstate the civil rights of convicted felons under certain circumstances—"constitute[d] a clear infringement upon the constitutional power of the Governor to restore civil rights").[3] In any event, given the narrow question presented here, we need not address chapter 2019-162.

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2. The 1968 Constitution for the first time permitted interested parties to be heard in advisory opinion cases. *See In re Advisory Opinion to Governor*, 243 So. 2d 573, 576 (Fla. 1971) (examining the constitutionality of a proposed corporate income tax and recognizing that "Section 1(c), Article IV, Constitution of 1968, enlarged to some extent the power of this Court to be of assistance"); *Opinion to the Governor*, 239 So. 2d 1, 8 (Fla. 1970) (examining the constitutionality of the 1970 General Appropriations Act and recognizing that it was "noteworthy that in the 1968 constitutional revision, authority and direction were given this Court to permit interested persons to be heard").

3. *Civil Rights* reiterated this Court's long-held view "that the power of pardon is reposed exclusively in the . . . executive" and is not to be infringed upon by the other branches. 306 So. 2d at 522; *see also Sullivan v. Askew*, 348 So. 2d

These Non-State Parties additionally argue among other things that the Governor's request impermissibly concerns the duties of his subordinates rather than his sole authority. But in *Advisory Opinion to Governor—1996 Amendment 5 (Everglades)*, 706 So. 2d 278, 280-81 (Fla. 1997), this Court's conclusion that the question there fell "within the purview of article IV, section 1(c)" was based in part on the fact that the constitutional amendment at issue directly affected the Governor's constitutional duty to faithfully execute the laws, including the duty to provide certain agencies "with direction as to their enforcement responsibilities." Here, the Governor's question about the meaning of Amendment 4 similarly affects among other things his general constitutional duties, including the duty to provide the Department of State with necessary direction regarding the implementation of voter registration laws.

The Governor's request satisfies the requirements of article IV, section 1(c).

AMENDMENT 4—BACKGROUND

Prior to Amendment 4's adoption, article VI, section 4(a) of the Florida Constitution permanently disenfranchised all felons absent a grant of executive clemency. *See Richardson v. Ramirez*, 418 U.S. 24, 54 (1974) ("[T]he exclusion

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312, 315 (Fla. 1977) (noting that article IV, section 8 of the Florida Constitution "vest[ed] sole, unrestricted, unlimited discretion exclusively in the executive" in restoring civil rights).

of felons from the vote has an affirmative sanction in § 2 of the Fourteenth Amendment . . . .”). The text of Amendment 4, which amended article VI, section 4, provided in pertinent part:

> Article VI, Section 4. **Disqualifications.—**
>
> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

In 2016—two years before the voters approved Amendment 4—this Court was asked by the Attorney General whether Amendment 4 met the legal requirements for placement on the ballot. *Advisory Op. to Att’y Gen. re Voting Restoration Amendment*, 215 So. 3d 1202 (Fla. 2017). This Court unanimously answered in the affirmative. *Id.* at 1209. In its brief to this Court arguing in support of Amendment 4 being placed on the ballot, Amendment 4’s sponsor, Floridians for a Fair Democracy (the Sponsor), asserted: “Specifically, the drafters intend that individuals with felony convictions, excluding those convicted of murder or a felony sexual offense, will automatically regain their right to vote *upon fulfillment of all obligations imposed under their criminal sentence*.” Initial Brief of Sponsor at 2, *Advisory Op. to Att’y Gen. re Voting Restoration*

Amendment, 215 So. 3d 1202 (Fla. 2017) (Nos. SC16-1785 & SC16-1981) (emphasis added). In other words, the Sponsor intended that "all terms" refer to obligations, not durational periods. No briefs were submitted in opposition to Amendment 4.

Oral argument in that case took place on March 6, 2017. During the oral argument, counsel for the Sponsor stated—consistent with the Sponsor's brief—that the operative language in Amendment 4 "means all matters—anything that a judge puts into a sentence." As noted in the Governor's letter, that oral argument involved discussion of LFOs—including fines, costs, and restitution—as well as the process for confirming payment of LFOs. Counsel for the Sponsor summed up by reiterating that Amendment 4 was intended to be "a restoration of voting rights under these specific conditions." It is beyond dispute that the Sponsor expressed the intention that "all terms of sentence" include all LFOs ordered by the sentencing judge.

As the Secretary notes here, the Sponsor advertised a similar message to the voting public via its "Paid Political Advertisement" website. *See* Initial Brief of Secretary of State at 7, and App. at 33-68. Among other things, the website states in bold-italicized text that "Amendment 4 restores the eligibility to vote to people with past felony convictions who ***fully complete*** their entire sentence – including any probation, parole, and restitution – before earning back the eligibility to vote."

As the Secretary also notes, similar messages were disseminated by some of the very same nonprofit organizations that are currently involved in the lawsuits challenging chapter 2019-162 and that now argue to this Court that "all terms of sentence" simply refers to durational periods. *See* Initial Brief of Secretary at 9. For example, the American Civil Liberties Union Foundation of Florida (ACLU of Florida) in its 2018 voter guide informed voters that Amendment 4 "includ[ed] any probation, parole, fines, or restitution." *See id.* at 7, and App. at 69. Indeed, the ACLU of Florida and other organizations along with the Sponsor spread a consistent message before and after Amendment 4's adoption. As noted in the Governor's letter, the signatories of the December 2018 letter to then-Secretary Detzner asserting in part that Amendment 4 required payment of "financial obligations imposed as part of an individual's sentence" included the ACLU of Florida as well as Florida Rights Restoration Coalition, the organization that, according to the Secretary, created the Sponsor.[4]

Although the representations to this Court and to the public close the door on any credible suggestion that "all terms of sentence" was *intended* by the Sponsor to refer only to durational periods, we need not address whether Amendment 4

4. In a subsequent March 2019 letter to current Secretary Lee, those same organizations and others identified themselves as the "organizations that led the effort to pass Amendment 4." *See* Initial Brief of Governor at 5, and App. at 8, 12.

involved a "bait and switch" attempt to amend our State's constitution. Indeed, our opinion is based not on the Sponsor's subjective intent or campaign statements, but rather on the objective meaning of the constitutional text. The language at issue, read in context, has an unambiguous "ordinary meaning" that the voters "would most likely understand," *Everglades*, 706 So. 2d at 283, to encompass obligations including LFOs. The Sponsor's expressed intent and campaign statements simply are consistent with that ordinary meaning that would have been understood by the voters.

ANALYSIS

The Governor asks whether the phrase "all terms of sentence," as used in article VI, section 4, encompasses LFOs imposed by the sentencing court. The interpretation of a constitutional provision involves "a question of law." *Crist v. Fla. Ass'n of Criminal Def. Lawyers, Inc.* (*FACDL*), 978 So. 2d 134, 139 (Fla. 2008). In interpreting constitutional language, "this Court follows principles parallel to those of statutory interpretation. First and foremost, this Court must examine the actual language used in the Constitution. If that language is clear, unambiguous, and addresses the matter in issue," then our task is at an end. *Graham v. Haridopolos*, 108 So. 3d 597, 603 (Fla. 2013) (quoting *FACDL*, 978 So. 2d at 139-40).

But this Court has sometimes suggested that the first step in construing a constitutional provision may involve something other than determining the objective meaning of the text. *See, e.g.*, *Williams v. Smith*, 360 So. 2d 417, 419 (Fla. 1978) ("In construing the Constitution, we first seek to ascertain the intent of the framers and voters, and to interpret the provision before us in the way that will best fulfill that intent."). We believe that such statements can be misleading because they may be understood to shift the focus of interpretation from the text and its context to extraneous considerations. And such extraneous considerations can result in the judicial imposition of meaning that the text cannot bear, either through expansion or contraction of the meaning carried by the text. We therefore adhere to the "supremacy-of-text principle": "The words of a governing text are of paramount concern, and what they convey, in their context, is what the text means." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012).

We also adhere to the view expressed long ago by Justice Joseph Story concerning the interpretation of constitutional texts (a view equally applicable to other texts): "[E]very word employed in the constitution is to be expounded in its plain, obvious, and common sense, unless the context furnishes some ground to control, qualify, or enlarge it." Joseph Story, *Commentaries on the Constitution of the United States* 157-58 (1833), *quoted in* Scalia & Garner, *Reading Law* at 69.

This Court in construing constitutional language approved by the voters often "looks to dictionary definitions of the terms because we recognize that, 'in general, a dictionary may provide the popular and common-sense meaning of terms presented to the voters.' " *Advisory Op. to Att'y Gen. re Use of Marijuana for Certain Med. Conditions*, 132 So. 3d 786, 800 (Fla. 2014) (quoting *Everglades*, 706 So. 2d at 282). The dictionary meaning of the word "terms," when viewed in isolation, can refer either to multiple durational periods or to multiple obligations or conditions. *See The American Heritage Dictionary* 1796 (5th ed. 2011) (defining "term" as "[a] limited or established period of time that something is supposed to last, as . . . a prison sentence"; and as "a condition").

But the fact that the word "terms" itself can carry different meanings does not render the phrase "all terms of sentence," as used in Amendment 4, susceptible to more than one natural reading. *See Smith v. United States*, 508 U.S. 223, 233 (1993) ("[A] single word cannot be read in isolation . . . ."). As the Supreme Court has explained, "[I]t is a 'fundamental principle of statutory construction (and, indeed, of language itself) that the meaning of a word cannot be determined in isolation, but must be drawn from the context in which it is used.' " *Textron Lycoming Reciprocating Engine Div., Avco Corp. v. United Auto., Aerospace, Agric. Implement Workers of Am., Int'l Union*, 523 U.S. 653, 657 (1998) (quoting *Deal v. United States*, 508 U.S. 129, 132 (1993)). And when viewed in context,

"all terms of sentence" has only one natural reading—one that refers to all obligations, not just durational periods.

As the Governor and others correctly note, Amendment 4 refers to the voting disqualification arising from "a felony conviction" and later refers to "all terms of" the singular "sentence" resulting from that singular conviction. *See* art. VI, § 4(a), Fla. Const. We know from its explicit reference to "parole or probation" that Amendment 4 uses the term "sentence" to designate more than just imprisonment. And an overall "sentence"—as that word is used in Amendment 4—is naturally viewed as having only one durational term rather than multiple durational terms.

For example, in *Ramirez*, in which the Supreme Court concluded that the Fourteenth Amendment affirmatively authorizes felon disenfranchisement, the Court despite referring collectively to the respondents' "terms of incarceration and parole," 418 U.S. at 34, referred in the singular to an individual felon having "completed the serving of his term," 418 U.S. at 55; *see also id.* at 56-57 (Marshall, J., dissenting) ("Each of the respondents . . . had fully served his term of incarceration and parole."). It would be entirely unnatural, of course, to say that a felon convicted of a singular felony had "completed the serving of his terms" when the time of his incarceration and parole had been completed. Although a singular, overall "sentence" naturally has only one durational term (albeit sometimes with

distinct components), it can have multiple conditions or obligations—i.e., "terms." Indeed, that is the only natural reading of "all terms of sentence."

Certain Non-State Parties advance various arguments for why we should in fact read the words "all terms" to refer solely to durational periods. We are not persuaded by their arguments.

At first blush, the strongest argument advanced by these Non-State Parties is a contextual one. They note that Amendment 4 does not expressly mention LFOs but does mention "parole or probation," which are forms of supervised release that, like incarceration, can each be said to have a durational "term." They thus argue that those two forms of supervised release provide an "illustrative list" to guide this Court "in [its] interpretation of" Amendment 4. *White v. Mederi Caretenders Visiting Servs. of Se. Fla., LLC*, 226 So. 3d 774, 784 (Fla. 2017). This line of reasoning, however, is ultimately premised upon two canons of construction that do not apply in this context.

First, under the *expressio unius est exclusio alterius* canon, "the mention of one thing implies the exclusion of another." *Id.* at 781. But this Court has noted that "[g]enerally, it is improper to apply *expressio unius* to a statute in which the Legislature used the word 'include,' " as that is "a word of expansion, not one of limitation." *Id.* Here, the phrase "parole or probation" comes immediately after the word "including."

Second, under the *ejusdem generis* canon, "where general words or phrases follow an enumeration of specific words or phrases, 'the general words are construed as applying to the same kind or class as those that are specifically mentioned.' " *Marijuana for Certain Med. Conditions*, 132 So. 3d at 801 (quoting *Fayad v. Clarendon Nat'l Ins. Co.*, 899 So. 2d 1082, 1088-89 (Fla. 2005)). Application of the canon thus requires that the enumeration of specifics precede the general words. But Amendment 4 involves the exact opposite: the specific words ("parole or probation") follow the general words ("all terms").

A glaring problem with the arguments advanced by these Non-State Parties is that their preferred reading of Amendment 4 effectively renders superfluous the words "all terms of" in the constitutional text. These Non-State Parties interpret Amendment 4 as if it had *omitted* the words "all terms of" and simply read: "upon completion of sentence including parole or probation." The words "all terms of" serve no meaningful purpose under the reading advanced by these Non-State Parties. This Court, of course, ordinarily avoids interpretations that "render any language superfluous." *Dep't of Envtl. Prot. v. Millender*, 666 So. 2d 882, 886 (Fla. 1996). Indeed, just as we do not "add words" to a constitutional provision, we are similarly "not at liberty to . . . ignore words that were expressly placed there at the time of adoption of the provision." *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009).

In the end, Amendment 4 was not drafted to require completion of "the term of sentence including parole or probation." Nor was it drafted to require completion of "all terms of . . . incarceration, probation, and parole." *Johnson v. Governor of State of Fla.*, 405 F.3d 1214, 1216 (11th Cir. 2005) (describing the status of members of plaintiff class in that case). Amendment 4 was drafted to require completion of "all terms of sentence." Art. VI, § 4(a), Fla. Const. That language—which appears to be new to Florida jurisprudence—has only one natural reading.

Perhaps not coincidentally, certain courts—in the specific context of rejecting various challenges to re-enfranchisement schemes that require payment of certain LFOs—have used language similar to "all terms of sentence" to refer to obligations. These cases further undercut the argument that Amendment 4 refers only to durational periods. They demonstrate that phrases such as "all terms of sentence" are naturally understood to encompass more than durational periods.

Most notably, the Supreme Court of Washington used nearly identical language to that at issue here in upholding against certain attacks a re-enfranchisement scheme that required a felon to complete "all requirements of the sentence, including any and all legal financial obligations." *Madison v. Washington*, 163 P.3d 757, 763 (Wash. 2007) (quoting Wash. Rev. Code 9.94A.637(1)(a) (2004)). The LFO requirement there specifically included costs

and fees. *Id.* at 761 n.1. In describing the respondents who were suing to have their voting rights restored, the court noted that each "has satisfied *all of the terms of his sentence, with the exception of full payment of his LFOs*." *Id.* at 762 (emphasis added); *see also State v. Donaghe*, 256 P.3d 1171, 1178 (Wash. 2011) ("In *Madison* . . . , we upheld the disenfranchisement of felons who have satisfied the terms of their sentences, except for paying legal financial obligations."). *Madison*'s reference to "all of the terms of" a singular, overall "sentence" refers to requirements or obligations in addition to durational periods. 163 P.3d at 762.

Two Circuit Courts of Appeals have used somewhat similar language in a related context. *See Johnson v. Bredesen*, 624 F.3d 742, 745, 749 (6th Cir. 2010) (rejecting certain challenges to Tennessee's re-enfranchisement scheme that required felons to among other things have paid all restitution, and describing *Madison* as having upheld "a statute conditioning re-enfranchisement on completion of all terms of felons' sentences, including full payment of their financial legal obligations"); *Harvey v. Brewer*, 605 F.3d 1067, 1070, 1079 (9th Cir. 2010) (rejecting certain challenges to Arizona's re-enfranchisement scheme that required felons to among other things have paid all fines and restitution, and concluding that the state had "a rational basis for restoring voting rights only to those felons who have completed the terms of their sentences, which includes the

payment of any fines or restitution orders"—that is, "only those who have satisfied their debts to society through fulfilling the terms of a criminal sentence").

The similar language used by these courts—all in the specific context of felon re-enfranchisement—underscores that the phrase "all terms of sentence" naturally encompasses obligations. Indeed, in the unrelated context of lawyer discipline, the Supreme Court of South Carolina used a similar phrase in a similar manner. *See In re Allmon*, 753 S.E.2d 544, 545 (S.C. 2014) ("Respondent shall complete all terms of his criminal sentence, including payment of restitution and completion of probation, prior to filing a Petition for Reinstatement.").

We conclude that "all terms of sentence" plainly encompasses not only durational terms but also obligations and therefore includes all LFOs imposed in conjunction with an adjudication of guilt. As explained next, we reject as overly technical the arguments advanced by certain Non-State Parties that Amendment 4 encompasses only some LFOs.

One Non-State Party argues that costs and fees are categorically excluded from "all terms of sentence" because those LFOs do not bear any of the hallmarks of a "sentence." Another Non-State Party argues that Amendment 4 includes only those LFOs mentioned in Florida Rule of Criminal Procedure 3.986(d) (Form for Sentencing) and excludes all LFOs listed in any of rule 3.986's other forms (e.g., Form for Restitution Order (rule 3.986(g)). But these Non-State Parties improperly

view the phrase "all terms of sentence" as a term of art that turns on a nuanced legal analysis of the word "sentence." Indeed, their attempts to isolate and parse the word "sentence" to carve out certain LFOs improperly interprets that word "in a technical sense" absent any "suggest[ion]" in the text of Amendment 4 that the word was to be given something other than its "most usual and obvious meaning." *Wilson v. Crews*, 34 So. 2d 114, 118 (Fla. 1948) (quoting *City of Jacksonville v. Glidden Co.*, 169 So. 216, 217 (Fla. 1936)). These opponents also implausibly suggest that the voters who adopted Amendment 4 would have understood the comprehensive phrase "all terms" to include only those terms that courts deem "punitive." Here, "the natural and popular meaning in which," *id.*, the voters would understand the broad phrase "all terms of sentence" is that it includes all obligations imposed in conjunction with an adjudication of guilt.

The word "sentence" is not defined in the Florida Constitution or seemingly anywhere in the Florida Statutes. But the word is defined in various dictionaries. *See, e.g.*, Sentence, *Black's Law Dictionary* 1569 (10th ed. 2014) ("The judgment that a court formally pronounces after finding a criminal defendant guilty; the punishment imposed on a criminal wrongdoer"). The word is also defined in Florida Rule of Criminal Procedure 3.700(a) to mean "the pronouncement by the court of the penalty imposed on a defendant for the offense of which the defendant has been adjudged guilty." Rule 3.701(b)(2) later explains that punishment is the

"primary" but not the sole "purpose of sentencing." That rule also uses the words "penalty" and "sanction." Fla. R. Crim. P. 3.701(b)(3)-(4).

As one example of why the word "sentence" cannot be construed in an overly technical fashion here, Amendment 4 expressly includes "parole" within its scope, and yet courts have explicitly or implicitly distinguished parole from a "sentence." *E.g.*, *Ramirez*, 418 U.S. at 26 (noting that the respondents had "completed the service of their respective sentences and paroles"). It is for a similar reason—among many others—that the answer to the Governor's question cannot be limited to any one form set forth in rule 3.986. Indeed, parole cannot be captured by any of those forms. Parole, of course, is granted, and its terms set, by the Florida Commission on Offender Review, not by a sentencing judge. *See generally* chs. 947-49, Fla. Stat. (2019). In other words, parole is not "pronounce[d] by the court." Fla. R. Crim. P. 3.700(a).

Amendment 4 thus uses the word "sentence" in its plain, common sense. And it does so in the context of the broad phrase "all terms of sentence." Absent any suggestion in the context of Amendment 4 that the word "sentence" carries a technical meaning restricting its scope, there is no basis to conclude that "all terms of sentence" excludes any LFOs ordered by the sentencing judge. Indeed, an abundance of statutory and case law supports the conclusion that fines, restitution,

and fees and costs all comfortably fit within the ordinary meaning of "all terms of sentence."

Beginning with restitution, this Court has referred to that obligation as part of a "sentence," and even as "punishment." *See, e.g.*, *Noel v. State*, 191 So. 3d 370, 375 (Fla. 2016) ("The 'purpose of restitution is not only to compensate the victim, but also to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system.' " (quoting *State v. Hawthorne*, 573 So. 2d 330, 333 (Fla. 1991))); *Kirby v. State*, 863 So. 2d 238, 244 (Fla. 2003) (recognizing "the trial court's statutory obligation to impose restitution as part of the criminal sanction"); *Glaubius v. State*, 688 So. 2d 913, 914 (Fla. 1997) ("As part of his sentence, he was also ordered to pay restitution to Beall's."); *State v. Champe*, 373 So. 2d 874, 880 (Fla. 1978) ("Punishment in the form of restitution is not a novel concept . . . ."). Indeed, the Supreme Court itself has noted that "[s]entencing courts are required to impose restitution as part of the sentence for specified crimes." *Manrique v. United States*, 137 S. Ct. 1266, 1270 (2017). Certain legislative enactments also support including restitution within the meaning of "all terms of sentence." *See, e.g.*, § 812.15(7), Fla. Stat. (2019) ("The court shall, in addition to any other sentence authorized by law, sentence a person convicted of violating this section to make restitution as authorized by law."); § 921.0026(2)(e),

Fla. Stat. (2019) (authorizing downward departure sentences if "[t]he need for payment of restitution to the victim outweighs the need for a prison sentence").

An analysis of fines looks remarkably similar. Indeed, this Court has referred to fines as part of a "sentence." *E.g.*, *Morganti v. State*, 573 So. 2d 820, 821 (Fla. 1991) ("A lawful sentence may comprise several penalties, such as incarceration, probation, and a fine."); *see id.* ("[A] sentence of five and one-half years' incarceration, eighteen months' probation, and a $10,000 fine is clearly not a more severe sentence than fifteen years' incarceration."). So, too, has the Supreme Court. *See S. Union Co. v. United States*, 567 U.S. 343, 349-50 (2012) (observing that criminal fines "undeniably" fall within the purview of a "sentence"). And, again, certain legislative enactments support including fines within the ordinary meaning of "all terms of sentence." *See, e.g.*, § 775.083(1), Fla. Stat. (2019) ("A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082 . . . .").

Lastly, although fees and costs can reasonably be said to differ in many respects from restitution and fines, various court pronouncements and statutory provisions similarly support including them within the scope of Amendment 4's phrase "all terms of sentence." *See, e.g.*, *Osterhoudt v. State*, 214 So. 3d 550, 551 (Fla. 2017) ("[T]rial courts must individually pronounce discretionary fees, costs,

and fines during a sentencing hearing to comply with due process requirements."); *Rollman v. State*, 887 So. 2d 1233, 1234 (Fla. 2004) ("[T]he same sentencing judge pronounced Rollman's sentence, which imposed ten years in prison, ten years of probation, and the payment of restitution and court costs."); *Bassett v. State*, 23 So. 3d 236, 236 (Fla. 2d DCA 2009) ("Bassett was sentenced to five years' prison to be followed by five years' probation. As part of his sentence he was ordered to pay certain costs and fees."); § 27.52(1)(b)1., Fla. Stat. (2019) (authorizing the court to "[a]ssess the application fee [for the appointment of a public defender] as part of the sentence"); § 435.07(1)(b), Fla. Stat. (2019) (referring to "any fee, fine, fund, lien, civil judgment, application, costs of prosecution, trust, or restitution" ordered by the court "as part of the judgment and sentence"); § 633.107(1), Fla. Stat. (2019) (similar).

This Court's decision in *Jackson v. State*, 983 So. 2d 562 (Fla. 2008), is instructive. *Jackson* among other things clarified the definition of a "sentencing error" for purposes of Florida Rule of Criminal Procedure 3.800(b). After noting that the commentary to rule 3.800 technically distinguished "orders of probation, orders of community control, [and] cost and restitution orders" from "the sentence itself," 983 So. 2d at 572 (quoting Fla. R. Crim. P. 3.800 court cmt.), *Jackson* construed "*a defendant's sentence*" to encompass the various "*orders* entered as a result of the sentencing process"—i.e., those "related to the ultimate sanctions

imposed, whether involving incarceration, conditions of probation, or costs," *id.* at 572-73; *see also Kirby*, 863 So. 2d at 244 (referring to "the trial court's statutory obligation to impose restitution as part of the criminal sanction").

Amendment 4's use of the broad phrase "all terms of sentence" can only reasonably be understood to similarly encompass "the ultimate sanctions imposed," including "costs." *Jackson*, 983 So. 2d at 573. Or in the words of the Sponsor's counsel, the phrase encompasses "all obligations" or "all matters."

CONCLUSION

We answer Governor DeSantis's question by stating that it is our opinion that the phrase "all terms of sentence," as used in article VI, section 4, has an ordinary meaning that the voters would have understood to refer not only to durational periods but also to all LFOs imposed in conjunction with an adjudication of guilt. We express no opinion on any question other than the narrow one presented to us.

It is so ordered.

CANADY, C.J., and POLSTON, LAWSON, and MUÑIZ, JJ., concur.
LABARGA, J., concurs in result and dissents in part with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

LABARGA, J., concurring in result and dissenting in part.

I concur with the majority's ultimate decision that the phrase "all terms of sentence," as used in article VI, section 4 (Amendment 4), encompasses all "legal financial obligations" (LFOs) imposed by the sentencing judge. I do not concur, however, with the majority's conclusion that the phrase "all terms of sentence," as used in Amendment 4, "has an ordinary meaning that the voters would have understood" to include LFOs. Nor do I concur with the majority's strict adherence to the application of the theory referred to as the "supremacy-of-text principle" to the exclusion of available extrinsic evidence that would assist the Court in elucidating the meaning of the text in question.

According to the majority, it adheres to the "supremacy-of-text principle": "The words of a governing text are of paramount concern, and what they convey in this context, is what the text means." Majority op. at 14 (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012)). Context is the operative word of this theory. As explained by Justice Scalia in his dissent in *King v. Burwell*, 135 S. Ct. 2480, 2497 (2015), "[S]ound interpretation requires paying attention to the whole law, not homing in on isolated words or even isolated sections. Context always matters." As noted by the majority, the discussion of this approach to interpretation of constitutional texts, later coined "textualism," dates back to as early as the 1800s when Justice Joseph Story, who

served on the United States Supreme Court from 1812 to 1845, emphasized that in interpreting the Constitution, every word must be afforded its "plain, obvious, and common sense" meaning, "unless the text furnishes some ground to control, qualify, or enlarge it." Majority op. at 14. Since that time, textualism has been advocated by justices such as Hugo Black and, in recent history, Antonin Scalia, an ardent supporter of the theory. To be sure, it is a sound theory of interpretation which, in most instances, proves to be determinative. My concern is with its strict disapproval of consideration of extrinsic sources which, in some instances, such as in this case, prove to be not only helpful, but dispositive.

The problem usually arises when the constitutional language in question is uncertain. In such situations, the majority suggests referring to dictionary definitions because "in general, a dictionary may provide the popular and common-sense meaning of terms presented to the voters." Majority op. at 15 (quoting *In re Advisory Op. to Atty. Gen.*, 132 So. 3d 786, 800 (Fla. 2014)). As more fully discussed below, in many instances it is not that simple.

Indeed, this Court has considered other avenues to construe a constitutional provision when the text is unclear or ambiguous. One such avenue is to seek to ascertain the intent of the framers and voters, an approach which, as discussed later, proved to be not only helpful, but determinative in this case.

This Court has long observed that "[t]he fundamental object to be sought in construing a constitutional provision is to ascertain the intent of the framers and the provision must be construed or interpreted in such manner as to fulfill the intent of the people, never to defeat it. Such a provision must never be construed in such manner as to make it possible for the will of the people to be frustrated or denied." *Gray v. Bryant*, 125 So. 2d 846, 852 (Fla. 1960); *see also In re Senate Joint Resolution of Legislative Apportionment 1176,* 83 So. 3d 597, 599 (Fla. 2012) ("When interpreting constitutional provisions, this Court endeavors to ascertain the will of the people in passing the amendment."); *Zingale v. Powell*, 885 So. 2d 277, 282 (Fla. 2004) ("[T]his Court endeavors to construe a constitutional provision consistent with the intent of the framers and the voters." (quoting *Carib. Conserv. Corp. v. Fla. Fish & Wildlife Conserv. Comm'n*, 838 So. 2d 492, 501 (Fla. 2003))); *Williams v. Smith*, 360 So. 2d 417, 419 (Fla. 1978) ("[I]n construing the Constitution, we first seek to ascertain the intent of the framers and voters, and to interpret the provision before us in the way that will best fulfill that intent.").

In taking issue with this consistently applied approach, the majority contends "that such [extraneous considerations] can be misleading because they may be misunderstood to shift the focus of interpretation from the text and its context to such extraneous considerations. And such extraneous considerations can result in the judicial imposition of meaning that the text cannot bear, either through

expansion or contraction of the meaning carried by the text." Majority op. at 14. Thus, according to the majority's approach, clear and unambiguous extrinsic evidence of the true intent of the framers and voters, such as the evidence available in this case, must be disregarded. I respectfully disagree.

Textualist abhorrence of consideration of the intent of the framers of a constitutional or statutory provision has been persistently and stubbornly present throughout the theory's history. Justice Oliver Wendell Holmes, for instance, was quite explicit on the question of intent: "[W]e ask, not what this man meant, but what those words would mean in the mouth of a normal speaker of English, using them in the circumstances in which they were used . . . . We do not inquire what the legislature meant; we ask only what the statute means." Oliver Wendell Holmes, *The Theory of Legal Interpretation*, 12 Harv. L. Rev. 417-19 (1899).

I agree with the majority that the lodestar of constitutional and statutory interpretation should be, in the first instance, the application of the words of the governing text read in context. However, the analysis should provide some allowance for consideration of the intent of the framers and voters in instances where it will assist in elucidating the meaning of the text in question.

The majority opinion in this case extensively refers to reliable and unambiguous extrinsic evidence that is dispositive of any question concerning whether the phrase "all terms of sentence" encompasses all LFOs imposed by the

sentencing judge. Nevertheless, in strict adherence to the "supremacy-of-text principle," the majority has chosen to disregard this revealing and helpful extrinsic evidence and rely strictly on its interpretation of the meaning of "all terms of sentence."

The majority opened its opinion with Governor DeSantis's letter of August 9, 2019, requesting this advisory opinion. The letter, includes, inter alia, the responses by counsel for the sponsor of Amendment 4, Floridians for a Fair Democracy, to questions posed by Justices Polston and Lawson during oral argument in 2017. Arguably, these exchanges provide the most helpful revelations concerning what "completion of all terms of sentence" encompassed. Justice Polston pointedly asked whether "completion of [all] terms" included "full payment of any fines," and counsel for the sponsor responded: "Yes, sir . . . all terms mean all terms within the four corners." Majority op. at 2. Justice Lawson similarly asked, "You said that terms of sentence includes fines and costs . . . that's the way it's generally pronounced in criminal court, would it also include restitution when it is ordered to the victim as part of a sentence?" Counsel answered, "Yes." Majority op. at 2.

The majority opinion also includes revelations made in the sponsor's brief, which clearly express the sponsor's intention that payment of all LFOs would be required. The sponsor's brief asserted: "Specifically, the drafters intend that

individuals with felony convictions, excluding those convicted of murder or a felony sexual offense, will automatically regain their right to vote upon fulfillment of all obligations imposed under their criminal sentence." Majority op. at 10. The majority summed up the sponsor's position with the following statement: "In other words, the Sponsor *intended* that 'all terms' refer to obligations, not durational periods. No briefs were submitted in opposition to Amendment 4." Majority op. at 11 (emphasis added).

As a follow-up, the majority included a similar statement, made during oral argument, that the operative language in Amendment 4 "means all matters—anything that a judge puts into a sentence." Majority op. at 11. The majority added:

> As noted in the Governor's letter, that oral argument involved discussion of LFOs—including fines, costs, and restitution—as well as the process for confirming payment of LFOs. *Counsel for the Sponsor summed up by reiterating that Amendment 4 was intended to be "a restoration of voting rights under these specific conditions." It is beyond dispute that the Sponsor expressed the intention that "all terms of sentence" include all LFOs ordered by the sentencing judge*.

Majority op. at 11 (emphasis added).

In further consideration of the sponsor's intent, the majority opinion included an advertisement from the sponsor's paid political website which included the following assurances to prospective voters in bold-italicized text: "Amendment 4 restores the eligibility to vote to people with past felony

convictions who fully complete their entire sentence – including any probation, parole, and restitution – before earning back the eligibility to vote." Majority op. at 11.

Finally, the majority included in its opinion the American Civil Liberties Union Foundation of Florida's 2018 voter guide which informed voters that Amendment 4 "includ[ed] any probation, parole, fines, or restitution." Majority op. at 12.

The majority wraps up its discussion of these "extraneous considerations" with the following revealing statement: "The Sponsor's expressed intent and campaign statements *simply are consistent with that ordinary meaning that would have been understood by voters*." Majority op. at 13 (emphasis added).

This evidence clearly resolves any question regarding the meaning of the phrase "all terms of sentence" and should not be excluded from consideration. Surely, if the text in this case had said, "all terms of sentence, *including payment in full of all financial obligations imposed by the court,*" or conversely, "*upon completion of all terms of incarceration of the sentence*," consideration of extrinsic sources, including dictionaries, would not have been necessary. Unfortunately, for whatever reason, it did not.

Moreover, textualism, for all its usefulness, is less reliable when the text in question, such as the four-word text in this case, is not sufficiently developed to

allow its full meaning to be discernable. In such instances, consideration of unambiguous extrinsic evidence is essential to determine the meaning of the text in question. Unfortunately, given the majority's decision today setting forth the so-called "supremacy-of-text principle" as the law of constitutional and statutory interpretation in Florida, such valuable extrinsic evidence will no longer be afforded its due consideration. While I agree that the initial step in resolving questions of constitutional and statutory interpretation should be to carefully examine the words of the governing text in context, I disagree with the summary exclusion from consideration of extrinsic credible information that would assist in determining the meaning of the text—including the intent of the framers and voters as we have consistently done in the past.

Indeed, without the existence and consideration of the extrinsic evidence concerning the intention of the sponsor and others involved in the process of proposing Amendment 4, based on this record, I could not concur with the majority based solely on the theory that "the only objective evidence for the intent of a text is what the text says understood in context"—not in this case.

Accordingly, I concur with the majority's ultimate decision that the phrase "all terms of sentence" encompasses all "legal financial obligations." I am able to do so only because the extrinsic evidence presented concerning the sponsor's intent assisted me. I dissent to the majority's position that the phrase "all terms of

sentence" is unambiguous and that the voters would "most likely understand" it to include all LFOs—without more. I also dissent to the majority's unbending application of the "supremacy-of-text principle" to Florida law, to the exclusion of available extrinsic evidence that would assist the Court in construing constitutional and statutory provisions.

Original Proceedings – Advisory Opinion to the Governor

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Appendix F

Florida Department of State
Division of Elections

Contributions Query Results

About the Campaign Finance Data Base
If all contributions for a reporting period are less than 1 dollar they may not be displayed.

Search Criteria:

Detail of Committees

Election Year: 2018 General Elec ion

With Candidate Last Name Starts With: floridians for a fair democrac

Committee Type: All

Candidate/Committee	Date	Amount	Typ	Contributor Name	Address
Floridians for a Fair Democracy, Inc. (PAC)	08/01/2018	500,000.00	CHE	1630 FUND	1201 CONNECTICUT A
Floridians for a Fair Democracy, Inc. (PAC)	10/04/2018	250,000.00	CHE	1630 FUND	1201 CONNECTICUT A
Floridians for a Fair Democracy, Inc. (PAC)	10/26/2018	1,500,000.00	CHE	1630 FUND	1201 CONNECTICUT A
Floridians for a Fair Democracy, Inc. (PAC)	10/26/2018	1,500,000.00	CHE	1630 FUND	1201 CONNECTICUT A
Floridians for a Fair Democracy, Inc. (PAC)	10/02/2018	500,000.00	CHE	A NEW APPROACH PAC	PO BOX 1498
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	50,000.00	CHE	A NEW APPROACH PAC	PO BOX 1498
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	50,000.00	CHE	A NEW APPROACH PAC	PO BOX 1498
Floridians for a Fair Democracy, Inc. (PAC)	10/14/2018	1.25	CHE	AARON GLEN	3318 HAYNES AVE
Floridians for a Fair Democracy, Inc. (PAC)	12/18/2017	10.00	CHE	ABATE ANTONINA	3826 SE 136TH AVE
Floridians for a Fair Democracy, Inc. (PAC)	05/12/2017	20.00	CHE	ABBOTT LISA	5459 BENTGRASS DR
Floridians for a Fair Democracy, Inc. (PAC)	10/28/2018	1.00	CHE	ABBOTT MARK	235 W MEADOWLAND I
Floridians for a Fair Democracy, Inc. (PAC)	10/28/2018	1.00	CHE	ABBOTT MARK	235 W MEADOWLAND I
Floridians for a Fair Democracy, Inc. (PAC)	01/20/2018	15.00	CHE	ABELL MARLA	4237 SEA MIST DR
Floridians for a Fair Democracy, Inc. (PAC)	09/16/2018	25.00	CHE	ABER DANIEL	188 ALBEMARLE RD
Floridians for a Fair Democracy, Inc. (PAC)	10/06/2018	5.00	CHE	ABER DANIEL	188 ALBEMARLE RD
Floridians for a Fair Democracy, Inc. (PAC)	07/23/2018	5,000.00	CHE	ABERLY NAOMI	32 DERNE ST
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	3.12	CHE	ABLEMAN MICHAEL	777 RIVEN ROCK RD
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	3.12	CHE	ABLEMAN MICHAEL	777 RIVEN ROCK RD
Floridians for a Fair Democracy, Inc. (PAC)	10/09/2018	1.25	CHE	ABNEY RICHARD	11118 CORTE PLENO
Floridians for a Fair Democracy, Inc. (PAC)	10/21/2018	100.00	CHE	ABRAHAMSON KURT	3725 DIVISADERO ST
Floridians for a Fair Democracy, Inc. (PAC)	10/21/2018	100.00	CHE	ABRAHAMSON KURT	3725 DIVISADERO ST
Floridians for a Fair Democracy, Inc. (PAC)	10/19/2018	2.27	CHE	ABRAMS JOLANE	1591 MCLELLAN RD
Floridians for a Fair Democracy, Inc. (PAC)	10/14/2018	5.00	CHE	ACHEY MICHAEL	31 WENLOCK CIR
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	9.37	CHE	ACHEY MICHAEL	31 WENLOCK CIR
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	9.37	CHE	ACHEY MICHAEL	31 WENLOCK CIR
Floridians for a Fair Democracy, Inc. (PAC)	10/14/2018	5.00	CHE	ACHTERMANN GORDON	3605 DRUID LN
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	1.00	CHE	ACHTERMANN GORDON	3605 DRUID LN
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	1.00	CHE	ACHTERMANN GORDON	3605 DRUID LN
Floridians for a Fair Democracy, Inc. (PAC)	04/04/2018	25.00	CHE	ACKER-LYONS ALEXANDRA	3349 WAVERLEY ST
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2017	25,088.16	INK	ACLU	125 BROAD STREET
Floridians for a Fair Democracy, Inc. (PAC)	10/11/2018	1.25	CHE	ACOSTA FRANK	845 N 9TH ST
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.25	CHE	ACOSTA MARGE	4 HARBOR PARK CT
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.25	CHE	ACOSTA MARGE	4 HARBOR PARK CT
Floridians for a Fair Democracy, Inc. (PAC)	08/15/2018	5.00	CHE	ACTON-BOND BRANDON	246 ALLEN ST
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.00	CHE	ADAM MONIQUE	758 KINGSTON AVE A
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.00	CHE	ADAM MONIQUE	758 KINGSTON AVE A
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	1.57	CHE	ADAMS CYNTHIA	208 OLD COUNTRY RD
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	1.57	CHE	ADAMS CYNTHIA	208 OLD COUNTRY RD
Floridians for a Fair Democracy, Inc. (PAC)	08/28/2018	150.00	CHE	ADAMS HENRY	5467 OCEAN BLVD
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	1.00	CHE	ADAMS JUDITH	25409 SHELLEY PL
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	1.00	CHE	ADAMS JUDITH	25409 SHELLEY PL
Floridians for a Fair Democracy, Inc. (PAC)	11/01/2018	1.00	CHE	ADAMS MARILEE	161 ROCKTOWN LAMBE
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	6.25	CHE	ADAMS MARTIN	12083 SW 208TH ST
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	6.25	CHE	ADAMS MARTIN	12083 SW 208TH ST
Floridians for a Fair Democracy, Inc. (PAC)	10/08/2018	1.67	CHE	ADAMS MARY	PO BOX 389
Floridians for a Fair Democracy, Inc. (PAC)	11/01/2018	25.00	CHE	ADAMS SEAN	51 JAVA ST
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.00	CHE	ADAR FRAN	30 S ADELAIDE AVE
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	1.00	CHE	ADAR FRAN	30 S ADELAIDE AVE
Floridians for a Fair Democracy, Inc. (PAC)	10/20/2018	1.25	CHE	ADDISON CONNIE	856 S TOWN AND RIV
Floridians for a Fair Democracy, Inc. (PAC)	10/20/2018	1.25	CHE	ADDISON CONNIE	856 S TOWN AND RIV
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	3.13	CHE	ADELSON EDWARD	6384 FALKIRK PL
Floridians for a Fair Democracy, Inc. (PAC)	10/23/2018	3.13	CHE	ADELSON EDWARD	6384 FALKIRK PL
Floridians for a Fair Democracy, Inc. (PAC)	10/19/2018	2.27	CHE	ADESNIK MILTON	305 E 24TH ST
Floridians for a Fair Democracy, Inc. (PAC)	06/04/2018	25.00	CHE	ADESNIK TOVA	10043 YELLOWFIELD
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	1.00	CHE	ADHIKARI PRASHANTH	51 157TH AVE SE
Floridians for a Fair Democracy, Inc. (PAC)	10/24/2018	1.00	CHE	ADHIKARI PRASHANTH	51 157TH AVE SE
Floridians for a Fair Democracy, Inc. (PAC)	10/11/2018	1.25	CHE	ADLER MICHAEL	3502 NE 43RD ST
Floridians for a Fair Democracy, Inc. (PAC)	10/15/2018	50.00	CHE	ADLER NURIEL	55 W 26TH ST
Floridians for a Fair Democracy, Inc. (PAC)	10/10/2018	1.00	CHE	ADLER RACHEL	8712 GREGORY WAY
Floridians for a Fair Democracy, Inc. (PAC)	10/20/2018	2.50	CHE	ADLER-GOLDEN STEVEN	20 CLARENDON ST
Floridians for a Fair Democracy, Inc. (PAC)	10/20/2018	2.50	CHE	ADLER-GOLDEN STEVEN	20 CLARENDON ST
Floridians for a Fair Democracy, Inc. (PAC)	10/19/2018	1.00	CHE	AEBI JOAN	2027 LAS LUNAS ST
Floridians for a Fair Democracy, Inc. (PAC)	10/05/2018	9,308.00	INK	AFSCME	555 NEW JERSEY AVE
Floridians for a Fair Democracy, Inc. (PAC)	09/28/2018	5,590.00	INK	AFSCME	555 NEW JERSEY AVE
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	1.00	CHE	AGARWAL ANITA	3509 SE DIVISION S
Floridians for a Fair Democracy, Inc. (PAC)	10/31/2018	1.00	CHE	AGARWAL ANITA	3509 SE DIVISION S
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	1.00	CHE	AGUILAR TIM	14515 MANECITA DR
Floridians for a Fair Democracy, Inc. (PAC)	10/30/2018	1.00	CHE	AGUILAR TIM	14515 MANECITA DR
Floridians for a Fair Democracy, Inc. (PAC)	10/19/2018	3.18	CHE	AHLSTROM CHARISSA	PO BOX 205
Floridians for a Fair Democracy, Inc. (PAC)	10/21/2018	2.70	CHE	AHMED OMAR	4750 SW TUCKER AVE

Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	AHMED OMAR	4750 SW TUCKER AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	AIRO CY	8460 LONON CT
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	AIRO CY	8460 LONON CT
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.10	CHE	AISLINGEACH CAERA	11225 19TH AVE SE
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.10	CHE	AISLINGEACH CAERA	11225 19TH AVE SE
Floridians for a Fair Democracy,	Inc. (PAC)	09/30/2018	100.00	CHE	AJAY HAMPAPUR	1037 OAKTREE DR
Floridians for a Fair Democracy,	Inc. (PAC)	05/12/2017	100.00	CHE	AKHTER MOHAMMED	2 OLD FARM CIRCLE
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	AKI KATHLEEN	4485 HAMILTON CT
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	AKI KATHLEEN	4485 HAMILTON CT
Floridians for a Fair Democracy,	Inc. (PAC)	07/24/2018	10.00	CHE	AKRAM SHARI	20103 HERITAGE POI
Floridians for a Fair Democracy,	Inc. (PAC)	05/18/2017	20.00	CHE	AL-RAHIM MIRA	281 UNION AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	19.68	CHE	AL-SALAM SELMA	4006 LONGWOOD DR
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	19.68	CHE	AL-SALAM SELMA	4006 LONGWOOD DR
Floridians for a Fair Democracy,	Inc. (PAC)	09/26/2018	100.00	CHE	ALAGAPPAN LAKSHMI	1045 DIVISADERO ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALBANI GAETANO	289 QUAKER LN N
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALBANI GAETANO	289 QUAKER LN N
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	3.00	CHE	ALBANI JAMES	8 PINE RIDGE RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	3.00	CHE	ALBANI JAMES	8 PINE RIDGE RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.25	CHE	ALBERT CARROLL	6010 DONALDSON RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.25	CHE	ALBERT CARROLL	6010 DONALDSON RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/09/2018	1.25	CHE	ALBERT CORY	6459 PINEHAVEN RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALBERT NANCY	39 TIMMS HILL RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALBERT NANCY	39 TIMMS HILL RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.00	CHE	ALBRIGHT PATRICIA	5809 W 77TH PL
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.00	CHE	ALBRIGHT PATRICIA	5809 W 77TH PL
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	ALCORN SETH	5010 EMERSON ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	ALCORN SETH	5010 EMERSON ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	20.00	CHE	ALCOTT RUSSELL	3200 OLD WINTER GA
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	20.00	CHE	ALCOTT RUSSELL	3200 OLD WINTER GA
Floridians for a Fair Democracy,	Inc. (PAC)	05/30/2017	20.00	CHE	ALDEN SUSAN	93 PACIFIC WAY
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	25.00	CHE	ALDRICH STEVE	PO BOX 55
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	25.00	CHE	ALDRICH STEVE	PO BOX 55
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	1.56	CHE	ALEMAN ANTHONY	2729 GRAND AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/27/2018	1.00	CHE	ALEXANDER DEVON	7524 35TH AVE SW
Floridians for a Fair Democracy,	Inc. (PAC)	10/27/2018	1.00	CHE	ALEXANDER DEVON	7524 35TH AVE SW
Floridians for a Fair Democracy,	Inc. (PAC)	06/29/2018	100.00	CHE	ALEXANDER JACQUI	176 COUNTY ROUTE 6
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	5.00	CHE	ALEXANDER MARK	6 BAXTER LN
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	3.12	CHE	ALEXANDER TIMOTHY	8 BAILIWICK WOODS
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	3.12	CHE	ALEXANDER TIMOTHY	8 BAILIWICK WOODS
Floridians for a Fair Democracy,	Inc. (PAC)	07/02/2018	25.00	CHE	ALEXANDRA KATHRYN	4311 GINNETT RD
Floridians for a Fair Democracy,	Inc. (PAC)	07/02/2018	30.00	CHE	ALEXANDRA KATHRYN	4311 GINNETT RD
Floridians for a Fair Democracy,	Inc. (PAC)	08/14/2018	10.00	CHE	ALEXIS CHIQUITA	1998 LAS CASAS RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALFENITO JOSEPH	3521 W PL NW
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALFENITO JOSEPH	3521 W PL NW
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALFREDS MYRA	40 GLEN WOOD RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALFREDS MYRA	40 GLEN WOOD RD
Floridians for a Fair Democracy,	Inc. (PAC)	09/26/2018	100.00	CHE	ALGEO MATTHEW	1531 N PIERCE ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ALHADEFF JACK	3261 CHESTNUT HILL
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALHADEFF JACK	3261 CHESTNUT HILL
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALHADEFF JACK	3261 CHESTNUT HILL
Floridians for a Fair Democracy,	Inc. (PAC)	04/04/2018	100.00	CHE	ALHASSANI MEHDI	1331 ALMA ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	3.13	CHE	ALHONTE MATTHEW	48 WALL ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	3.13	CHE	ALHONTE MATTHEW	48 WALL ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALI S.	PO BOX 390021
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALI S.	PO BOX 390021
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALLAN EDWARD	32 MILFORD ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALLAN EDWARD	32 MILFORD ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/22/2017	12.50	CHE	ALLEGAR BILL	116 E 1ST AVE UNIT
Floridians for a Fair Democracy,	Inc. (PAC)	05/22/2017	20.00	CHE	ALLEN AIMEE	2028 HOBBYHORSE AV
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALLEN DEBORAH	18 TAYLORS MILL LN
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALLEN DEBORAH	18 TAYLORS MILL LN
Floridians for a Fair Democracy,	Inc. (PAC)	08/22/2017	2.50	CHE	ALLEN EDITH	83 LINCOLN AVE #2
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	ALLEN ERNEST	2373 NW 185TH AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	ALLEN ERNEST	2373 NW 185TH AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALLEN ERNEST	2373 NW 185TH AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALLEN ERNEST	2373 NW 185TH AVE
Floridians for a Fair Democracy,	Inc. (PAC)	09/28/2018	250.00	CHE	ALLEN JOAN	747 LYON ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/03/2018	25.00	CHE	ALLEN JONATHAN	1747 SW 108TH WAY
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ALLEN LOIS	6035 TOWNLEY CT
Floridians for a Fair Democracy,	Inc. (PAC)	10/25/2018	1.00	CHE	ALLEN LYNN	HC 63 BOX 28
Floridians for a Fair Democracy,	Inc. (PAC)	10/25/2018	1.00	CHE	ALLEN LYNN	HC 63 BOX 28
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.25	CHE	ALLEN NAOMI	150 W 95TH ST
Floridians for a Fair Democracy,	Inc. (PAC)	06/22/2017	20.00	CHE	ALLEN RUTH	266 SOMERSET BRIDG
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALLEN SALLEE	16032 INDIAN FLAT
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ALLEN SALLEE	16032 INDIAN FLAT
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	2.00	CHE	ALLEN TED	2838 COUNTY RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/15/2018	1.50	CHE	ALLEN TERESA	91089 ANGELS FLIGH
Floridians for a Fair Democracy,	Inc. (PAC)	02/28/2018	18,667.00	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY, STE
Floridians for a Fair Democracy,	Inc. (PAC)	03/31/2018	12,867.00	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	04/30/2018	11,167.00	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	04/30/2018	32,500.00	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	05/31/2018	18,667.00	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	06/22/2018	14,000.25	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	06/29/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	07/06/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	07/13/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	07/20/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	07/27/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	09/07/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	08/31/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	09/14/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	08/10/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	08/03/2018	4,666.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	08/24/2018	1,471.35	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	08/17/2018	9,333.50	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	09/28/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	09/21/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	10/05/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE

Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	10/26/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	10/26/2018	7,356.75	INK	ALLIANCE FOR SAFETY AND JUSTICE FUND	1700 BROADWAY STE
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALLIMAN JILL	410 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ALLIMAN JILL	410 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/22/2017	5.00	CHE	ALLISON JOAN	4709 CURTIS CLARK
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	3.63	CHE	ALLISON NANCY	137 E 19TH ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/01/2018	400.00	CHE	ALOISIO LAUREN	59 STATES ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ALPER TINA	116 OLIVERA WAY
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.25	CHE	ALPERT L.	9500 CENTER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	3.12	CHE	ALPERT MICHAEL	PO BOX 1163
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	3.12	CHE	ALPERT MICHAEL	PO BOX 1163
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	31.25	CHE	ALTHOFF JAMES	736 LINDEN AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	15.62	CHE	ALTHOFF JAMES	736 LINDEN AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	15.62	CHE	ALTHOFF JAMES	736 LINDEN AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	31.25	CHE	ALTHOFF JAMES	736 LINDEN AVE
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALTMAN NAOMI	115 THURSTON ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ALTMAN NAOMI	115 THURSTON ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	ALTSHULD BONNIE	3737 SW CORONADO S
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	ALTSHULD BONNIE	3737 SW CORONADO S
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ALUNNI ROBIN	142 RIVER ST
Floridians for a Fair Democracy,	Inc. (PAC)	01/08/2018	20.00	CHE	ALVAREZ CLAUDIA	12809 FREDERICK ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	5.00	CHE	ALVAREZ KELLY	23037 SPICEBUSH DR
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	10.00	CHE	ALVAREZ KELLY	23037 SPICEBUSH DR
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	10.00	CHE	ALVAREZ KELLY	23037 SPICEBUSH DR
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	5.00	CHE	ALVAREZ KELLY	23037 SPICEBUSH DR
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	2.00	CHE	ALVAREZ PABLO	20 HARVARD PL
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	2.00	CHE	ALVAREZ PABLO	20 HARVARD PL
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	3.13	CHE	ALVARY PAULA	41 SUFFOLK RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	3.13	CHE	ALVARY PAULA	41 SUFFOLK RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	AMARAL CAITLIN	87 STANDISH RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	AMARAL CAITLIN	87 STANDISH RD
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	2.28	CHE	AMATEAU MAURICE	3210 KINNARD SPRIN
Floridians for a Fair Democracy,	Inc. (PAC)	10/21/2018	4.00	CHE	AMBLER STUART	PO BOX 61
Floridians for a Fair Democracy,	Inc. (PAC)	10/21/2018	4.00	CHE	AMBLER STUART	PO BOX 61
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	1.00	CHE	AMBROSE RICHARD	5549 STONE CREEK D
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	AMBROSE RICHARD	5549 STONE CREEK D
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	1.00	CHE	AMBROSE RICHARD	5549 STONE CREEK D
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2017	4,292.00	INK	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	10/06/2017	250,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	4343 W. FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2017	350,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	4343 W. FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2017	711.00	INK	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	08/31/2017	9,164.00	INK	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	09/11/2017	100,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	09/29/2017	514.00	INK	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	06/30/2017	250,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	4343 W. FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/18/2017	250,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	07/31/2017	4,788.38	INK	AMERICA CIVIL LIBERTIES UNION	125 BROAD STREET
Floridians for a Fair Democracy,	Inc. (PAC)	01/13/2017	5,000.00	CHE	AMERICA CIVIL LIBERTIES UNION	4500 BISCAYNE BLVD
Floridians for a Fair Democracy,	Inc. (PAC)	04/20/2017	23,316.00	CHE	AMERICA CIVIL LIBERTIES UNION	4343 WEST FLAGLER
Floridians for a Fair Democracy,	Inc. (PAC)	07/31/2017	249.29	INK	AMERICAN CIVIL LIBERTIES UNION FOUNDATIO	125 BROAD STREET
Floridians for a Fair Democracy,	Inc. (PAC)	09/29/2017	8,540.45	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 WEST FLAGLER
Floridians for a Fair Democracy,	Inc. (PAC)	11/30/2017	32,886.83	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 WEST FLAGLER
Floridians for a Fair Democracy,	Inc. (PAC)	12/31/2017	21,250.56	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	02/28/2018	22,159.35	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	01/31/2018	17,797.69	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/27/2018	8,234.83	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/13/2018	6,943.63	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/06/2018	6,388.95	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	06/29/2018	7,935.86	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	06/22/2018	28,128.59	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	05/31/2018	23,387.58	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	04/30/2018	18,054.65	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	03/31/2018	17,788.59	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/28/2018	11,070.79	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/21/2018	11,164.43	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/17/2018	16,124.27	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/24/2018	1,654.17	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/03/2018	7,589.10	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/10/2018	8,418.15	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/14/2018	11,598.79	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/07/2018	8,844.86	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/05/2018	13,223.84	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	11,840.47	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	2,841.01	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	2,841.01	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	2,808.91	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	2,808.91	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	11/30/2018	31,251.14	INK	AMERICAN CIVIL LIBERTIES UNION OF FLORID	4343 W FLAGLER ST
Floridians for a Fair Democracy,	Inc. (PAC)	03/31/2018	9,378.74	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	04/30/2018	18,603.70	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	05/31/2018	8,474.05	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	06/22/2018	4,147.70	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	06/29/2018	1,140.37	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/06/2018	741.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/13/2018	1,661.37	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/20/2018	839.76	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	07/27/2018	2,416.23	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	01/31/2018	2,089.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	12/31/2017	18,323.78	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	11/30/2017	3,870.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD STREET
Floridians for a Fair Democracy,	Inc. (PAC)	12/15/2017	400,000.00	CHE	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/06/2017	9,164.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROADWAY STREE
Floridians for a Fair Democracy,	Inc. (PAC)	10/05/2018	6,540.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/07/2018	1,965.02	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	08/31/2018	2,104.48	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST
Floridians for a Fair Democracy,	Inc. (PAC)	09/14/2018	7,315.26	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST

Floridians for a Fair Democracy,	Inc. (PAC)	08/03/2018	1,000,000.00	CHE	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	08/01/2018	3,400,000.00	CHE	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	08/24/2018	2,011.49	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	08/17/2018	2,759.25	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	09/21/2018	3,584.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	09/28/2018	3,584.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/12/2018	9,804.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	12,284.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	29,450.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	29,450.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	12/31/2018	566.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	11/30/2018	2,389.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	10,423.00	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	34,486.19	INK	AMERICAN CIVIL LIBERTIES UNION, INC.	125 BROAD ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.00	CHE	AMES LISA	400 HIGH POINT DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.00	CHE	AMIRI JULIE	PO BOX 333349	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.00	CHE	AMIRI JULIE	PO BOX 333349	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.00	CHE	ANAYIOTOS MARY	1 CHANNEL DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.57	CHE	ANDERSEN LAURI	1454 BROADWAY ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.57	CHE	ANDERSEN LAURI	1454 BROADWAY ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/12/2018	1.25	CHE	ANDERSEN MARILYN	307 ELM ST	
Floridians for a Fair Democracy,	Inc. (PAC)	08/23/2017	5.00	CHE	ANDERSEN SUSAN	1 WASHINGTON SQUAR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/22/2018	1.00	CHE	ANDERSON DENNIS	2 EASTWOOD DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/22/2018	1.00	CHE	ANDERSON DENNIS	2 EASTWOOD DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/11/2018	1.25	CHE	ANDERSON ELEANOR	3553 PORTER RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ANDERSON GARY	698 HOYT AVE E	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	1.00	CHE	ANDERSON GARY	698 HOYT AVE E	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.00	CHE	ANDERSON GAY-DEE	19806 N ECHO RIM D	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.00	CHE	ANDERSON GAY-DEE	19806 N ECHO RIM D	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	31.25	CHE	ANDERSON JAY	1486 BLUE JAY WAY	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	31.25	CHE	ANDERSON JAY	1486 BLUE JAY WAY	
Floridians for a Fair Democracy,	Inc. (PAC)	10/11/2018	1.25	CHE	ANDERSON KATHERYN	PO BOX 455	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.56	CHE	ANDERSON KATHERYN	PO BOX 455	
Floridians for a Fair Democracy,	Inc. (PAC)	10/29/2018	1.56	CHE	ANDERSON KATHERYN	PO BOX 455	
Floridians for a Fair Democracy,	Inc. (PAC)	10/26/2018	10.00	CHE	ANDERSON LISA	1414 30TH DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/26/2018	10.00	CHE	ANDERSON LISA	1414 30TH DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	9.37	CHE	ANDERSON MICHAEL	1216 SLOAN CANYON	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	9.37	CHE	ANDERSON MICHAEL	1216 SLOAN CANYON	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	3.12	CHE	ANDERSON NANCY	47 STURDIVANT RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	3.12	CHE	ANDERSON NANCY	47 STURDIVANT RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/11/2018	1.00	CHE	ANDERSON NILS	116 PIONEER ST	
Floridians for a Fair Democracy,	Inc. (PAC)	07/30/2018	5,000.00	CHE	ANDERSON ROBERT	2835 BROADWAY ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	ANDERSON SARA	640 MEADOWBROOK RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	ANDERSON SARA	640 MEADOWBROOK RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	100.00	CHE	ANDERSON TAMMY	5425 NE 1ST LN	
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	5.00	CHE	ANDERSON WARDENE	500 S VERLINDEN AV	
Floridians for a Fair Democracy,	Inc. (PAC)	10/28/2018	5.00	CHE	ANDERSON WARDENE	500 S VERLINDEN AV	
Floridians for a Fair Democracy,	Inc. (PAC)	06/27/2018	100.00	CHE	ANDERSON-RUDD PAMELA	2631 BELLHURST DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	2.50	CHE	ANDERSSON LINDA	2424 79TH AVE NE	
Floridians for a Fair Democracy,	Inc. (PAC)	05/27/2017	20.00	CHE	ANDES AARON	814 WINDSOR LN	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ANDRASIK JEREMY	1825 31ST AVE	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	ANDRASIK JEREMY	1825 31ST AVE	
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	3.13	CHE	ANDREOZZI LEONARD	6020 FLAGSTAFF RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.82	CHE	ANDREW BARBARA	22 BAYBERRY RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	5.00	CHE	ANDREWS CHARLES	2625 E 2ND ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/23/2018	5.00	CHE	ANDREWS CHARLES	2625 E 2ND ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.00	CHE	ANDREWS JESS	24 SMITH ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.00	CHE	ANDREWS JESS	24 SMITH ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/15/2018	2.00	CHE	ANDREWS PAMELA	44 ROYAL RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ANES JEAN	9 LIVOLI RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	2.27	CHE	ANFINSON STEPHEN	47 DOWN HEMLOCK LN	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	50.00	CHE	ANGEL ALBERT	100 W 57TH ST APT	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	50.00	CHE	ANGEL ALBERT	100 W 57TH ST APT	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	1.25	CHE	ANGLARILL MARCIA	3048 UNIT 4550	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	3.00	CHE	ANGLARILL MARCIA	3048 UNIT 4550	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	3.00	CHE	ANGLARILL MARCIA	3048 UNIT 4550	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ANGRESS MIRIAM	2608 UNIVERSITY DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.00	CHE	ANGRESS MIRIAM	2608 UNIVERSITY DR	
Floridians for a Fair Democracy,	Inc. (PAC)	10/13/2017	25.00	CHE	ANTEBI WILLIAM	66 CHANNING RD.	
Floridians for a Fair Democracy,	Inc. (PAC)	10/25/2018	25.00	CHE	ANTHOLZ ALAN	2615 VAIL CT	
Floridians for a Fair Democracy,	Inc. (PAC)	10/25/2018	25.00	CHE	ANTHOLZ ALAN	2615 VAIL CT	
Floridians for a Fair Democracy,	Inc. (PAC)	06/06/2018	10.00	CHE	ANTHONY JASON	PO BOX 459	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ANTHONY THOMAS	126 LAKESIDE LN	
Floridians for a Fair Democracy,	Inc. (PAC)	10/12/2018	192.00	INK	ANTI-DEFAMATION LEAGUE	1100 CONNECTICUT A	
Floridians for a Fair Democracy,	Inc. (PAC)	10/05/2018	780.00	INK	ANTI-DEFAMATION LEAGUE	1100 CONNECTICUT A	
Floridians for a Fair Democracy,	Inc. (PAC)	10/05/2018	300.00	INK	ANTI-DEFAMATION LEAGUE	1100 CONNECTICUT A	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	96.00	INK	ANTI-DEFAMATION LEAGUE	1100 CONNECTICUT A	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ANTOINE GERARD	4346 REDWOOD AVE #	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	10.00	CHE	ANTON SARAH	917 FEDERAL ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	10.00	CHE	ANTON SARAH	917 FEDERAL ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	1.00	CHE	ANTWINE KRISTINE	4103 CRAMER RD	
Floridians for a Fair Democracy,	Inc. (PAC)	11/01/2018	1.00	CHE	ANTWINE KRISTINE	4103 CRAMER RD	
Floridians for a Fair Democracy,	Inc. (PAC)	10/19/2018	4.54	CHE	ANZALONE TONI	PO BOX 296	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.25	CHE	AOKI LYNNE	9691 STANFORD AVE	
Floridians for a Fair Democracy,	Inc. (PAC)	10/20/2018	1.25	CHE	AOKI LYNNE	9691 STANFORD AVE	
Floridians for a Fair Democracy,	Inc. (PAC)	08/04/2017	2.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	5.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/21/2018	5.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/21/2018	5.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/31/2018	1.00	CHE	APONE JAMES	PO BOX 242213	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.41	CHE	APPELBAUM LYNN	444 E 84TH ST APT	
Floridians for a Fair Democracy,	Inc. (PAC)	10/30/2018	1.41	CHE	APPELBAUM LYNN	444 E 84TH ST APT	
Floridians for a Fair Democracy,	Inc. (PAC)	10/11/2018	1.05	CHE	APPLEBY LINDA	1827 W CALHOUN ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	APPLEBY LINDA	1827 W CALHOUN ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/24/2018	1.00	CHE	APPLEBY LINDA	1827 W CALHOUN ST	
Floridians for a Fair Democracy,	Inc. (PAC)	10/14/2018	5.00	CHE	APPLEFORD ALAN	6284 CLIVE AVE	
Floridians for a Fair Democracy,	Inc. (PAC)	05/29/2017	50.00	CHE	APPLETON ELISHIA	1221 E ELLIOTT AV	

I, Michael Barber, am being compensated for my time in preparing this report at an hourly rate of $400/hour. My compensation is in no way contingent on the conclusions reached as a result of my analysis.

Michael Barber

March 2, 2020

No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME V

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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VOLUME II

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, et al.,	
Plaintiffs,	Case No: 4:19cv300-RH
v.	Tallahassee, Florida April 28, 2020
RON DESANTIS, in his official capacity as Governor of Florida, et al.,	
Defendants.	9:01 AM VOLUME II

TRANSCRIPT OF VIDEOCONFERENCING PROCEEDING - BENCH TRIAL - DAY 2
BEFORE THE HONORABLE ROBERT L. HINKLE
UNITED STATES DISTRICT JUDGE
(Pages 262 through 463)

Court Reporter: MEGAN A. HAGUE, RPR, FCRR, CSR
111 North Adams Street
Tallahassee, Florida 32301
850.422.0011 megan.a.hague@gmail.com

Proceedings reported by stenotype reporter.
Transcript produced by Computer-Aided Transcription.

APPEARANCES:
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P R O C E E D I N G S

(Call to Order of the Court at 9:01 AM on Tuesday, April 28, 2020.)

THE COURT: This is Judge Hinkle. Let's do a quick test to make sure we are all up and going.

Ms. Ebenstein, can you hear me?

MS. EBENSTEIN: Good morning, Your Honor. I can hear you.

THE COURT: I saw your lips moving, but I didn't hear you.

MS. EBENSTEIN: Uh-oh. I can hear you, Your Honor. Is this any better?

Your Honor, can you hear me?

THE COURT: Let me try it with Mr. Jazil.

Mr. Jazil, can you hear me?

MR. JAZIL: Yes, Your Honor, I can hear you.

THE COURT: I'll figure out the problem on my end.

Ms. Ebenstein, tell me again, are you there?

MS. EBENSTEIN: I'm here, Your Honor.

THE COURT: That's perfect. Thank you.

And, Mr. Jazil, are you there?

MR. JAZIL: Yes, Your Honor.

THE COURT: Perfect.

All right. Ms. Ebenstein, please call your next witness.

MS. EBENSTEIN: Your Honor, we're calling Ms. Carey Haughwout to the stand, and my colleague Jonathan Topaz will be putting her on.

THE COURT: Ms. Haughwout, if you would, please, raise your right hand.

CAREY HAUGHWOUT, PLAINTIFFS WITNESS, DULY SWORN

THE COURT: I did not hear your answer.

THE WITNESS: I do.

THE COURT: Perfect. Thank you. If you would, please, tell us your full name.

THE WITNESS: Carey Haughwout. Last name is spelled H-a-u-g-h-w-o-u-t.

THE COURT: And, Mr. Topaz, you may proceed.

I'm not getting your sound either.

(Pause in proceedings.)

MR. TOPAZ: Can you hear me now?

THE COURT: Yes, thank you.

MR. TOPAZ: My apologies, Your Honor.

DIRECT EXAMINATION

BY MR. TOPAZ:

Q. Good morning, Ms. Haughwout. Nice to see you.

A. Good morning.

Q. Ms. Haughwout, where do you live?

A. I live in Palm Beach County, Florida. Do you need an address?

Q. No, thank you.

What's your educational background?

A. I'm a lawyer. I graduated from New College in Sarasota, Florida, with my undergraduate degree. I attended FSU Law School and graduated with high honors in 1983.

Q. And, Ms. Haughwout, what's your current occupation?

A. I'm the public defender for Palm Beach County.

Q. And how long have you been the public defender in Palm Beach County?

A. Since January 2001.

Q. And Palm Beach County is the 15th Judicial Circuit in Florida; is that correct?

A. Yes, that's right.

Q. All told, Ms. Haughwout, how long have you been a criminal defense attorney in Florida?

A. I started practicing in 1983 and did some criminal defense. I have done exclusively criminal defense since about 1985.

Q. Can you describe where you were employed before your current position as public defender in the 15th Circuit?

A. Sure. It might be easier to start from the beginning in 1983. After I graduated, I continued to work with a firm that I had clerked with, Green and Fonvielle and -- that ultimately was Fonvielle and Hinkle -- for two years. I then went to work for the Tallahassee Public Defender's Office, wanting to do trial work. I worked there from -- till 1987, when I moved to

Palm Beach County. I became employed as an assistant public defender in the Palm Beach County Public Defender's Office. I worked in this office as an assistant handling primarily capital cases until 1990, when I went into practice with my husband, who's also a criminal defense lawyer, John Tierney. The firm became Tierney and Haughwout. We worked -- we had that firm until I ran for public defender and was elected and began serving in January of 2001.

Q. And when you were at the firm between 1990 and 2000, Ms. Haughwout, you were doing criminal defense cases?

A. Yes. We were doing -- I was doing criminal defense work both here locally, in a variety of jurisdictions around Florida, and in a variety of jurisdictions around the country.

Q. Can you explain to the Court just some of the jurisdictions in Florida where you've practiced criminal defense law in addition to Palm Beach County?

A. Sure. Obviously Leon County and the surrounding counties that incorporate that circuit. I've handled cases in Jacksonville, Dayton Beach, Tampa, Orlando, Miami, Fort Lauderdale, the counties north of us: St. Lucie County, Martin County. I did a case in Okeechobee County. I think that may be -- I think that covers it.

Q. Great.

Ms. Haughwout, have you won any professional awards during your time as a criminal defense attorney?

A. Yes. Well, I'm a board certified criminal trial lawyer, I'm a Fellow of the American College of Trial Lawyers. I was awarded the Harriet Glasner Award, a Freedom Award from ACLU. I received an ending homelessness award. I was a March of Dimes Woman of Distinction. I received a voters coalition award. I received the professionalism award from the Palm Beach County Bar Association and the Champion of Justice Award from the Palm Beach County Criminal Defense Lawyer's Association.

Q. And, Ms. Haughwout, have you had any appointments in connection with your work as a criminal defense attorney during your career?

A. Yes. I was appointed to clemency panel -- to a clemency panel by then Governor Chiles, and that continued then under Governor Bush. I was appointed to the Supreme Court committee that recommended minimum standards for counsel in capital cases. I've served on a variety of boards and committees. I created and chaired the Reentry Task Force for Palm Beach County. I served on a DCA workload committee, a variety of appointments.

Q. And, Ms. Haughwout, are you a member of any associations or organizations related to your work as a criminal defense attorney?

A. Yes, The National Association of Criminal Defense Lawyers, the Florida Association of Criminal Defense Lawyers that I was president of, the Palm Beach County Association of Criminal Defense Lawyers, obviously Palm Beach County Bar Association,

Florida Association of Women Lawyers. I think that's it.
Q. Are you a member of the Florida Association of Public Defenders?
A. Yes.
Q. Can you describe the role of the association of -- the Florida Association of Public Defenders?
A. The association represents 19 of the 20 elected public defenders and their staff. As an association, we do training for assistants; we represent public defenders in front of the legislature; we gather data and present that to the legislature and other bodies that may request it; and we just generally come together to discuss and address challenges facing indigent defense in Florida.
Q. Ms. Haughwout, do you have a leadership role in the Association of Public Defenders in Florida?
A. I'm currently the president of the Florida association and have been since 2018.
Q. And what are some of your responsibilities as association president?
A. You know, I chair our meetings, our board meetings. I speak to legislatures on behalf of the association. I speak to the media on behalf of the association. I'm responsible for ensuring that we have gathered and presented data as requested by the legislature, address -- we -- you know, I'm responsible for addressing various inquiries the legislature may have about

our work, about various issues involving criminal law. We, you know, speak to legislators about substantive criminal law issues, as well as about budget issues on a regular basis.

Q. Ms. Haughwout, you mentioned some data that the association collects. Can you just describe to the Court some of the data that the association is collecting?

A. We are statutorily required to submit reports to the legislature on our caseload data, which includes number of clients represented, sort of the -- we break it down by the type of case, and we -- and how cases are closed or disposed of. So those are the kinds of things that we -- the data about our work. We also routinely present data about when we are talking about substantive law issues in terms of, you know, the number of cases involving certain types of crimes or things that may impact the legislature's decision on substantive crime issues.

Q. Does the association collect data related to appellate cases?

A. Yes.

And I -- the 15th Circuit is one of five appellate circuits in Florida. So we gather and present data with regards to how many appeals we are assigned, how cases are disposed, how many briefs are filed, how many clients are represented, those numbers as well.

Q. Ms. Haughwout, how many judicial circuits are there in Florida?

A. There's 20.
Q. And how many judicial circuits are represented in the Association of Public Defenders?
A. 19.
Q. And how many judicial circuits provide the association of public affairs -- excuse me -- provide the Association of Public Defenders with data related to felony cases?
A. All 20 because we have to, by statute, submit that to the legislature.
Q. How often would you say you're in contact with public defenders from across the state?
A. Regularly. We have board meetings both -- we used to have them in person. Now we have them obviously remotely about every other month. We have telephone conferences probably about once a month, and at least weekly, I'm speaking to one or more of the other elected public defenders.
Q. Can you describe how public defender offices in Florida are funded?
A. We are primarily funded through the state legislature. Our counties are responsible for our facilities and our technology needs.
Q. And is there a funding formula with regard to funding these public defender offices across Florida?
A. Yes. The funding formula has a variety of things considered, you know, population, cost of living but also

caseload, data. So in terms of what our workload is is our workload formula.

Q. Thanks, Ms. Haughwout. I want to come back to your work as president of the Association of Public Defenders in a bit. I want to talk to you a little bit now about your role as public defender of Florida's 15th Judicial Circuit.

Can you describe your job responsibilities as public defender?

A. Sure. It's a little of everything. So because I have an appellate division and a trial division, you know, I generally oversee the lawyers in both areas. You know, the office itself is comprised of about 200 employees, 100 lawyers, and 100 support staff, from secretaries to investigators, social workers, those types of things.

So I, you know, generally oversee all of the workings of the office, present trainings, design trainings, design and implement various programs when we have specific challenges and oversee budgeting trying to ensure that resources are going where they are most needed, and then, you know, speak regularly with the lawyers about what we're seeing in the courts, what their cases are like, their caseloads are like.

I'm -- you know, I'm also a lawyer, a trial lawyer, and I handle cases in the courtroom. So it gives me a chance both to continue to litigate as well as to have relief, sort of really a firsthand view of what's happening in our courtrooms on a

regular basis.
Q. Can you describe what, if any, supervisory role you have with regard to the attorneys who serve in your office?
A. Well, I mean, I consider myself ultimately responsible for all the work they do. So some of it is in person, individual supervision. Some of it is through my division supervisors. You know, we have performance standards. I do performance reviews with the lawyers, discussing sort of their progress, their strengths, their weaknesses, helping with providing direction on how to -- we can do the job better.
Q. Do the attorneys that you supervise you -- that you supervise, do they brief you on their felony cases?
A. Many of them do. We have lots of informal as well as formal conversations about work. We put together -- you know, I just -- I talk with the lawyers a lot about their work, and then we have both brainstorming sessions on a weekly basis where lawyers bring their cases in for us to kind of brainstorm what challenges they're facing, and then we have meetings where we talk about their cases and sort of what's happening, especially with, you know, various things that may be occurring in the courts.
Q. Is one of the things you discuss with your attorneys the financial status of your office's clients?
A. Yes, in that the financial status impacts everything about what we do. You know, representing poor people has a variety of

challenges, whether it's, you know, getting folks to court, staying in contact with people who don't have regular means of communication. The areas that we see cases coming from are the areas our clients live in, the relationship with law enforcement and authority that may be different with poor folks.

So, you know -- and then the challenges presented by financial demands as a result of their involvement in the criminal justice system, both at the end with regards to fees and costs, as well as in the interim, jail charges, things like that, that really are very difficult for our clients.

Q. Ms. Haughwout, on average, how many felony criminal defendants does your office represent annually?

A. On average, I'd say about 12- to 15,000. It used to be higher. Fortunately, those numbers are going down.

Q. Does that include your appellate clients?

A. No. The appellate clients are generally about another 5- to 600 a year.

Q. And so if you had to estimate, roughly how many felony criminal defendants has your office represented during your tenure as public defender since 2001?

A. So I would say maybe -- my math isn't that great. There was a time it was more like 20,000 a year probably for the first 10 years, and now down to about 15 and our appellate clients. So I think that comes out to maybe 400,000 or so. I don't know. Math was not my specialty.

Q. Neither is it my specialty. Thank you, Ms. Haughwout. Sorry for making you do math so early in the morning.

You mentioned your appellate division. In what circuits does your appellate division handle cases?

A. So we handle the appeals from the 17th Judicial Circuit, which is Broward County, and the 19th Judicial Circuit, which are the four counties to the north of us: Martin County, St. Lucie County, Indian River County, and Okeechobee County.

Q. What are some of the issues that your appellate division often addresses on appeal?

A. Well, there's a variety of issues, obviously, in terms of, you know, factual issues that come up in cases, in trials, evidentiary rulings, but also sentencing is a big issue that we address and the conditions of sentencing as well as things like costs that are imposed, whether there's record basis for it, what they are. So we are always looking at that as well.

Q. And with regard to the issues related to cost or legal financial obligations, what are -- how do those issues come up on appeal to you typically?

A. Well, you know, the -- whether there's a record basis for imposition of the cost, because the cost varies so much from county to county, the -- you know, some of the costs defendants are entitled to dispute, and so whether they were given notice and an opportunity to dispute those costs become an issue, whether the costs are authorized or not authorized by statute,

those types of issues.
Q. Ms. Haughwout, I want to ask you some questions about returning citizens who are charged with felonies, and I sort of want to do it in something of a chronological order from the time that they're charged to the time they are sort of through their time in the criminal justice system.
So I want to start with the beginning of the process, which is when an individual who is charged with a felony either retains counsel privately or is appointed counsel by the Court.
A. Okay.
Q. In Florida, when are criminal defendants entitled to court-appointed counsel?
A. At the initial appearance, which occurs within 24 hours of arrest, there's a determination made as to whether they are indigent under the standards enacted by the legislature, which is an income level of 200 percent or less of the poverty level. So from first appearance on folks are entitled to counsel.
And I just want to be clear, I know you use the term "returning citizens." That implies it's people who went to prison. Obviously, there's a lot of folks charged with felonies who never went to prison and folks convicted of felonies that don't go to prison.
Q. Thank you, Ms. Haughwout.
In your near two decades serving as public defender of Florida's 15th Judicial Circuit, what would you estimate is the

percentage of felony criminal defendants that receive a court-appointed lawyer based on this indigency standard?

A. Initially, at the initial appearance, I would say 90 percent.

Q. Can you explain to the Court what you're basing this 90 percent estimate on?

A. From doing the initial appearance hearings, so -- and I'm sorry, you may know this. But what happens is a person is arrested. Prior to their initial appearance, they fill out a financial affidavit. The financial affidavit is provided to the clerk. The clerk makes an indigency determination, and that's how we get appointed. So we are appointed initially on 90 percent of the cases based on the indigency determination made by the clerk.

I have -- you know, I see it in the numbers, the data. I also will handle first appearances. I'll go out to initial appearances. So, you know, I see it. You know, in these days with our, you know, handling COVID, we are appointed on 100 percent of the cases.

Q. Does that percentage change at the trial phase at all?

A. Yes. It drops a little bit in that, you know, people are able to cobble together family and friend resources that enable them to hire their own lawyers. So it drops in felony cases to about 80 percent. In misdemeanors, it drops further because it's less expensive to hire a lawyer in those cases.

Q. Ms. Haughwout, are you aware generally of the rates at which felony criminal defendants are eligible for court-appointed counsel in other circuits across the state of Florida?
A. It's really very similar. The data -- you know, the statewide data is very similar to what our data is here in Palm Beach County, which is approximately 80 percent.
Q. Is there any reason why the indigency rate among felony criminal defendants statewide in Florida would be different than that in the 15th Circuit or Palm Beach County?
A. No. You know, I think there are some metrics that say Palm Beach County may actually be a little -- folks are a little better off economically than in some of the other areas around the state, but my experience in, as I say, reviewing both local and then statewide data, it is basically the same throughout the state. There's probably some communities where it's closer to 100 percent, where there's a higher poverty rate.
Q. I want to ask you a few questions about the financial status of felony criminal defendants again sort of at the beginning of this process.
Based on your experience in criminal defense work in Florida and at the public defender office in the 15th Circuit, how would you describe the rate of employment for felony criminal defendants in the 15th Circuit when they first come to you?

A. When initially arrested, you know, I would say it's, you know, 60 to 70 percent. It goes down pretty quickly after arrest either because of incarceration, pending charges, the challenge of going to court when you are trying to hold down a job. So it goes down from there pretty quickly.
Q. For the percentage of folks who are actually employed, how would you describe their general income levels?
A. You know, it's lower income folks. That's why they qualify for our services, frequently in sort of the service industry, you know, landscaping, some, you know, construction work. You know, unfortunately, a lot of our clients have a low education level and are not able to get, you know, professional jobs with -- very, very few professional clients. For the most part, it is lower income folks, the lower-income jobs, minimum wage, maybe 10, 12 dollars an hour.
Q. When individuals are charged with a felony in Palm Beach County, are they presented with the opportunity to fill out an indigency affidavit?
A. Yeah. That's what I talked about. They have to fill out an indigency affidavit at the beginning in order to be appointed a lawyer. So they are -- they fill out the indigency affidavit prior to their initial appearance in court.
Q. And so your testimony is what percentage of individuals fill out an indigency affidavit among felony criminal defendants in the 15th Circuit?

A. Well, I'd say 95 -- 98 percent fill out the affidavit, maybe 90 percent qualify.

Q. Are there reasons to believe that the indigency rate for those charged with a felony conviction would be different than the rate -- than the indigency rate for those who are ultimately convicted of a felony?

A. I would think that --

MR. MCVAY: Objection, Your Honor; lack of personal knowledge.

THE COURT: Overruled.

THE WITNESS: The indigency rate is actually a little lower when they were charged than when they are convicted because of (audio feed dropped).

MR. MCVAY: Yes, ma'am. I apologize. My name is Brad McVay, M-c-v-a-y.

THE WITNESS: So I think the indigency rate is higher at -- if there is a resulting conviction than it is at the beginning.

BY MR. TOPAZ:

Q. Thank you, Ms. Haughwout.

You just testified that about 90, maybe higher, percentage of felony criminal defendants fill out an indigency affidavit upon arrest for those charges of felony. Are those individuals on average better off financially at the time of arrest or after they complete their term of incarceration?

MR. MCVAY: Objection again, Your Honor; lacks personal knowledge.

THE COURT: The objection is overruled.

THE WITNESS: You know, my -- I say if you are not poor coming in, you are certainly poor going out. So folks who have been -- especially folks who have been incarcerated, but even people who are on supervision, you know, employment is a challenge, resources have been used up. So certainly more indigent at the end.

BY MR. TOPAZ:

Q. Can you explain a little bit more to the Court what you mean by if you weren't poor going in, you are poor coming out? Can you explain a little bit about the process of going through the criminal justice system on folk's financial status?

A. Sure. You know, the process itself, as I said, is -- often impacts a person's ability to maintain employment. So, you know, that often ends either with arrest or certainly with incarceration.

If not incarcerated during the period of sort of pretrial, when a case is pending, there are, you know, a variety of costs associated with that time, pretrial service costs, things like that. You know, people often -- as I say, they lose their job, so they are scraping together their resources to support their family or loved ones. So those are finite resources. They often have to pay for drug testing. They have to pay for other

kinds of conditions of pretrial release if they are out that can impact their financial status.

And clearly if they are incarcerated, they're losing any income, and then there is incarceration costs as well that are levied against them.

Q. Can you discuss a little bit about the ability of felony criminal defendants to secure housing and pay rent?

MR. MCVAY: Objection, Your Honor. This is improper lay opinion and I'd ask just a standing objection to this line of questioning so I don't have to continuously interrupt for the record.

MR. TOPAZ: Your Honor, she's testifying as to personal knowledge.

THE COURT: Wait. Just hold on a minute.

The objection is overruled. I don't know what you mean by "standing objection." If you think that there is a particular question that somehow is beyond what Ms. Haughwout would know with her experience in what she does, then you probably ought to object to it.

To the extent that the allegation is that a public defender with her level of knowledge doesn't understand how the Florida criminal justice system works, sure, you can have a standing objection; but if there is a particular question that you want to raise as an issue, then I do ask for one chance to rule on it.

MR. MCVAY: Yes, sir. Thank you.

BY MR. TOPAZ:

Q. Ms. Haughwout, I want to ask you a few questions about Florida's LFO system and the costs and fees incurred by returning citizens.

MR. TOPAZ: And I'd like to call up PX21, please, which has already been admitted into the record.

MR. TOPAZ:

Q. Ms. Haughwout, do you recognize this document?

A. Yes, I do.

Q. What is it?

A. It's an affidavit that I provided -- oh, was it last year sometime?

Q. In connection with this case?

A. Yes, yes.

MR. TOPAZ: Can we call up paragraph 6 on page 3, please, Ashley? Thank you.

BY MR. TOPAZ:

Q. In your declaration, you state that "The minimum cost for a felony conviction is $698 if a person is represented by a court-appointed lawyer and $548 if represented by a privately retained attorney in Palm Beach County." Is that correct?

A. Well, actually, I was looking at this yesterday and realized it's $30 less. It's $668 is the minimum cost. I think I was looking at some cost orders. The costs have changed a lot

over the years. Different costs get added on; different costs get taken away. The cost at this point is 668, the minimum cost, and I believe that is all state-mandated costs.

The only local cost is the state legislature allows a county to impose a cost, but my understanding from the other circuits is it's generally all the same, and that's $65 that's added on. Otherwise, it is all state-mandated costs in terms of the minimum. Now, it varies quite a bit around the state and I can explain that later.

The difference between the cost for somebody who is appointed a lawyer and the cost for somebody who has a privately retained attorney are the mandated costs of defense that is statutorily required in a felony case of $100 and the $50 cost of applying for a court-appointed lawyer, what is called the application fee. So that's generally about a 150-dollar difference.

Q. I want to get to those -- some of those itemized costs in just a sec. I just want to clarify for the record, so you're saying that the minimum cost for a felony conviction in Palm Beach County for someone who has court-appointed counsel is $668; is that correct?

A. Yes.

Q. And you say in your declaration that these are the minimum costs in Palm Beach County. Is there a variation across counties regarding the minimum LFOs assessed?

A. Yes. And so our -- an example -- and this is true in different circuits. For example, in Palm Beach County now, with a plea, the prosecution gets more money as part of the cost of prosecution. If a defendant doesn't agree to pay the increased cost, than the state will not go forward with the plea agreement.

So while the minimum cost reflected in the affidavit is with the minimum cost of prosecution of $100, our prosecutor now requires $200 if it's a plea. If it's a trial, it's $100. And, likewise, with regards to other circuits, there are other circuits that also do this. For example, in the 10th Circuit, their prosecutor increases costs based on various stages of the litigation. So their cost under the cost of prosecution is different than it may be in some other circuits. Other circuits the prosecutor just gets the minimum amount.

The other things that vary by circuit are things like cost of investigation. There is the ability to assess a cost of investigation against defendants who are convicted or adjudication is withheld, costs are the same, that doesn't vary. And some circuits use the cost of investigation, you know, have that amount assessed; other circuits do not.

Our circuit recently started imposing on assessing a cost for drug cases, for FDLE when drugs are ever tested on a case, and that's another $100. So those are the things that vary across circuits.

Q. And then --
A. And I'm sorry -- I'm sorry, let me just add. There are some circuits where the defense requests more than the minimum amount allowed by statute as well.
Q. So, in other words, there are many different reasons why mandatory costs in certain circuits may be higher than the mandatory cost in other circuits for felony criminal defendants?
A. Yes.
Q. Can you go through for the Court briefly, just detail some of the fees or costs that are included in that 668 figure for mandatory costs in Palm Beach County.
A. Yes. And I'm just looking at a few notes I made on this. So there's standard court costs. There's a cost for a teen court fee. There are costs associated for a Court Cost Clearing Trust Fund. There is the local ordinance cost. There's a Crime Stoppers Trust Fund fee that is included in the cost. There's a Crimes Compensation Trust Fund fee that is included in the cost. There's just a variety of costs. I've kind of looked back, and it seems like every -- about every other year or two there's some additional $2 cost or $3 cost or $100 cost that has been added to these court costs over the years.
Q. And you testified earlier, Ms. Haughwout, about an indigent application fee; is that correct?
A. Yes.
Q. Can you explain briefly what that is and how much is

assessed?
A. It's a fee for applying for a public defender. It's a $50 fee that is assessed again by statute. The legislature requires that amount to be assessed.
Q. And is that separate from the public defender fee?
A. Yes. Because there are times when, even if ultimately they hire a private lawyer, they're still assessed the application fee. The public defender fee is based on the fee assessed at the conclusion of the case. The $50 application fee is assessed at the beginning of the case.
Q. And is -- what's -- how much is assessed for public defender fee in Palm Beach County?
A. The minimum, which is $100.
Q. Who is required to pay these mandatory fees?
A. Defendants who are either convicted or adjudications withheld.
Q. Does this include individuals who plead nolo contendere?
A. Oh, sure, no difference in that. No difference in whether they go to prison or they're placed on probation. No difference if they're given time served. It is the mandatory costs associated with the convictions. The costs, some of them are per charge, so if there's multiple charges, the costs increase accordingly. So when I said the minimum cost, that's a one-count information, one-count charge.
Q. And for just these mandatory LFOs just speaking just now,

based on your personal experience, what would you estimate is the percentage of criminal defendants in the 15th Judicial Circuit who can afford to pay these mandatory amounts alone within two years after release from confinement?

A. I would say, you know, when I thought about it, within two years of release from confinement, that -- does that include if they are placed on probation and don't get prison terms, or is that just people who go to prison?

Q. Sure. Folks who are also just put on probation.

A. Then I would say it's no more than half and more probably between 30 and 40 percent.

Q. And are these mandatory LFOs the only LFOs that can be assessed to felony criminal defendants?

A. Well, there's a variety of other fees by statute that can attach to different types of offenses. You know, there's domestic violence fees. There's -- as I said, there's an FDLE fee. There are some extra fees associated, I believe, on driving, some driving cases. There is really -- there's just lots of extra fees based specifically on the charge, and I'm not talking about fines. I'm only talking about court costs.

Q. And so there are additional fines that can also be levied on felony criminal defendants as well that they would have to pay; is that right?

A. Yes. There's statutory fines for specific offenses. Now, I will say they don't apply to the majority of the cases we see.

They do apply on things like -- and we certainly see plenty of, like, drug-trafficking fines, things like that, but a lot of our cases do not have mandated fines associated with them. And then there's a number of cases that do have mandated fines.

Q. So you've testified that the majority of returning -- the majority of felony criminal defendants aren't able to pay their mandatory amounts within a two-year period. What can they do in that case with regard to payment of their LFOs?

A. They can set up a payment plan. Frankly, they really have to do this at the beginning, because if you don't pay them and you don't have a payment plan, you lose your driver's license.

So, you know, what generally happens is people set up payment plans with the clerk of court to pay a certain amount per month towards their fines and costs.

Q. Can you describe the process for getting someone put on a payment plan?

A. They go to the clerk's office, they pay a $25 fee to set up a payment plan. It varies around the state what the payment plan amounts are, but in Palm Beach County, our clerk is -- you know, will set up payment plans for, you know, as little as 10 to $20 a month. And the purpose is so they can, frankly, retain a driver's license. If they default on their payment plan, they lose their driver's license. The fees go to a collection agency, which adds another 30 percent to the costs that are owed, so we try to encourage clients to set up payment plans for

as little amount as they think they'll be able to be sure to make on a monthly basis, and so they can pay on those for years and years.

Q. So these -- so these individuals are put on payment plans because they're unable to pay their LFOs in a lump sum? Do I have that right?

A. Right, correct.

Q. What percentage of felony criminal defendants in the 15th circuit would you estimate get put on payment plans?

A. Of our clients, you know, 90 percent of clients that we represent, they're simply unable to pay a lump sum amount. You know, understanding that the -- lumped in there can be restitution and some other costs as well.

Q. How much would you say your clients pay per month on a payment plan?

A. I would say on average between 20 and $50 a month.

Q. And so how long does it take individuals to complete their payment plans?

A. Well, again, not wanting to do math, you know, think about $25 a month. Nowadays really the average costs -- because, you know, most of our cases do resolve in plea agreements, so the minimum cost is $768. So if they're paying $20 a month towards their costs, that would be -- let's see, 20 -- so 30 months at least; is that right? I'm terrible with math. That's why I'm a lawyer.

Q. But you've also confirmed that there are folks who are paying payment plans for those beyond the mandatory amounts; is that right?
A. Oh, yes, because the minimum cost is rarely the cost that is what is imposed. So as I say, in our circuit now, with the additional cost of prosecution, it would be $768. But if there's multiple counts, there's an additional $88 on each count. If there's other costs, that may be tacked on based on the nature of the offense, like an FDLE $100 cost, you know, so there's just so many costs that may be associated, and then restitution can be included, and that is paid first.

So if somebody pays $20 a month, there's a priority by statute as to how that money is then distributed. If they owe $1,000 in restitution, and, you know, $1,200 in court costs, the $20 is going to go to restitution until the restitution is paid off. And so often the court costs aren't -- don't start getting paid for some time, until after the restitution is paid.
Q. Is there a floor or a minimum amount per month that is permitted to be charged per month on a payment plan in Palm Beach County?
A. I think our clerk has done payment plans as low as $10 a month. I think their policy would be $20 a month. I am aware of clerk's offices in other circuits that wouldn't do less than $50 a month. So it varies based on the clerk.
Q. You mentioned earlier about folks who can't keep up with

their payment plan. Can you discuss what happens then?
A. When they don't keep up with their payment plan, the clerk -- it turns into a civil judgment. It is turned over to a collection agency. The collection agency then pursues payment of that. The Department of Motor Vehicles is notified, driver's licenses are suspended, and so then it's, you know, the 30 percent collection agency fee gets tacked onto the balance. And so it just goes up from there.
Q. Just to clarify, there's a 30 percent charge if the individual -- if the debt goes to collections because the individual can't keep up with the payment plan?
A. That's the average charge for the collection agency, yes.
Q. And so with regard to civil judgments, many individuals who are unable to pay their LFOs in a lump sum are put on a payment plan as opposed to a civil judgment; is that correct?
A. Yes.
Q. What percentage of felony criminal defendants in the 15th Circuit would you estimate at some point have their LFOs converted to civil liens or civil judgments on account of inability to pay?
A. All told, I would -- because frequently certainly people who have prison terms of some length to serve come out totally unable to pay anything, and so I would guess it's probably 40 to 50 percent. I mean we know the collection rate in Florida is very low on all of these costs. So that would say that they are

not, you know, able to keep up.

Q. Mr. Haughwout, we talked a little bit earlier about your role as president of the Florida Association of Public Defenders. What, if anything, is the association's position as to LFO collection in Florida?

A. Well, I mean we have taken a position against the, you know, what we consider very, very burdensome costs to poor people who are in the court system. You know, it has a variety of impacts, the immediate one being how it impacts their driver's license. But, you know, the long term being credit issues, you know, trying to get out from under this debt that really becomes insurmountable for the majority of your clients.

There's a lot of challenges our clients are facing because of their economic situation, just trying to keep a roof over their head and food on the table, much rather being able to pay these costs that have gone up and up and up over the years. So we have taken positions. We've drafted and lobbied for legislation to reduce the cost, to have the costs not have the impacts they have on them. We haven't been successful so far, but I will say every year the legislature considers proposals to reduce the cost to poor people in the criminal justice system. But, nothing has happened other than going the opposite direction.

Q. In your capacity as head of the association, have you, or through any of your other professional associations, have you

spoken with state judges about the issue of the cost of LFOs in Florida?

A. Sure. We -- you know, both locally and on a statewide basis, because judges are often providing input as well to the legislative committees that are considering issues about court costs.

I think most judges who have any, you know, who have history in the criminal courts recognize the extent to which the costs have exponentially increased over the years, and recognize the hardship that this places on people who are trying to get, you know, back on their feet at some point.

Q. Ms. Haughwout, you testified that you've been practicing criminal defense in Florida for more than 30 years. Are you aware of whether the amount of court costs and fees that Florida assesses has increased, decreased, or stayed the same over the last 30 years or so?

A. Yes. It has exponentially increased, I would say probably four-fold over the course of 30 years. I know it has doubled -- I actually just happened to be looking at something that I handled for a client who had a case about 15 years ago, I think it was, and the costs were half of what they are today. And, you know, the explanation is we just have -- the legislature has kind of shifted the cost for both our office, the prosecutor's office, the clerk's office, from a general revenue allocation to collections from the various court cost pots.

And so, you know, that's -- in the time that I've been public defender, I have seen that, and that is really what has contributed to the large, I think, the large increase in costs over the years.

Q. Ms. Haughwout, just briefly, before we move on with regard to civil liens, can you discuss what the impact is on an individual if they have a civil lien assessed against them?

MR. MCVAY: Objection; lack of personal knowledge, foundation.

THE COURT: The objection is overruled.

A. First, it can impact their ability to get or maintain a driver's license. If it is a civil lien for court costs, the driver's license can -- either you can't get one or you can get it suspended, which -- so we often will try to, when we are -- we have a whole program to help people get their driver's licenses, and we'll have to often recall those things from collections, try to get them on payment plans to prevent that from occurring.

The FLACN (phonetic) cost that I talked about before, you know, the obvious impact on credit, the ability to get a credit card, the kind of basic things we all need to function.

THE COURT: Let me take a minute to explain the ruling on the last objection.

A competent criminal defense lawyer, in order to advise the client, has to know how the system works and what the

impacts on the client are. So it would be ineffective assistance for a criminal defense lawyer not to know about civil liens and not be able to talk with the client about what happens if, for example, you don't pay and your driver's license gets taken away, or what impact this could have on your credit, or the other things that Ms. Haughwout talked about. A lawyer has to know those things in order to do one's job.

BY MR. TOPAZ:

Q. So, Ms. Haughwout, you mentioned the impact on credit. You mentioned the ability to get a driver's license. Are there other ways in which having a civil lien could negatively affect an individual?

A. You know, I think just as any judgment can negatively affect people, you know, it sort of stays with them. So, you know, frankly, for our immediate concerns with our clients, those are the things we are most concerned about, that, you know, they will feel as if they are unable to make the payments how it will impact their day-to-day life.

You know, when we talk about -- I know we talked about things like being able to buy a car, being able to do sort of the basic things that folks need to function.

Q. Does it affect your ability to buy or sell property?

A. Sure.

Q. One last thing, Ms. Haughwout, before we move on, I wonder if you could talk a little bit more about incarceration costs,

and how they are assessed, and in what general amounts.
A. So different jails impose different costs. It's generally a daily charge that gets assessed against the inmates while they are in. So it can be anywhere from 3 to $10 a day. That doesn't include the costs that inmates are assessed for an aspirin, or for antacids, or other kinds of things they need like that. So those costs are assessed. If they're found guilty, whether it's by plea or by trial, you know, those costs are assessed against them.

In some areas -- this has not happened in Palm Beach County, but I am aware of other areas where that has been also placed into a judgment when people are unable to pay.

The way it is handled in Palm Beach County is it is deducted from any money the inmate may have in a canteen fund, so they are unable to buy, you know, things until those costs are paid.
Q. Ms. Haughwout, I want to talk about the sort of end of the process, either when individuals have completed supervision or when they have been released from prison.

How would you describe the financial status of individuals after they are released from prison for a felony conviction?
A. You know, very, very poor. That is certainly what we see. I think -- you know, one of the things that I think sort of reflects the declining economic ability of our clients is the fact that, you know, as I say, it's about 80 percent of folks we

are representing at trial because of their indigency. By appeal, we handle about 98 percent of all criminal appeals. So if they were able to scrape up funds for lawyers in the trial court, by the time the appellate process begins, there are no more funds.

Then we go from that time to the end of incarceration and, you know, it's just a steady decline. There's certainly no ability to, you know, increase your financial standing while you are in prison. The only paying jobs while in prison are through PRIDE Industries. And the last client I had that was able to get a job at PRIDE Industries, while incarcerated, was paid $1.20 an hour.

So there are some folks who go on to work release prior to the expiration of their sentence. They are able to work, but they have to pay their keep while they are in the work release facility. And, you know, generally folks on work release are not getting high paying jobs. So, you know, I know from my individual work, as well as our sort of collective work on reentry, what the financial challenges are of people who are leaving incarceration.

Q. Does your office or the assigned attorneys keep in contact with clients after they are either released from confinement or supervision?

A. Yes. We have -- I mean, obviously, appellate lawyers have ongoing contact, and then our trial lawyers often have contact.

We often are contacted to help with different things, like if they are on supervision, the conditions of supervision on trying to get supervisions terminated, on conditions that they are supposed to fulfill but are unable to as part of supervision, whether it's right away or post-incarceration.

We have social workers. You know, I'm also very involved with reentry, and so we encourage clients who are incarcerated to contact us upon release in order to see if we can help facilitate services that may be needed. And then, you know, we stay in touch with clients. I'm in touch with clients that I represented 25 years ago. So, yes, there is certainly ongoing contact.

The other thing, like I mentioned before, that we try to help folks with is their driver's licenses, and so often we are in touch with them upon release to see what we can do to help get driver's licenses reinstated.

Q. You testified earlier about your association with Palm Beach Reentry Task Force. Can you explain a little bit more for the Court what that task force is and what it does?

A. Yes. We established it in 2008. It was sort of a -- Governor Bush had sort of a reentry initiative and did a statewide task force, and then I started one locally to look at, well, you know, what are the challenges for people leaving incarceration and how could we, as a community, address those challenges. So we initially started by studying what were the

challenges, what are the statistics that -- with regards to employment, homelessness, things of that nature, and then what can we do to address that on a local level for people returning to Palm Beach County.

Q. Based on your experience, both with the Palm Beach County Task Force and your experience as a criminal defense attorney, how would you describe generally the rates of employment for citizens who are reentering society after a criminal conviction?

THE COURT: Ask again. I'm not sure if Ms. Haughwout heard you.

BY MR. TOPAZ:

Q. Carey, can you hear me? My apologies, Carey. Let me reask the question.

Given your experience both on the task force and as a criminal defense attorney --

A. Okay. You're breaking up a little bit, but I think I got the gist of the question --

Q. My apologies.

A. -- with regards to the rate of employment upon people leaving incarceration. That was the question?

Q. That's correct.

A. You know, what I've seen personally as well as what I know from my work with the reentry task force, which I chaired for about ten years and am still very involved in, as well as with my work with the Department of Corrections, Probation and

Parole, that average unemployment upon -- you know, I kind of look at within the first 30 days, right, because you don't usually apply --

(Audio feed dropped.)

THE COURT REPORTER: I've dropped the audio feed.

THE COURT: I did as well. Now I've lost Ms. Haughwout. She may need to refresh or reboot.

Let's just be at ease until Ms. Haughwout shows back up.

(Pause in proceedings.)

MS. EBENSTEIN: Your Honor, this is Julie Ebenstein. I'm on the phone now. She had to log off, but she's trying to sign back in.

THE COURT: All right. Thank you.

(Pause in the proceedings.)

THE WITNESS: Okay. Thank you. Sorry. I don't know what happened. It just kind of went blank.

THE COURT: It happens from time to time. Let me pass this along, and if you're taking your IT advice from me, you're probably looking to the wrong source; but my IT person has taught me that when my screen momentarily freezes, as sometimes happens, that if I hit F5 it refreshes the screen. So I don't know if that works for anybody else, but you might try it, if you need to. Hopefully, you won't need to. We've gone very smoothly this morning until that point.

We're back on. The question was about employment upon leaving incarceration, and we had you partway through the answer, Ms. Haughwout.

THE WITNESS: So, you know, as I think I was talking about the different ways in which I know this, but, generally, what we see is within the first 30 days of release, there's employment of maybe 10 to 20 percent. Within the first 60 days, it might go up to 30 to 40 percent, probably not today, pre-COVID days, and then, you know, there's chronic unemployment for 50 percent.

BY MR. TOPAZ:

Q. For the minority of individuals who are able to find employment, how would you describe their income levels generally?

A. You know, minimum wage, a little above minimum wage. I know from our reentry work that we see wages usually without benefits of -- between, you know, whatever it is, 8.50 an hour and maybe $10 an hour, sometimes up to $12 an hour.

Q. And for these individuals, how would you describe their ability to secure housing and pay rent?

A. You know, one of our biggest challenges with reentry is the housing need. So based on our work, we estimate housing -- that 50 to 75 percent of folks leaving incarceration are in need of housing. Now, that includes people who are, you know, what we call couch surfing, staying here and there with various family

or friends when they can; but in terms of in need of stable housing, it's as high as 75 percent.

Q. Before we move on, Ms. Haughwout, you alluded to the pandemic situation that we are living in now. Has the COVID-19 situation affected the financial status of former felony offenders?

A. Absolutely. It's -- you know, so many of our clients or former clients are employed in service industries that are completely closed down. So it has definitely impacted employment. We know that firsthand because of our prosecutor basically offering to drop cases if they can pay money right now, and the response has been: I've lost my job; I don't have child care; I can't possibly pay any more than what I'm paying.

Q. Ms. Haughwout, I want to ask you a few questions now about how counties in the state court system are implementing different parts of SB 7066.

I'd like to call up on the screen now PX34, which is already admitted into evidence. This is the text of SB 7066 as filed.

MR. TOPAZ: Can we call up lines 1380 to 83? These are on page 48.

BY MR. TOPAZ:

Q. Ms. Haughwout, are you familiar with this so-called termination provision of SB 7066?

A. Yes.

Q. So this states that: "A term required to be completed in accordance with this paragraph shall be deemed completed if the Court modifies the original sentencing order to no longer require completion of such term."

Did I read that correctly?

A. Yes.

Q. Do you know of anyone in Palm Beach County who has had her sentencing order modified by a court to no longer require completion of her outstanding LFO balance?

A. No, and I'm not really sure how it would even work because the court loses jurisdiction to modify sentences after 60 days. So, no, that has not occurred in Palm Beach County.

The only way I think it could occur is if there was an agreement for that to happen, and we have not been able to secure that agreement.

Q. Ms. Haughwout, does Palm Beach County allow for individuals to convert their LFOs to community service hours?

A. In some circumstances, yes.

Q. What do you mean by "in some circumstances"?

A. So some of our judges allow some of the costs to be converted, and some of our judges don't. Some of the costs -- you know, the prosecutor often will not allow the cost of prosecution to be converted to community service. So some of the costs cannot be converted; some can.

Q. And you say that some judges will not grant community

service conversion as a matter of policy?
A. It seems to be as a matter of policy. You know, I think it -- you know, frankly, it is based on so much of the funding for the court system as a whole anymore is dependent upon these costs being paid. So there are certainly judges that will not convert to community service, and I assume that is the reason.
Q. Are there challenges that your clients and other former offenders face when trying to seek community service conversion?
A. Certainly. It's -- you know, conversion is generally $10 an hour, and so there are limited places that they are allowed to do community service based on their convictions. It also -- you know, generally, if they're employed, it's requiring as much time as they have to actually earn some money to support themselves. They have challenges with transportation. They have challenges with child care. All the types of challenges that poor people have make it difficult to leave and go do community service at their will. So it is difficult. Often it -- when it is done, it requires a great deal of time over a period of time to be able do a couple of hours on a weekend, something of that nature.
Q. Ms. Haughwout, are you aware of any changes that have been made in Palm Beach County regarding LFO payment?
A. Yes. The one change that we were able to secure an agreement with the prosecution and the courts was to separate out of our sentencing order the requirement of paying court

costs. So there was -- the sentencing order used to say, "It is the order of the Court that the defendant shall pay X amount of fine and all court costs and serve X period of time in jail," for example. So we got an agreement to remove the language that included "court costs" as part of the sentence.

Now, the court costs are still imposed by separate order. A court cost order is imposed. The obligation to pay the costs still exists. It just isn't in the sentencing document. That was sort of our effort to try to ameliorate the impact that court costs were having on people's ability to complete their sentence in order to be able to vote.

Q. Does this include also fines and restitution or just court costs and fees?

Can you hear me, Carey?

A. Just court costs. It does not include fines and generally restitution is a condition of the sentence.

MR. TOPAZ: Ashley, can we call up lines 13 --

THE WITNESS: Yeah. I heard you say that.

BY MR. TOPAZ:

Q. I wonder if you are have having a bit of a delay here.

MR. TOPAZ: Ashley, can we call up lines 1332 to 1335 of PX34?

THE WITNESS: Oh, dear. What's happening? I think we must be --

BY MR. TOPAZ:

Q. Carey, you might want to refresh.
A. Okay. Got it.
Q. Carey, I think you might want to refresh. I think you are on a bit of a delay.
A. Okay. So do F5; is that it?
THE COURT: I think you are back. I think it's working now.
THE WITNESS: Okay.
BY MR. TOPAZ: It's working? Okay. My apologies.
BY MR. TOPAZ:
Q. This part of SB 7066 states that "Completion of all terms of sentence means any portion of a sentence that is contained in the four corners of the sentencing document."
Did I read that correctly?
A. Yes.
Q. So can you just explain one more time what the changes in Palm Beach County's sentencing documents mean with regard to this provision?
A. So there's a sentencing order that is entered and the sentencing order used to read: "The sentence of the court is to pay X amount in fines and all court costs and" -- so it's like a -- "It's the sentence of the court that the defendant shall pay X amount in fines, as well as the surcharge and all court costs," and then is sentenced to X period of time if they are sentenced to prison or X period of time if sentenced to

probation. So the sentencing document was changed to take out the language that included the court costs.

Q. Do you know of any other counties that are implementing the kinds of changes that Palm Beach County is putting in place with regard to the sentencing documents?

A. My understanding is Hillsborough County may be also doing that. Miami-Dade is doing something along those lines, but I think something a little different. I'm not real sure about Miami-Dade. I'm not familiar with any other based on, you know, our association discussions of this. I'm not familiar with any other circuits that are doing this.

Q. Okay. So, Ms. Haughwout, suppose that someone is convicted of a felony tomorrow in Palm Beach County and assessed only court costs. What does that mean with regard to the changes to the sentencing documents?

A. So the sentence will not include the language "plus all costs and additional fees" that it used to have. So the four corners of the sentencing document will not require the payment of court costs.

Q. Now, suppose someone is convicted of the same felony and assessed the same court costs but in Okaloosa County. Are those court costs included in that individual's sentencing document?

A. Generally, yes, just as ours used to be. The sentence document used to read, you know, fine plus court costs.

Q. But that -- those same court costs --

THE COURT: Let me -- let me interrupt just a second and make sure I'm clear on the answers that were given.

I'm talking about the form of judgment in Palm Beach County before the change you've told us about. I'm going to give you two alternatives and you tell me which way it was done.

Did the judgment say "pay all court costs, and those include A, B, and C that will add up to the minimum of $668," or did the judgment just say "pay all court costs," and then a separate piece of paper would list the court costs that would add up to the $668?

THE WITNESS: The latter. It would say -- it would just say "plus all costs and additional charges outlined in the order assessing costs."

So there would be a separate order assessing the cost, but the sentence itself would include the reference to that order and require that as part of the sentence.

THE COURT: And while I've got you, did the judge tell the defendant what those costs were during the sentencing proceeding generally?

THE WITNESS: I would say that's sort of mixed because it is not part of the sentence. So even under the old way of doing things, it would just -- the sentence itself would just be pronounced to include the costs associated with the order assessing cost. It did not include a set amount. Currently the total amount of costs is generally included in the plea, the

negotiated settlement agreement, but not necessarily pronounced at sentencing.

Does that make sense?

THE COURT: It does. So what the judge would say at sentencing is, "Pay costs," would not say what the costs are, and then some clerical employee -- I don't mean to denigrate the employee, but somebody who is not a judge decides what the costs were?

THE WITNESS: Correct.

And some of this is, you know, in our effort to be efficient with computers. So we have -- you know, they've got a computer program and it just gets sort of plugged in by the clerk, what the costs are.

THE COURT: All right. Thank you.

Mr. Topaz, you can go ahead.

MR. TOPAZ: Thank you, Your Honor.

BY MR. TOPAZ:

Q. So I just want to make crystal clear, Ms. Haughwout, we just discussed the scenario in which someone in Okaloosa County is convicted of a felony and assessed court costs. So I believe you testified that those court costs for a sentencing document in Okaloosa County would be included in the sentencing document; is that correct?

A. Yes.

Q. Would those same court costs be included in an individual

sentencing document with the new sentencing document in Palm Beach County?

Can you hear me, Carey?

A. I'm getting some difficulties hearing you.

Q. Can you hear me now?

A. Yes.

Q. My question was: Would the same court costs that were included in the sentencing document in Okaloosa County, would they be included in the sentencing document in Palm Beach County given the -- with the new sentencing documents?

A. No, because the court costs are not included. The order assessing costs may or may not be the same depending on the various policies in a particular jurisdiction, but the sentencing order would not contain them.

Q. Thank you.

A. And just so I'm clear, the sentencing order never included the total amount. The total amount was only included on the separate order assessing costs. It was just a referral to the costs as being part of the sentence.

Q. Ms. Haughwout, I want to finally ask you a few questions about whether and how the state court system informs criminal defendants about what they owe in LFOs.

In your role as a criminal defense attorney for decades, have you attended sentencing hearings?

A. Too many times, yes.

Q. In your experience, have you been at sentencing hearings in Florida where judges do not orally announce the LFOs they are assessing to the criminal defendant?
A. Yes.
Q. How often would you estimate that state judges orally announce the LFOs to criminal defendants --
MR. MCVAY: Objection; lack of foundation and lack of knowledge.
THE COURT: Overruled.
THE WITNESS: You know, I -- from what I have seen and -- I would say it's half and half. The -- you know, a lot of times it's just a referral to sort of standard court costs, that kind of language, without there being a number associated with it. So, you know, usually the lawyer has reviewed with the client what the court costs will be ahead of time if they know and can get them right. So it is not a feature of the sentencing proceeding though --
BY MR. TOPAZ:
Q. So we'll get --
A. -- which is why we get --
Q. My apologies.
A. That's all right. I was just going to say, it's why we often have to address this in a sentencing -- in an appeal is because there was either not an oral pronouncement of the costs, or it was not pronounced in the proper manner in terms of when a

defendant has a right to contest the costs, or there's not a basis for the costs.

Q. So we'll get to the 50 percent or so of criminal defendants who do not have their LFOs announced at sentencing. I want to talk just briefly now about the ones who do have their LFOs announced at sentencing.

Can you describe what a sentencing hearing is like for a criminal defendant who is potentially facing years or decades in prison?

A. Well, I think, obviously, in those cases it's extremely nerve-racking, it's stressful. Frankly, most sentencing hearings are, whether it's years or days. So the focus often is on the liberty issues in terms of whether there's going to be prison or whether -- even when there is going to be probation, what are going to be the conditions of that type of supervision that have to be fulfilled in order to stay away from jail or prison. So the focus is generally on that issue, rather than on the court costs.

You know, and as lawyers we -- typically, you know, the court costs aren't really anything you can do anything about. As I say, we -- our office never asks for more than the minimum required by statute. We can't go below the $100 amount. The other amounts are not open for litigation or negotiation generally. So it's sort of this is what the law requires are these court costs, and my experience in what I've both

personally and what I see in the courtrooms, it's kind of like there's nothing we can do about it, these are going to be the court costs. The focus is on really the more immediate concern of am I going to jail, aren't I, how long am I going, those kind of things.

Q. Okay. So I want to go back to the 50 percent or so (audio feed dropped).

THE COURT: Wait. We missed that.

Mr. Topaz, we missed part of the question, and I think your microphone's hanging down from your right ear, so if you turn your head left, we miss it. Ask us again.

BY MR. TOPAZ:

Q. My apologies.

Can you hear me now?

A. Yes.

Q. Can you hear me now?

Okay. I want to talk about the 50 percent or so individuals who -- still not hearing me?

Let me refresh, hold on.

A. Off and on.

(Pause in proceedings.)

MR. TOPAZ: How's this?

THE COURT: Much better.

BY MR. TOPAZ:

Q. Good.

I want to talk about the 50 percent or so of individuals who you estimated do not have their LFOs announced at sentencing. Are you aware of a policy in Palm Beach County that ensures that criminal defendants receive a cost order in writing?

A. No. I don't think there is any such policy. You know, we're generally paperless, so, you know, the defendants don't really receive paper. Where we still have paper is on the settlement agreement. The person signs the settlement agreement and that will have the total amount of the costs on it, and they sometimes receive that and sometimes they don't, the paper.

Q. So in your experience in criminal defense work --

A. It's not uncommon --

Q. My apologies.

(Indiscernible crosstalk.)

A. That's okay. I was just going to say, it's not uncommon for clients, you know, to ask us later for copies of various documents. We don't actually -- we have to review the judgment and cost order after it's imposed, so we don't actually see those documents. We see them later and have to go over them to see if they're done correctly.

Q. So you have clients in Palm Beach County that have not received written documentation of their LFOs via cost order; is that correct?

A. Sure, yes.

Q. I want to ask a sort of last practical question. If a person gets her sentencing documents or her cost orders at sentencing and then is ordered to go to prison, what happens with those documents?

A. Well, just like all the documents on their case that they may have accumulated, it can go with them to prison. What happens to them once they're in prison is varied. Frequently they are lost, people are moved, they're taken out of their cell, their stuff is destroyed, lost. We're frequently having to resend certain things that folks want. This can even include things like appellate records. We'll send -- they'll let us know they got it, but then they got moved to another institution and they weren't allowed to bring their documents with them, so, you know, it's varied, but often those things are not retained.

MR. TOPAZ: No further questions at this time. Your Honor.

THE COURT: Mr. Topaz, I've got a couple of questions and -- I mean, I'm sorry, Mr. McVay, I've got a couple of questions, and I think it makes sense for me to ask so that you've heard them before you do your questions, so bear with me for just a minute.

MR. MCVAY: Yes, sir.

THE COURT: I want to make sure I understand some of this.

Ms. Haughwout, one thing I was going to ask is about

the 50/50 number that you gave Mr. Topaz. 50 percent of the cases -- roughly, I understand this is not a calculation -- 50 percent of the cases have a reference to the costs at the sentencing hearing and 50 percent do not. I wasn't clear whether you meant that 50 percent of the cases the judge gave the number or in 50 percent of the cases the judge referred to costs without giving a number?

THE WITNESS: It's whether the judge gives the number or not; and, frankly, as I'm thinking about it, it may be actually less than that because they really aren't often pronouncing the amount. What happens is the prosecutor will often announce the conditions of the settlement agreement. That may include the number associated with the costs, and then the judge just says sort of is that your understanding of the agreement, and we'll pronounce the sentence of incarceration or probation and just say "and the payment of all costs and fees."

THE COURT: That brings me to my next question. You had referred to the settlement agreement or the plea agreement. I take it it sometimes happens that there is a plea agreement, but then you get to court and the defendant says, no, and may even plead straight up, but the agreement does not go forward; true?

THE WITNESS: True.

THE COURT: You told me what the people in your office would go over with the defendant, and then the people in your

office would check the cost sheet after the sentencing. My experience is in the federal system. I'm going to use that as an example in a couple of questions in just a moment -- and it may be different, but here's my experience. The public defenders do this regularly. They know what they're doing. They're well versed in it. Sometimes there are conflict attorneys, and sometimes there are retained attorneys. They probably deal with the state criminal justice system much less often than the people in the public defender's office.

First, do you have conflict attorneys and, if so, in what percentage of the cases do you wind up with conflict attorneys?

THE WITNESS: Locally our conflict rate is about 9 -- 9 to 10 percent; and, yes, we end up with the conflict lawyers on those cases.

THE COURT: And are you able to maintain a panel of conflict attorneys who do these often enough that you're confident they keep their skills levels up, or is there a panel?

THE WITNESS: We actually have a separate office, a conflict office, and they handle sort of the first round of conflicts, and then the next round of conflicts is a list of lawyers that are on, you know, a wheel. I can't assure you the necessarily ongoing training.

THE COURT: I wanted to ask you about the application fee for a public defender. You said that gets assessed early.

Does that $50 application fee go on the cost sheet that's entered after the sentencing?

THE WITNESS: Yes, it does. It's assessed early; it's rarely paid early.

THE COURT: If the defendant is acquitted, does the defendant still owe the $50?

THE WITNESS: I didn't hear the end of that.

THE COURT: If the -- let me -- let me try it again.

THE WITNESS: Okay.

THE COURT: If the defendant is acquitted, or charges are dropped, does the defendant still owe the $50 application fee?

THE WITNESS: No. And, you know, although actually I will tell you I learned of circuits that were still assessing it, we do have a constitutional provision against imposition of costs if acquitted, and so I know, you know, our position has always been those fees are not assessed, and if they've been paid, they are -- they're repaid. We get the funding back for them.

THE COURT: I'm going to ask you a question and I'm going to start with the federal system, and this is one where I think it may well be different. That's part of the reason I'm asking.

When I sentence someone in federal court and there is an amount to be paid as part of the sentence, the person serves

any prison time, the person is then on supervised release, maybe three years. When it comes up close to the end of the three years, I will routinely get a memorandum from the probation officer, who in the federal system is an employee of the court, which is one difference from the state system. I'll get a memorandum, and say that the defendant is approaching the end of supervision, the defendant still owes money, the probation officer recommends allowing supervision to end with amounts owed. In the federal system, in my 23 years, a prosecutor has never objected to letting the term end. I sign off on it, supervision ends.

At that point the person is not involved with the criminal system at all. The amount of money owed is still owed, and it's the equivalent of a lien. The government can enforce it, but not through the criminal justice system. That person will not be back in my court in connection with the criminal case.

Does anything like that happen in the state system when someone has served any time and is approaching the end of supervision?

THE WITNESS: Yes, it does. And in a similar manner those -- you know, obviously, if they're unable to pay, they don't violate their supervision, but those are the ones that then turn into a civil judgment if it is a condition of probation, the payment of costs. We try to prevent court costs

being a condition of probation, so there is not kind of the potential for people being violated for their inability to pay it. So most often what happens is it's the supervision fees that have not been paid over the course of supervision that the probation office foregoes, basically, and that does not become a judgment, but outstanding costs do become a judgment.

THE COURT: I understand from the description you gave Mr. Topaz that it sometimes happens as you just said, that an amount that is owed is converted to a civil lien at the end of the supervision period. My understanding -- and it may be wrong. This is why I'm asking you the question. My understanding is that some judges convert the financial amount to a civil lien at the time of sentencing.

Does that happen in Palm Beach County?

THE WITNESS: Yes. Yes; it does. It happens in the cases where people are going to be incarcerated for a lengthy period of time.

So on shorter sentences we routinely ask for a period of time upon release to sign up for a payment plan so it does not get converted to a lien or judgment. But when folks are going to prison for a lengthy period of time, there's not really a lot of point in that, so it becomes automatically a judgment.

And then there's some folks that are, you know, so clearly destitute that we know they're never going to be able to make a payment plan, no matter how small, and so that is also --

those are also converted to judgments.

THE COURT: Does it sometimes happen in the state system that the amount of restitution is not determined at the time of sentencing, but is put off for later determination?

THE WITNESS: I would say that happens in a number of cases, certainly not all the cases, because a lot of times we have an agreement as to restitution as part of the plea with the amount, but often there is reservation for a restitution hearing or, you know, for the documentation for the restitution amount.

THE COURT: It sometimes happens in federal cases that by agreement of the defendant restitution is assessed that is not based on the offense of conviction. So, for example, a person robbed three banks and got convicted of robbing one bank but agrees to pay the amount that was stolen from the other two banks as well.

Does that sometimes happen in the state system?

THE WITNESS: Yes, it does.

THE COURT: My next question deals with information that is particularly unreliable. I don't suggest that it's true.

I've -- and I try not to read very much about my cases, but I live in the world. I see the newspapers and see the news. One of the things I've heard or seen is about some effort to raise money to pay off the amounts owed so that people could vote. For example, one nationally or internationally

known star apparently was thinking about, or did give a good bit of money -- a number in at least six figures, I guess, to pay these amounts.

Do you know if that's happened?

THE WITNESS: I think it has happened a teeny-tiny bit.

So in Florida there have been some of those efforts to raise those kind of funds, but just generally the costs are just so exorbitant that, you know, it's not -- it hasn't had any impact.

Where I think some of that funding maybe has gone is more to outreach, trying to get folks, you know, because it is associated, of course, you know, with trying to get people able to vote. So I think there's been just a little bit. Maybe people who have an outstanding small balance, because there was a time when the court cost were not quite so extraordinary, but that has not made a dent in things. I mean, we've had local efforts, and it hasn't made a dent in what is owed. And I can tell you there's not been any windfall with regards to the collections.

THE COURT: That answer, I think, makes it unlikely that you'll know the answer to the next question. And if you don't know, you don't know. But here's what I was interested in.

I don't know if you're aware, but the State has very

recently, at least I think it was very recently, taken the position that to be able to vote somebody does not have to pay the balance owed. They only have to pay -- make a total of payments that add up to more than was originally assessed. So, for example, if the $25 fee for a payment plan has been added on, they don't have to pay that. They don't have to pay the 30 percent fee for the collection agency. And even if amounts have been allocated to the 30 percent, for example, that amount that was allocated to the 30 percent for voting purposes gets reallocated back to the original assessment.

My question was: For anybody who, in fact, tried to pay off an amount so that a person could vote, did the State make them pay off the full amount, or could they only do it under the State's new system of what I would call First Dollar Allocation?

THE WITNESS: And I don't -- I don't know, because I don't know of any people who had their costs paid by an outside entity. And we've had a pretty aggressive campaign here in Palm Beach County to do outreach to people, mostly so we could change their Sentencing Order. And I don't know of any people who had anybody come forward and offer to pay their costs.

THE COURT: Then I had a question. One of the things you told Mr. Topaz was about community service and converting amounts owed to community service. You said that for part of the amount, maybe the part owed -- the part that was allocatable

to the prosecutor's fees and costs of the prosecutor's office. You said the prosecutor won't allow use of community service.

Did I understand that right?

THE WITNESS: Correct.

THE COURT: So let me see if I understand. This is -- the State of Florida says, this is part of the sentence imposed by a judge, but it's up to the prosecutor how to carry out the sentence?

THE WITNESS: Yes, because it's part of sort of the negotiations with regard to whether they can fulfill their obligations through community service rather than pay it.

THE COURT: That's all of my questions.

We've been at it a couple of hours. Before we turn it over to Mr. McVay, maybe we ought to take a break here.

Let's take a break until 11:15. I think that's 12 minutes, by my computer.

(Recess taken at 11:03 AM.)

(Resumed at 11:15 AM.)

THE COURT: All right. We're back.

Ms. Haughwout, you are still under oath.

Mr. McVay, you may proceed.

MR. MCVAY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MCVAY:

Q. Good morning, Ms. Haughwout.

I'm going to start with felony convictions. So in order to --
A. Good morning.
Q. I think there's a little delay.
Can you hear me?
MR. MCVAY: I think there's a delay, Your Honor.
THE COURT: I think there is, and --
THE WITNESS: I can. Yes; I can hear.
THE COURT: It works. We just need to take a little time after speaking and wait on Ms. Haughwout to get the transmission. I think it's been working quite well, just with the kind of delay you get when the reporter is in Afghanistan.
MR. MCVAY: Yes, sir.
BY MR. MCVAY:
Q. So, Ms. Haughwout, in order for a case, a felony case to end in conviction, it would require either a plea or a trial in which a jury convicts the individual or a judge in the case of a bench trial; is that correct?
A. Yes.
MR. MCVAY: The court reporter is having trouble, Your Honor.
(The court reporter requested clarification.)
BY MR. MCVAY:
Q. So in most cases you said resolve -- resolve by way of plea offer; is that correct?

A. Yes.
Q. Do you have an approximation of what percentage that is?
A. I can tell you what the sort of statewide statistics are. I can tell you what our county statistics are. If we include in that what we call deferred prosecution agreements, it would be, you know, 90 to 95 percent.
Q. Okay. And so when you and your attorneys in your office are representing a client in a plea negotiation and an offer is made by the prosecutor, what are your ethical obligations with respect to conveying that offer to your client?
A. To go over all of the terms of the offer, in terms of if it's incarceration, the period of incarceration; if there are fines, fees included, those kind of things, you know, what the ramifications of that is; probation, what the conditions of the probation are; to discuss, you know, all of the conditions.
Q. And you're doing that to make sure that your client is fully understanding what he or she will be entering a plea to; is that correct?
A. Yes, and the ramifications of that plea. So there's other collateral consequences, as well.
Q. Okay. And you said as you have those discussions, and I'm -- and your attorneys as well I'm assuming are trained to do this; is that correct?
A. Sure.
Q. And when you are going over this you said that it includes

fines, fees, costs, any of the financial obligations that would result from entering a plea; is that correct?

A. Yes.

Q. And that plea is then formalized, if I understand what you are saying, in a document form during a plea colloquy; is that correct?

A. Yes, it is.

Q. Okay. And that's typically entered in open court with the defendant present along with you, or the attorney from your office, and then the prosecutor, as well as the judge; correct?

A. Yes.

Q. Okay. And if it's like the circuit I practice in, there's also a clerk representative in the courtroom taking down the sentence as the judge pronounces it; is that correct?

A. Sure. There's a clerk, a bailiff, yes.

Q. And as the judge announces the terms of the sentence, the clerk is then tasked with taking that down on paper form so that it can be put into the court records or the clerk's records; is that correct?

A. It's not entered in paper form anymore because of being paperless, so it is entered on the computer.

Q. Fair enough. But it's taken down electronically in realtime as the court is hearing it. Okay.

So with respect to a fine, or a fee, or a cost, or a restitution, you, as the attorney, would have a record of that

as well in your office; correct?
A. Well, not always. We may have a copy of a plea agreement. If we print out the cost order, we would have that in our file, but often we are not printing that out to put in our file.
Q. But you're able to access the clerk's system and get those records that we just talked about; aren't you?
A. I'm sorry. I didn't get that.
Q. Yes, ma'am.
You're able to access the clerk's records and utilize the clerk system if you need those records; correct?
A. Yes. For the -- you know, the more recent cases.
Q. Sure. So if a client were to come to you and ask, I need to know how much I owe, I need to know how much restitution was ordered, or I need to know how much fine is ordered, you would be able to assist that client or former client; would you not?
A. Yes. If it occurred, and I'm going to say approximately in the last 10 years, in terms of our clerk's computer system being accessible with that information.
Q. And do you maintain records at your office of client files?
A. For a period of time, yes.
Q. And what's that period of time? Is it a retention schedule?
A. Yes. It varies by charge and by sentence, and so they're not maintained on premises; but, yes, they are maintained and maintained for a period of time, as I say, based on charge and

sentence.
Q. And I want to shift gears just a second to a question the Judge asked you.
On the 50/50 number that you said where -- when the judge announces costs fees and fines, I just want to make sure I completely understand what you're saying. You're saying about 50 percent of the time in Palm Beach the judge would announce specifically the numbers associated with a cost, a fee, a fine, or restitution, and the other 50, the judge may announce something to the effect of payments of all mandatory fines, fees, costs, and any restitution owing; is that accurate?
A. Yes, that's accurate.
Q. Okay.
A. When you say specific, it's never announced what -- you know, the $2 for this or the $3 for that. It's announced what the total amount is.
Q. Okay. But in both instances, there's an announcement made in open court that there is payments required; correct?
A. Correct, yes.
Q. And you mentioned the involvement of the prosecutor who at some times would announce to the Court the terms of the plea agreement, which would include specifics in terms of monetary amounts, and then the judge or the court may just say -- agree with that and say all of those things contained within the plea agreement.

Did I hear that correctly?
A. Yes.
Q. Essentially adopting exactly what the prosecutor had just outlined on the record; correct?
A. Yes.
Q. And that information, as we just talked about, would be taken down by the representative of the clerk's office electronically; correct?
A. Yes.
Q. And if at any point in time a client of yours or a former client had a question or came to you after the fact, you would, I'm assuming, assist them in any way you could to help them determine what they were sentenced to?
A. Sure. And that, you know, happens quite a bit in terms of clients wanting clarification.
Q. Very good.
Okay. And then one other follow-up question on one of the questions the Judge asked you, and it was related to the modification. You said that the -- who is the state attorney in your particular circuit?
A. Dave Aronberg.
Q. Okay. And you said it's Mr. Aronberg objecting to community service conversions. Is he doing that on the front part of the negotiations, or is this post-conviction?
A. You know, a little of both. It's often a matter that is

brought up at the time of the sentence. It's our request that financial obligations be fulfilled through community service, and so it's at that point.

The post-conviction approach is most often when we're dealing with people trying to get their driver's license and being able to pay off outstanding costs. And then, you know, sometimes we'll try to get agreed orders to convert it to community service, and sometimes they agree and sometimes they don't.

Q. But in terms of the post-conviction relief, that's a decision for a court; right? So a judge could take Mr. Aronberg's position and say, well, thank you, but I'm going to go ahead and do what I want; I'm the judge. Right?

A. Sure. Yes.

Q. Okay. And as to the first part of the description you had there related to the entry of the plea, that's being negotiated on the front end so that the defendant would have agreed to those terms or not at a plea agreement; correct?

A. Sometimes. Sometimes that matter is left up to the Court, even though the terms otherwise, in terms of the amount, is part of the negotiated settlement. The -- sometimes we then request the Court to allow it; sometimes we request it as part of the negotiations.

Q. Okay. But that's ultimately up to the Court as well then, that part of it?

A. Some of the times, yes.
Q. Okay. And the other part is the front end of the negotiated pleas, just the typical negotiated plea agreement; correct?
A. Correct, yeah.
Q. Okay.
Next I want to move to this document that you -- I think you referred to it as an order assessing costs, and it's a new document you said that's -- well, it's relatively new; correct?
A. Not the order assessing costs, the sentencing order --
Q. Okay.
A. -- that references the order assessing costs.
Q. And you referenced, I think during your direct -- and feel free to correct me if I'm wrong, but you said it was a separate paper document that would now list financial obligations outside of the document that was previously titled "Sentence"?
A. There's always been a separate order assessing costs. What is different is that the sentencing order used to specifically say the sentence -- and I can actually read it to you. "It is the sentence of the Court that the defendant pay," if there's a fine associated with it, and then it will add language, "and additional charges as outlined in the order assessing additional charges, costs, and fees."
So that language used to be in our sentencing order. Now in the sentencing order, it simply say it's the sentence of the

Court that the defendant pay a fine of blank and surcharge, and then it goes on to talk about whether it's -- you know, if there is prison associated with it or whatever.

So it's just the language that's put in the sentence order itself that the court costs, as outlined in the order assessing costs, was part of the sentence.

Does that make sense?

Q. So I guess my question would be this then: Then the judge, when he's pronouncing sentence, is still imposing upon the defendant, for which offense the defendant committed, these various costs, fees, financial obligations; correct?

A. Yes, there's still an order entered that assesses those costs.

Q. Very good.

And you talked a little bit about costs of investigations. I wanted to touch on that just briefly. And you said they vary depending on circuits?

A. Yeah.

MR. MCVAY: Just one moment. I'm having some technical issues.

(Pause in proceedings.)

MR. MCVAY: Your Honor, I apologize. We had some technical issues, and I went offline there for a moment.

THE COURT: Not a problem at all. We had an extra minute or two, so that's just fine.

MR. MCVAY: Very good. If I may, Your Honor, proceed?

THE COURT: Please.

BY MR. MCVAY:

Q. I left off -- I was going to ask you about investigation costs. You said they vary from time to time. You would agree that some investigations in the criminal world cost more than others; right?

A. Absolutely.

Q. So a high-profile drug cartel bust that requires 100 different agents and informants would cost a lot more than a typical, you know, over-20-grams-of-pot-possession charge where the officer pulled someone over on a traffic stop; right?

A. Sure. They can certainly cost more, yes.

Q. Sure. And the same would be true for defense. I mean, you all represent defendants in first-degree murders, and you go all the way down to the lowest misdemeanor; correct?

A. Yes.

Q. And so representing a criminal defendant --

A. Correct.

Q. -- who has been charged with first degree -- I'm sorry.

Representing a criminal defendant in a homicide case takes a long time and a lot of resources and requires a whole lot of work; correct?

A. Correct.

Q. You mentioned payment plans and the number of folks that

are doing payment plans, and it sounded like, at least in your jurisdiction, the way it works is at the time of sentencing the judge would either convert the obligation to a civil lien, or you would have the judge -- you'd ask the judge to put the criminal defendant on a payment plan; is that correct? Did I hear that right?

A. Yes, we actually ask the judge for time to get on a payment plan. So depending on what the sentence is, if they are sentenced to incarceration, we will ask the judge to give the person, you know, three months upon release to sign up for the payment plan so that it does not go to a judgment and their license doesn't get suspended, that they have that opportunity.

So it's really the clerk that can put anybody on a payment plan.

Q. Sure. And you're doing that -- and the client is doing that with your advice and counsel when they elect to do that; correct?

A. Yes. Yes.

Q. And with respect to folks that are on a payment plan, I assume there are some percentage of them, but there's also a percentage of people who just simply don't pay anything; is that correct?

A. There certainly are people who are not able to pay anything.

Q. And there's also people who are able to pay and don't pay

anything; is that correct?
A. I guess that would be correct. You know, I'm sure that happens occasionally.
MR. MCVAY: I have no further questions, but, you know, I believe Mr. Primrose from the Governor's office had some questions he would like to ask, if it's appropriate.
THE COURT: All right. Mr. Primrose.

CROSS-EXAMINATION

BY MR. PRIMROSE:
Q. All right. Good morning. This is Nick Primrose on behalf of the Governor.
I wanted to ask you -- you had mentioned one of the mandatory costs was the Crime Stoppers Trust Fund; is that correct?
A. Yes.
Q. And just to clarify, that $20 cost is only imposed if the defendant is convicted and found guilty by either trial or an entry of a guilty plea or no contest plea?
A. Yes. I think it's imposed even on the withhold of adjudication, but I'm now, you know -- I was looking at cost orders where they were adjudicated.
Q. Okay. But the $20 cost is only imposed to an adjudication of guilt or an adjudication withheld, not a not guilty or a nolle prossed charge?
A. Yes. All of these costs are only imposed if there is an

adjudication or an adjudication withheld.
Q. Okay. And you had mentioned on direct examination that your position, and I believe the position of the public defenders' association, is that burdensome costs should not be imposed on individuals who are convicted of crimes; is that correct?
A. Yes. It shouldn't be imposed on people who can't afford to pay them, yes.
Q. But should be imposed on people who can afford to pay them?
A. Well, frankly, those aren't the folks that are our concern. Our concern are the people who are poor. That's why we represent them and that's who we speak for.
Q. Are you aware of what the $20 cost to the Crime Stoppers Trust Fund is used for?
A. No. I assume the Crime Stoppers program.
Q. So if I told you that Florida Statute 16.555 indicates that the $20 goes to a trust fund designated per the circuit it was collected from, would you have any reason to disagree that that's how it's allocated?
A. No, I would not.
Q. And are you --
A. A number of the costs go to the circuit.
Q. Okay. So it's a direct benefit back to the circuit and community where the crime was committed?
A. You could say it that way, yes.

Q. The Crime Stoppers Trust Fund actually provides grant money to local counties for their Crime Prevention and Crime Stoppers program; is that correct?
A. I would expect so, yes.
Q. And do you know if that grant money can also be given to local school districts for their student disciplinary and crime watch programs?
A. I don't know that.
Q. Okay. And if I told you that the Crime Stoppers Trust Fund provides --
THE COURT: Mr. Primrose, let me interrupt you. If you are going to tell her something and ask if what you just said is true, it really does not advance the ball. So let's get to something she knows about.
MR. PRIMROSE: Yes, Your Honor.
BY MR. PRIMROSE:
Q. Do you know whether the Crime Stoppers grant money provides rewards for tips that lead to the successful arrests of somebody who is dealing in illegal narcotics?
A. I'm sorry. I didn't get the beginning part of that question.
Q. Do you know whether the Crime Stoppers grant money that comes from that $20 cost for somebody who commits a felony goes to paying for rewards for any tip that results in an arrest of, say, the sale of illegal narcotics?

A. I don't know where any of that funding specifically goes. If it helps, I do know that many of the costs that are levied against defendants go to both -- you know, sort of law enforcement, public safety, funding the local prosecutor's office, and funding the local public defender's office.
Q. Okay. And so your -- at least for the Crime Stoppers Trust Fund, you are aware of the Crime Stoppers program in awarding money for tips that lead to successful arrests of crimes?
A. Yes.
Q. And so the continued funding of a program designed to curb violence and stop crime would be a public benefit, would it not?
A. I -- I assume so, sure.
Q. So if you don't require the imposition of some monetary value going into the trust fund, you then cut back on what is a successful program in helping to stop and prevent crime; is that correct?
A. If -- yes, if the program is funded from trust funds rather than funded through general revenue. I would say that is equally true of the Teen Court fund, the Crimes Compensation Trust Fund, the prosecutor's office, and the Public Defender's Office. So all of those are certainly public benefits. It's just the decision to fund them through trust funds rather than through general revenue allocations.
Q. Okay. Thank you.
MR. PRIMROSE: Those are all the questions that I had,

Your Honor.

THE COURT: Hearing nothing from any other defendants, we'll go back to redirect.

Mr. Topaz. I'm not hearing you. I think you've got your microphone off.

MR. TOPAZ: Is this better?

THE COURT: Yes, thank you.

MR. TOPAZ: My apologies.

Just a few questions, Your Honor.

REDIRECT EXAMINATION

BY MR. TOPAZ:

Q. Ms. Haughwout, on direct testimony -- or on direct you testified that there is variation between the counties with regard to the minimum cost of -- the minimum LFOs -- mandatory LFOs that are assessed; is that correct?

A. Yes.

Q. Does that hold true if you control for the nature of the felony?

A. It still varies by circuit.

Q. Defense counsel asked you about clerk of court records and you mentioned that you have access to what you refer to, I believe, as the more recent of the clerk of court records. Do I have that correct?

A. Yes. Recent to me is -- you know, I think their computer system came into play, it's probably now more like 12 years ago,

that allowed for easy assess. Let me think. 2000 -- 2008 -- no, probably around 2010 that allowed for access to those types of records.

Q. Can you speak to the ease of your office's ability to procure records that go beyond -- that are older than the ones from 2010?

A. Well, it's not that simple. Many of them are either, you know, sort of microfilm, we go to the clerk's office to ask to look at them, or look at paper files, if they still have them. We discovered this when we were trying to help people find out what costs were owed, things of that nature, to see if they could register to vote.

So we had folks contact us through an outreach program. They didn't know what, if any, they owed, and so we would do research to see what we could find out about what they owed. And through that process, we learned it was challenging. In many cases, we could determine what they owed locally. Now, when we went into other counties, that was another whole issue, but in many cases, we could determine what they owed.

But, you know, there's felony convictions from -- that folks have had for 20 and 30 years that are really very difficult to determine anything about what their costs -- their outstanding costs may be.

Q. So anything before 2010 it can be very challenging to determine -- to gather those records?

A. Yes.

MR. MCVAY: Object. That's not what the witness stated.

THE COURT: The objection is overruled.

BY MR. TOPAZ:

Q. Ms. Haughwout, is your office required to assist your former clients with getting their voting rights restored?

A. No, we are not required to assist with that. We do assist when we can because we think it is, you know, a very positive step towards reintegration into our community.

Q. Do the attorneys in your office have a lot of spare time to research old records from clerks of court to determine whether folks are eligible for voting rights restoration?

A. No. Obviously, you know, we have plenty of work to do with current cases, but many, you know, of our lawyers and investigators have volunteered time to try to help. It's just -- you know, it's a difficult undertaking.

Q. And so that's on sort of a -- you just testified that's sort of on a volunteer basis for folks in your office who might want to help?

A. Yeah. To be clear, we did set up a process in our office for people to call the office, and we did community outreach with our phone numbers. We have a process if somebody calls us, and then we have people who have volunteered to try to help those folks that call.

Q. Ms. Haughwout, you testified that about 90 percent of felony criminal defendants in the 15th Judicial Circuit are appointed court-appointed counsel and signed an indigency affidavit at their time of appearance; is that right?
A. Yes.
Q. And then you also testified that folks end up in the process more destitute than they had at the beginning of the process; is that correct?
A. Yes.
Q. Do you think that this is generally a population of individuals that can afford to pay their LFOs that they're obligated to pay but are choosing not to?
MR. MCVAY: Objection; outside the scope.
THE COURT: Overruled.
THE WITNESS: Certainly not from what I've seen. You know, what I have seen is that the majority are people who are simply struggling to make ends meet, to care for their families, to keep a roof over their head, to keep food on their table, and the additional costs are simply more than they can bear.
These aren't folks who have an extra $500 in a savings account that they can put towards these costs, or extra money to set aside towards these costs. You know, these are folks that, if they're lucky, they are generally able to support themselves and their dependents, and that's it.
MR. TOPAZ: I have no further questions, Your Honor.

THE COURT: Thank you, Ms. Haughwout.

We've finished your examination at this point.

Let me explain one of my rulings. Mr. McVay, you objected as beyond the scope.

MR. MCVAY: Yes, sir.

THE COURT: That was close. Here's the reason why I allowed the question: Mr. Primrose's cross-examination went to the wisdom of imposing costs. I thought it, therefore, appropriate on redirect to ask about the wisdom of imposing the cost on indigent defendants.

MR. MCVAY: Yes, sir. Thank you for the clarification.

THE COURT: Having said that, I do understand that I'm not here to decide the wisdom of costs or how -- the wisdom of the state's decisions on how to finance its criminal justice system.

Tell me where we are. It's almost noon. I would sometimes run a little longer before we broke for lunch, but it's a convenient time because we've finished with the witness.

Who's next?

MS. EBENSTEIN: Your Honor, we'd like to call Mr. Carlos Martinez next, and there he is.

THE COURT: And remind me who Mr. Martinez is and tell me how long he might be.

MS. EBENSTEIN: Mr. Martinez is the public defender

from Miami-Dade County.

THE COURT: All right. I'm certainly willing to press on for -- at least for a time before we break.

Mr. Martinez, please -- yes?

MR. MCVAY: Your Honor, if we may, we do have an objection to Mr. Martinez testifying. I think we objected in a document, one we filed with the witness list. It was a late disclosed witness is the issue.

This witness was disclosed late after the deadline to disclose and we --

THE COURT: Well, let me ask -- let me ask one question about that --

MR. MCVAY: Sure.

THE COURT: -- and then I'll hear what -- why he's being tendered, but here's what occurs to me:

I thought when I called the case yesterday morning that there was a program in place in Miami-Dade through which people were being -- going on what I guess at one point was referred to as a rocket docket and having a judge enter a ruling about their costs.

I understood from opening statements that that's no longer being done. Maybe I misunderstood the opening statement; but if that's something that's changed in the last little bit, then it will help me to know what's going on currently, and I can understand how that might take calling some witness who

wasn't disclosed earlier. So that's my question about it, but I don't know that Mr. Martinez knows anything about that or that that's even what you're going to ask him about.

Ms. Ebenstein, tell me what you have to say about when he was disclosed.

MS. EBENSTEIN: Yes, Your Honor. We did not -- defense counsel's correct that we did not disclose him on the first witness list on March 23. On March 26th the topic of Miami-Dade's modification rocket docket program came up at the summary judgment hearing. We believe that Mr. Martinez is in the best position to speak to the current status of different components of that program.

We did disclose him on the date for the amended witness list, which I believe was -- I believe it was April 14, and in the interim, defendants objected to Mr. Martinez's declaration coming in, so there was a discussion about the Miami-Dade modification program at the summary judgment hearing. The defendants have documents describing the Miami-Dade program on their list of exhibits, and we'd like Mr. Martinez to just testify directly for the Court to clarify any questions the Court has about that program.

THE COURT: Mr. McVay, I'm going to allow the testimony. If, when you have heard his testimony, you think you need more time or something done to be able to effectively cross-examine or meet the testimony, you speak up and tell me,

and we'll do what we need to do to make sure you have a fair opportunity to meet the testimony.

MR. MCVAY: Yes, sir. I appreciate that.

THE COURT: I think I started to swear you in and didn't finish.

Please raise your right hand.

CARLOS J. MARTINEZ, PLAINTIFFS WITNESS, DULY SWORN

THE COURT: Please tell us your full name.

THE WITNESS: Carlos J. Martinez.

THE COURT: Thank you.

Ms. Ebenstein, you may proceed.

MS. EBENSTEIN: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. EBENSTEIN:

Q. Good morning -- or almost good afternoon, Mr. Martinez. What is your occupation?

A. I am the elected public defender for Miami-Dade County, the 11th Judicial Circuit of Florida.

Q. And when were you first elected to that position?

A. I was first elected in 2008, then reelected in 2012, 2016, and just reelected last Friday in 2020.

Q. Okay. And why did you decide to become a public defender?

A. I did an internship in the public defender's office, and the internship actually really broadened my horizons. Before going to law school, I had worked for Exxon Company USA for 11

years, so I was in business. I was running gas stations, and I never envisioned that I would work in criminal court, much less working with the accused.

But doing the internship, it was an amazing spiritual experience for me to do that kind of work and be able to help people that couldn't help themselves, so that's why I applied for the office. I got hired by the office, and eventually I ran for public defender.

Q. Thank you.

What is the mandate of the public defender's office?

A. Ours is both a constitutional, where the Constitution of Florida, and also it's a statutory mandate. We're authorized to represent people that we've been appointed to represent where the people do not have funds to hire an attorney. And that threshold is 200 percent of the poverty level.

Q. And how many employees do you manage in the 11th Judicial Circuit Public Defender's Office?

A. Between 368 and 400. It all depends what time of the year because we have attrition, so that's usually three -- right now it's 360, but it could go up to 415.

Q. And how many of those employees are assistant public defenders?

A. Typically around 200 of those are attorneys.

Q. How many cases does the Miami-Dade Public Defender handle per year approximately?

A. We handle approximately between 50 and 60,000 new cases, plus the existing caseload that obviously gets rolled over, and that's another 11 to 13,000, depending on the year.
Q. And what percentage of those cases, or how many of those cases, are felony cases?
A. Typically we get about 25,000 new felony cases. At any point in time, we fluctuate between 7 and 8,000 open felonies at any time.
Q. Is that 25,000 per year for felony cases?
A. Per year, per year.
Q. Do you know what percentage of the felony cases in Miami-Dade are against people represented by the public defender's office?
A. Roughly between 70 and 75 percent of the total felony cases.
Q. So your office represents about three-quarters of all felony defendants in Miami-Dade County; is that right?
A. That's correct.
Q. Okay. I'd like to ask you some questions about the clients who you represent. What's the process for determining if someone charged with a crime is assigned a public defender?
A. So I'll first do pre-COVID, and then I'll talk about what happens right now, because it's different.
Prior to this, the person goes to the bond hearing and at the bond hearing -- before the bond hearing we would fill out --

help the client fill out the financial affidavit, and if the person -- we would also ask them if they can afford to hire a private attorney, and if they say they can, then we don't talk to them. But if they say they cannot, then they would fill out the affidavit, and we would turn it over to the clerk of the court, and the clerk would make the determination, indigent or not indigent. 90 some percent of the time it's indigent.

Q. And what is the racial demographics of your clients in Miami-Dade County?

A. Roughly 50/50; 50 percent are typically black and 50 percent are white, but within the white group you also have Hispanics, and also within the black group you have a very small number of Hispanics that are also black.

Q. Okay. And do you know what the overall racial demographics are for Miami-Dade County?

A. Roughly less than 20 percent of the population is black and roughly 70 percent is Hispanic.

Q. Okay. Over your 12 years as the public defender for Miami-Dade County, have you observed the challenges that your clients face when they're arrested?

A. Yes, I do. I have been with the office -- as an intern, I started in 1988, and I did six consecutive internships, and then I've been with the office since 1990 representing clients both at the misdemeanor level and the felony level, as well as clients in drug court. So I represented thousands of clients

before I became an administrator and before I became the elected public defender.

So the biggest challenge that most of my clients face is employment. Another challenge they typically face is housing and security. There are clients that are either homeless when we start representing them or become homeless throughout, and it's quite common for clients to actually move during the pendency of the representation.

We have situations that sometimes the clients do not appear for court because we sent the letter and the court sent the letter to their last known address a month ago or two month ago and they've since had to move. So housing and security is a big issue. Employment is a big issue and so is employability. That's a big problem.

Q. Okay. And that's -- I believe I asked about when people are charged. What about after a conviction, are you familiar with some of the challenges that your clients face at that point?

A. Well, after a conviction, particularly if it's their first felony conviction, they all of a sudden have major ramifications, not the least of which is housing; not only public housing, whether it's Section 8 housing or other forms of public housing, but also in Miami-Dade County we have a lot of leasing companies, and the leasing companies do background checks.

And so in Miami-Dade County you have a problem, too, that if you're trying to lease an apartment, even though it's not government-run or government-funded, there are people that are kept from being on a lease or being able to move into a place that you have these management companies, so the housing is also -- is also a pretty big problem.

The other problem that we have with our clients is that they don't have enough funds to be able to pay the fees, fines, and costs. So what typically happens is if they can now make the payments, sometimes they get on payment plans. If they cannot make the payments, then they end up getting sent to collection, and their license also gets suspended. So you have a situation where the person may have had a good license, and all of a sudden, as a result of the involvement and the conviction, that they lose their license as well. So there are a lot of challenges for people in Miami-Dade County. And Miami-Dade County's poverty level is pretty high for our population, too.

Q. Okay. Any other ramifications of a conviction that you've observed with your clients before we move on to discussing legal financial obligations?

A. Sure. Well, there's one that I actually learned of late last night through an e-mail from a public defender association. There's a national group -- I'm sorry.

MR. MCVAY: Objection; hearsay.

THE COURT: Let me hear the answer and I'll know whether it is or not.

A. So last night I found out of an additional consequence to our clients that we have not been advising our clients about because it's a recent law, and it's the CARES Act. The CARES Act has a limitation that if an individual has a conviction within the last seven years, that individual -- if the individual is unemployed, they are not entitled to get the $600 a week that someone would otherwise get. So this is information that just like -- you know, I read Florida Law Weekly. We do lots of research into the consequences. This is an additional new consequence they just learned about last night.

THE COURT: I'll sustain the objection to the extent that this is what somebody told him. Obviously, the CARES Act says what it says. It probably says exactly what Mr. Martinez just recounted, and that's important for some other day and some other situation, but it doesn't make any difference in this case.

MR. MCVAY: Yes, sir.

BY MS. EBENSTEIN:

Q. Okay. Moving on to discuss Florida's LFO system.

Overall, approximately how much do your clients face in LFOs upon conviction for a felony in Miami-Dade County?

A. It varies, but on average it's between 7 and $800 on a typical case.

Q. And if you could give us some examples of what that 7 to $800 includes?
A. Sure. There are mandatory charges based on the type of case. There are also surcharges -- a $225 surcharge. There's also the costs -- the felony cases the cost of prosecution is $100. The cost of defense is $100. The public defender application fee is $50. And then you have a whole list -- a whole litany of other charges that are imposed -- that are imposed on your typical case, like the Crime Stoppers, teen courts, a fee for crime prevention programs, the Criminal Justice Trust and Education Fund. And there are also assessments of additional court costs that go to the local courts, including $65 court costs.
Q. Okay. Is that -- is the 7 to $800 amount the same for all, in all counties as far as what you are aware of?
A. It is -- I am definitely aware that it is not the same for all counties. One perfect -- there are two examples that I have with that. There's a $65 fee that we can assess, that can be assessed in Miami-Dade County, because there was a local ordinance adopted by the county commission. And the legislature authorized for the $65 fee if there is a local ordinance adoption. So that $65 is not being done across the state.
Another one that we know that is different across the state is there's a $100 fee that is assessed in cases, and that's 938.055. That is a fee that the amount goes to the Florida

Department of Law Enforcement, but that is only supposed to be assessed when there's been a local lab used in the case.

Now, across the state, from having looked at the documentation from the clerks of court of what the assessments are and what the collections are, across the state is very uneven in what's getting assessed. And in Miami-Dade County, it is only assessed because when my attorneys know that, in fact, this case there was a local lab used -- if it wasn't used we challenge that assessment, and that assessment gets taken out.

Q. Okay. So, for example, the local ordinance, the $65 you mentioned, that's a difference by law in different counties. Are you aware of any different charging or funding policies county by county that affect how much somebody is assessed in LFOs?

A. Well, if you want to consider the typical memorandum of costs that the clerk does, in some counties that FDLE fee that I mentioned, it is included as a mandatory cost on all cases, where in ours, it is only checked off in court if there has been a lab used. And that doesn't happen elsewhere.

Q. You said there was a $100 cost of prosecution. Is that consistent across the state, or does that vary?

A. That varies. That is the statutory minimum. And depending on the county or the circuit there may be a local practice where they negotiate higher amounts for both the cost of prosecution and also the cost of defense.

Q. Okay. Are you aware of other counties that have amounts higher than the statutory minimum?
A. I believe the 10th Circuit has higher amounts than the minimum and the 15th Circuit as well.
Q. Okay. Do people charged with a crime, who have their adjudication withheld, have similar LFO obligations to those who are convicted?
A. They are not different.
Q. Okay.
A. They are exactly the same.

MR. MCVAY: Your Honor, can I get a clarification on the Court's earlier ruling? Was the ruling that this witness was supposed to testify only to the rocket docket, or was the witness free to testify about all these items, because some of these are cumulative.

THE COURT: He's free to talk about the -- some is a little bit cumulative. I'm going to allow it.

Ms. Ebenstein, I'd rather not repeat things that we already covered, and Ms. Haughwout knew some of these things.

Mr. McVay, part of the issue is it may not be the same in Palm Beach as in Miami-Dade. I'm not sure how much difference it makes if there are differences in how the fees are being imposed, but I take it that the plaintiffs think it makes a difference if there are differences from circuit to circuit in which fees are being imposed, so I'll let the plaintiffs make

their record on that.

And some of it I will be interested in hearing again, and you can ask or I'll ask in between as I did before, I've got those few questions, practical questions, about what happens. I'm very interested in that, and I would like to hear another public defender in another circuit address the same questions. So I'll get to some of those with Mr. Martinez. I think it's helpful.

MR. MCVAY: Understood. Thank you, Your Honor.

MS. EBENSTEIN: Thank you, Your Honor.

We plan to be brief with some of the county by county information and focus on rocket docket and modification, so we'll get there as soon as possible.

BY MS. EBENSTEIN:

Q. Mr. Martinez, at sentencing does the judge announce the amount of LFOs in the sentence in open court?

A. Not in every case. And they definitely do not announce on what the specific parts of the LFOs are. So it's a crapshoot on that.

Q. Could you explain what you mean, the different parts of the LFOs?

A. So, if -- in Miami-Dade County the way the judgment and sentence works, it's usually a four or five-page document. The judgment is usually on page 1. On page 2 is a Court Order that essentially has a memorandum of costs, and that Court Order is

signed by the judge.

In that memorandum of costs, which are all the costs that are imposed, in that memorandum of costs there's typically 12 to 14 items in that memorandum. If anything is announced, it's the total amount. It is not -- you have a public defender application fee of $50, you have a cost of the defense of $100, you've got the cost of prosecution. The judge does not go through each one of those things because, as you can image, in Miami-Dade we have a tremendous about of volume in the courts, and they don't spend their time doing that.

Q. And I believe you testified they don't always read the amount total or -- is that correct?

A. That's correct.

Q. Okay. Are your clients typically able to pay all of their LFOs at conviction?

A. Not typically.

Q. And if they are not able to pay their LFOs immediately upon conviction, what typically happens?

A. Well, there are options that the judge sometimes mentions, which is getting on a payment plan. That's one of the options. And the other options that there are is try to modify the amounts, but Florida does not allow the waiver of costs and does not allow the reduction of costs at sentencing because the person's ability to pay is never determined at sentencing.

Q. Are your clients usually able to pay all LFOs at the end

of -- by the end of their probation or incarceration period?
A. Our typical client that we find out is -- and this is an important -- an important point. On probation cases when the individual has finished their time on probation, and has completed all the other conditions other than LFOs, typically that case is brought before the court for the judge to convert whatever is left unpaid into a civil lien. And in Miami they call it criminal order. But essentially it is a civil lien. And whatever amount that is owed is actually converted. And the main reason for that is legally the judge cannot extend probation because somebody has an inability to pay. So what they do is they terminate probation and they issue the lien.
Q. And why are LFO -- why are LFOs converted to civil liens at that point, aside from the end of probation?
A. Well, it's the last thing left to do if it was a condition of probation. If it is not a condition of probation -- I'm sorry. I forgot to mention that.
Many times the LFO that is in the sentence -- and the sentence order, it is only restitution, sometimes it has fees. It does not have all the costs and all the other things on page 2, which was the order of charges, costs, and fees. That is usually not part of the sentence and not part of the probation. So what is converted typically in the lien is only what was in the sentence, which is usually restitution and sometimes fines.
Q. Okay. And we'll talk about what's part of the sentence

just now.

Are you familiar with SB 7066, the Bill that was passed in 2019 and the subject of this lawsuit?

A. Yes, I am.

Q. And has the Miami-Dade Public Defender's office been involved in any part of voting rights restoration efforts?

A. We have been involved as part of a consortium of officials that includes the state attorney, the original criminal conflict counsel, the -- also the clerk of courts, and the Administrative Office of the courts with judges, so all of us that were involved, and have been involved, and continue to be involved, in the evolution of the process -- the streamlined process that we set up last year.

Q. Okay. And I'd like to ask you a few questions about Miami-Dade, that consortium's interpretation of the law when it first passed.

Are you familiar with the four corners requirement within the law?

A. Yes, we are.

Q. And could you --

A. Yes, I am.

Q. -- briefly describe what that is?

A. The four corners, the way I looked at it and the group looked at it is that it requires, part of the statute, the four corners of the sentencing document.

In Miami-Dade County, it was pretty easy for us to determine what that was because in Miami-Dade County you have judgment as one page and that's separate; you have the order imposing the charges, costs and fees, and that's separate; and then the sentence -- we were able to look at the sentencing document that specifically lays out the term of the sentence in terms of how long the person is on probation, how much prison time, how much jail time, how much credit for time served the person has done, and also any other conditions that are placed is included in the sentence. The fines are also included in the sentence, so if there's a mandatory fine. For example, in trafficking cases, it's typically the only case that you will see a mandatory fine imposed in Miami-Dade, and that will be in the sentencing document itself.

So, for us, when we looked at it, that's why we determined this is not -- this is complicated, but not as complicated as it could be if we have to look at all the pages and the different things that happened rather than just sentencing.

Q. Okay. Do all counties use the same format for their sentencing documents or is there variation?

A. There's lots of variation. As we were looking at Miami-Dade County, we were trying to see what was being done in other counties so that we could learn from other counties, and other counties were trying to learn from us, and that's when we realized that our documents are not -- number one, they are not

uniform across the state, and there's lots of variation depending on where you are in the state.

In some areas of the state, like where this case is going on right now, Leon County, in Leon County, it is quite common that all the cases there have a fine imposed. The exception is when it's not imposed. So that's very different from Miami-Dade County where you would normally not find a fine in the sentencing document.

Q. Okay. Based on the format of the sentencing document and what you've described as the consortium's understanding of SB 7066 when it first went into effect, what, if any, program did you put in place related to restoration?

A. So the way we looked at the statute and I look at the statute is there are two basic parts to it. The first part is the one that talks about the four corners of the sentencing document. The second part is the one that talks about how you can complete a sentence.

So our process that we started was to deal with completion of sentence and was to figure out how can we expedite this process in Miami-Dade County, knowing full well that in sentencing documents the cost, fees, surcharges are not in the sentencing document; how can we expedite processing these and eliminating a lot of the confusion that's around in the community about what does Amendment 4 mean and what does the new law mean.

So we looked at what are the options that you have. And, obviously, under the statute, you have full payment. You also have termination of the LFO, but the termination of the LFO was very -- is very complicated.

The way our consortium looked at it is it's pretty much impossible for us to be able to do the termination piece because it requires agreement of the payee. We could not even agree on who the payee was. We could -- just because the money was going to be deposited with the clerk of court and then the clerk distributed to the different buckets of money, we could not determine if the payee -- we could not agree if the payee was the clerk, the State of Florida, the individual county, the individual program.

So what we -- when we looked at that, we said, We need to look at the other options. So we looked at the option of community service, and the community service, of course, is still an option we can look at.

The last one to me is the most important one, which is the one that allowed modification of the original sentence. The interesting thing with the statute is that there is no longer a limitation of 60 days. Under normal circumstances, a judge could not revisit the statute -- could not revisit a sentence after 60 days, but under the statute, the language is pretty clear. It said: Notwithstanding any other law (indiscernible audio) to the contrary, a -- this cannot be interpreted

(indiscernible audio), but the judge can modify a sentence.

So we looked at it, and it tells us that the judge can modify -- can modify the sentence for purposes of voting rights restoration only. And that was a big distinction we made in Miami.

Q. Before we move on to the modification program, as far as the four corners of the sentencing document, are you familiar with the advisory opinion from the Florida State Supreme Court as it relates to SB 7066?

A. Yes, I am definitely aware of the advisory opinion.

Q. Did the consortium in Miami-Dade County change its opinion or policy related to what's included in the four corners of a sentencing document once that decision came down?

A. Yes, we did. The biggest change with the advisory opinion is the advisory opinion said that -- you know, it's subsumed everything, and it said that if anything had happened in conjunction with the adjudication of guilt, then all of a sudden that would become part of the sentencing document.

And to us, of course, that was extraordinary because that was beyond what the statute -- the language of the statute is four corners of the sentencing document, and the Florida Supreme Court has now expanded that to include anything that was done in conjunction with -- in conjunction with an adjudication on the case.

Q. Okay.

A. So what ended up happening -- so what -- the consequence of that in Miami-Dade County is that we looked at it, and we were quite concerned that there was so much confusion already, individuals coming to us -- and we've had hundreds of individuals apply to have this -- go through this process.

Up to that point, there have been 35 orders -- court orders signed telling people, You have completed your sentence. However, under this new version that the Supreme Court expanded what it meant -- what the four corners meant, what that did is all of a sudden we are having to look at those 35 folks and trying to make sure that those folks are not in jeopardy of voting when all of a sudden you have a situation where they went through the court process, we told them, You are in the clear, but the Florida Supreme Court in an advisory opinion now says, Well, not exactly, because if those costs, fees, and fines were done at the time in conjunction with an adjudication of guilt, then that becomes part of it. So it did cause us to change our entire process.

Q. Okay. So just to make sure I understand, with regard to the four corners definition, there were 35 orders signed saying people had completed their sentence based on your understanding of the four corners document. And when that understanding changed based on the advisory opinion, what did your office do?

A. Well, let me clarify what my office does. We are providing information. So former clients, which -- it's almost 100

percent of the people who have applied have been our clients at one point or another. So when people apply, we provide them information.

We let them know -- the process is pretty cumbersome. We look at the prior criminal history. We figure out how many of their prior felony cases, number one, do not involve -- if it involves a murder or a felony sexual offense, that person is disqualified from going through any process. So the information we provide to them is we look through the criminal history, we identify what cases they were, and then we would provide -- we obtain the judgment and sentence, all the documents, including probation order, to try to see if it was part of a sentence, if it was not, if it was part of the probation order, if it was not, and then we go forward from that process.

But we have now had to revise our entire process because it includes everything now. So you can no longer just look at the sentencing document. You have to look at everything.

Q. And how many people were you able to assist through this process before the advisory opinion?

A. The courts were able to assist -- because the way this was set up, individuals would go into court pro se. There was a template motion that had been agreed to by the entire consortium; and what would happen is we would give the individual the information of their cases, the ones that they had to put in. The individual would complete the paperwork,

sign that pro se petition, file that pro se petition, get it to the State attorney; and then it would be through a summary process, either in court or in chambers with the judge.

But the public defender does not represent the individuals. So we do not appear in court. We do not fill out the paperwork, and our extent -- the extent of your involvement is providing the former clients the information as far as their eligibility is concerned.

Q. Okay. So now we are talking about your modification program; is that correct?

A. That's correct.

Q. Okay. You spoke earlier about your understanding of the modification provision. Do you know if that understanding of the law is shared by other counties?

A. It is not shared by --

MR. MCVAY: Objection, Your Honor; outside of this witness's knowledge.

THE COURT: Overruled.

BY MS. EBENSTEIN:

Q. Do you know if that interpretation is shared by other counties?

A. It is not shared by other counties. When we started our program in Miami, I shared our information with other public defender offices, and what they were all looking at is "I wish we could get agreement on this in our circuit," and they were

not able to. So we just did -- we did what we did in Miami, and we've continued with that process.

Q. Do you know if similar modification programs are in place in any other counties?

A. I've heard of the one, the 13th Circuit. I don't know the details of that. And I think the 15th Circuit has a different process for modifying.

Q. Do you know if there are modification processes in place for the remaining circuits, not the 11th, 13th, 15th?

A. I do not think there is anywhere else.

Q. In Miami-Dade, is the modification process available for people with outstanding restitution?

A. It is, but that is even a little more cumbersome. I need to clarify because I mentioned before the Supreme Court opinion, advisory opinion. We all had the expedited process, which was the four corners, that -- just looking at the sentencing document. Afterwards, what became pretty clear is that the process for looking at every case would have to be exactly the same.

It didn't matter whether it was restitution. It didn't matter whether it was only in the sentencing order or in the order imposing charges, fees, or costs. So the process -- the process now is exactly the same for restitution as for everything else. Restitution was never part of the expedited because restitution is typically in the sentencing order.

And because it was in the sentencing order, the prosecutor wanted a case-by-case argument in court, and for that reason, we have to recruit pro bono attorneys. But to this day, none of those pro bono attorneys have gone to court yet.

Q. Okay. Is the modification process available in Miami-Dade County if an applicant has outstanding LFOs in another county?

A. No, it's not.

Q. And just if I can be more specific. Is the modification of their Miami-Dade LFOs available in Miami-Dade County if they have a conviction in another county?

A. It is not.

Q. Okay.

A. The way we set up the process was a centralized, streamlined process, and one of the -- one of the things we had to all agree to was that it would only be for people who qualified for all of their cases to be determined in Miami-Dade County.

Q. Okay. So that streamlined process is not available if people have a conviction in another county; is that right?

A. That's right.

Q. And is that streamlined process available only for the Miami-Dade County fees if the applicant also has an out-of-state conviction?

A. No, it's not.

Q. And is the modification process in Miami-Dade available only for the Miami-Dade LFOs if that person has a separate federal conviction?
A. It is not.
Q. Okay. So just to make sure I'm understanding, the Miami-Dade modification process is only available in Miami-Dade County and only available to those who only have Miami-Dade convictions?
A. Felony convictions, yes, correct.
Q. Felony convictions, okay, yeah.
And I believe you touched on this before, but is it within the public defender's mandate to represent people for modifications?
A. No, it's not, which is why we don't do the representation. We just provide the information and whatever documents we have.
Q. Okay. And I believe you said that not all counties share the view of the availability of modification under this statute?
MR. MCVAY: Object again to lack of foundation. This witness doesn't have personal knowledge.
THE COURT: Overruled.
THE WITNESS: My understanding is modification is not available, particularly not how we look at it in Miami. In Miami, when we do the modification, our position has been, from the beginning, that in order to get the consensus from everybody, it has always been that even though it is modified

for the purposes of voting rights restoration, that debt is still owed because there is a court order, a separate court order, that we are not modifying.

And not only is there a separate court order, in the cases where there is -- there is a lien that has been imposed, we are also not touching the lien whatsoever because the statute doesn't permit touching of the lien, so that obligation is still there for payment of it. It's just -- the way we look at it, it's just a modification is available, simply for the purpose of the individual being able to vote.

And it is available -- there was one more thing that I wanted to make sure that you know. The modification is only available for people who cannot pay. Even though the statute does not require it, in Miami-Dade County we took the public defender application, which is available, we took that, we modified that, so that in order for the judge to be able to make a determination that it was only individuals who could not pay that were getting the benefit of the modification for voting rights restoration, they have to file -- the individual has to file a financial affidavit.

That is not required by law. We came up with that because the judges felt more comfortable in doing modification if they had that information available, because they did not want to modify anything if the individual can actually pay.

BY MS. EBENSTEIN:

Q. Are you aware of anyone outside of Miami-Dade County who has ever applied for a modification pro se?
A. I'm not.
Q. Are -- I assume I know the answer to this question. Are you ever aware -- are you aware of anyone outside of Miami-Dade County who has received a modification at all?
A. No, I'm not.
Q. Okay. When we were talking about SB 7066 earlier, you mentioned termination. Could you explain to us your understanding of the termination provision of SB 7066?
A. In the section -- I mentioned to you there are two sections that we look at. In the second section, which is the one that relates to completion of sentence, in that section it talks about termination, and it requires the approval of the payee.
Q. Okay. I'm trying to find that section of the Bill if you want it on the screen.
Would defense counsel object to putting up just the text of SB 7066?
MR. MCVAY: No objection.
MS. EBENSTEIN: Okay.
Ashley, if you're online, could you pull up page 47 of PX34.
I'm sorry. Page 48.
BY MS. EBENSTEIN:
Q. We'll just keep that up in front of you, Mr. Martinez, so

that we are not giving you a memory test.

So if you could, again, if you don't mind, explain your understanding of termination in Miami-Dade County.

A. We did not -- we are not using this provision, because even though it's allowed under Florida law, it requires the payee's approval, and to us, it is very difficult to determine who the payee -- and we could not even come to a consensus on what we felt who the payee is for the entire amount, or even for sub-amounts.

And so we felt that this would hold it up, particularly the requirement that the person has to approve, because it also would, you know, put a situation where if what you're looking at is restitution, then there are other sorts of issues that come up, including Marsy's Law and what type of notification, what type of participation does the victim have, and anything related to that. So even though it's available, we are not using that section.

Q. Okay. If someone were to seek termination of their financial obligations pro se, could you walk us through step by step what they would have to do?

A. They would first have to identify which cases they have and they would have to go to the clerk of court and to get a copy of whatever judgment and sentence was. Presumably the individual knows their criminal history, but what we have found is a lot of people don't know their criminal history. We've had people

apply for rights restoration where the person only had a withhold, so they never lost their voting rights, but they thought for 10, 15 years that they could not actually vote.

So an individual would have to go to the clerk of court, obtain the documents. In Miami-Dade County, the only documents that are available online are from 2017 forward. What we have had to do -- it is difficult enough for us to look for the records of our clients. I cannot even imagine what it would be like to an individual, but I can walk through it.

So for us, we've had former clients who have three or four felony convictions, and on those cases, because we have a relationship with the clerk of the court, we can request -- we can, number one, first look and see if the document is available online. If it's 2017 or later, we can look at that.

If it's not available online, then we have to make a request of the clerk and the file can be in the clerk's office. It could be in the records center. It could be on microfiche, or it could also be in a fourth place, which is -- right now the clerk of court has been systemically taking all old records and scanning them, so there's a fourth place where they do scanning. So if we can't find the documents in microfiche, record center or the clerk's office, it's typically going to be where they're getting it scanned.

So the problem is -- let's keep using that example with three individual -- with three cases for one individual. Those

three different files could be in three different places. And when we make the request of the clerk of court, they don't all come back at the same time. It's not like they're doing for one person. They give me all things. It's as they get it done, they get it to us.

So for an individual who did that, the individual would have to wait for all documents. The individual would have to pay for the copy of the documents, and depending on what clerk's office it is -- in ours they are not charging for this, but I know in other clerk's offices they charge for research, for looking for where things are, but in ours they don't.

But you would have to pay for the copy, then the person would have to get that. The person would have to find one of the templates. You know, if they have a computer, if they have Internet access, they would have to try to find one of the templates, complete one of the templates, find a financial affidavit, complete the financial affidavit, file that in court, and then when it's filed in court, it would get calendared before the judge.

And, typically, pro se people do not e-file. In Florida all the attorneys are required to e-file, so pro se people don't. So when that case would go to court, that case would likely get continued because the prosecutor was not given any notice, because the case would just show up on calendar with the documents that the pro se person would show. So that case would

get delayed to a later time. So it would be quite cumbersome for a layperson to go through this process without somebody's assistance.

Q. Okay. And even in -- in termination applications, so even in counties where -- even with jurisdiction only for termination, is your understanding that the court can only terminate obligations when the court is the payee, or can the court, for example, terminate an obligation, like restitution to a third party?

A. I think the court has complete authority, but the court has to make sure that the payees have approved it, either them appearing in open court or through some court filing.

Q. Okay. So the court has authority but only after there's payee approval; is that right?

A. Upon payee approval, yeah.

Q. Is that payee approval discretionary or mandatory?

A. It's discretionary.

Q. So, for example, if a debt's owed to a debt collection company, would they need to approve termination of that debt?

MR. MCVAY: I'm going to object that this is a -- calls for a legal conclusion.

THE COURT: Well, I'm going to overrule the objection. Knowing how this is being done on the ground or what someone involved in the process is actually doing is itself (indiscernible audio.)

MR. MCVAY: Yes, sir.

BY MS. EBENSTEIN:

Q. Just to be a bit narrower, is your understanding, and the understanding of termination in Miami-Dade, does it require approval from the payee, the person who the amount is due to?

A. Yes. And because it's so complicated, in terms of who are the payees, and also there are partial -- one of the issues that we dealt with in Miami-Dade County, and the clerks mention this complexity, is because there are statutory priorities for who gets paid when, it is possible that one of the payees was paid off already, but because you only have the total amount, then you have to research to try to figure out who did all those things. And it's not only the identification of the different payees, which in our estimation -- and part of your discussion was that same discussion, does the collection agency, is that in itself a payee. Now, with the collection agencies, we know the law is clear that any collection cost cannot be part of what the person has to pay in order to get their rights restored. We were clear on that.

The question that we had is not the surcharge, but the amount in chief as to whether they had to be brought in as well. And because we saw all the complexity in that, and also the complexity from before -- for years in Miami-Dade County, and I don't know this about anywhere else in the state; I know this about Miami-Dade County -- in Miami-Dade County for years the

place that would collect the amounts owed by any individual would be the Department of Corrections. If that changed at some point and became the -- the Department of Corrections, from what we have been able to determine, their records are terrible. So we're unable to figure out what was paid, how much was paid, what was it applied to.

If you go back 15 years, which a lot of the cases are 15 years old, it is nearly impossible to figure out what are all these amounts, what's the termination. Obviously if a payee wants to terminate the whole amount, you don't need to look at the individual amount. But it is very cumbersome to be looking at all those things trying to determine how much does somebody owe.

Q. Okay.

And if someone cannot afford to pay their LFOs, is the Court required to grant termination of those debts?

A. I'm sorry. Repeat that.

Q. If someone cannot afford to pay their LFOs, is the Court required to terminate their --

MR. MCVAY: I'm going to object, just for the record. This calls for a legal conclusion.

THE COURT: Overruled.

(indiscernible crosstalk.)

A. I don't see it as the Court is required to do anything.

BY MS. EBENSTEIN:
Q. Is a third party payee required to terminate those debts?
A. I don't think they are required.
Q. And in Miami-Dade County, with regard to community service, if someone cannot afford to pay their LFOs, is the Court required to convert the debt to community service?
A. No, I don't see that.
Q. Okay. If someone is denied a payment plan termination or conversion to community service, is there an opportunity to appeal that?
A. I don't believe there is a right to appeal. There is also no right to an attorney.
Q. Okay. Last question for you. The modification process that you described in Miami-Dade, is that currently available?
A. Right now we have pretty much shut down any court hearings that do not involve emergency matters, like people in custody, motions for release, or somebody taking a plea and as a result of the plea they are going to get out. So if the case -- if the person is in custody, those are essential hearings. This is not an essential hearing, and we have not determined that is such in Miami-Dade County yet.
Q. And how long has Miami-Dade been under this, I guess it's not a shutdown order, but emergencies only order?
A. I think it was March 16th.
MS. EBENSTEIN: Okay.

Those are all the questions that I have, Mr. Martinez. Thank you very much.

THE WITNESS: Thank you.

THE COURT: Mr. McVay, again I've got a couple of questions. Let me ask them before I turn it over to you so that you can examine about my questions as well as the ones you just heard.

One narrow question I have, Mr. Martinez, is this -- I've seen it said both ways and I know you know what goes on in Miami-Dade. There is, as I understand it, a $50 application fee for somebody that applies for a public defender.

THE WITNESS: Yes.

THE COURT: My question, if the person is acquitted or the charges are dropped, is that amount still owed?

THE WITNESS: No, it is not. It's not owed. We have a constitutional provision that it is only payable if there's a conviction -- there's an adjudication.

THE COURT: Now I'm going to ask you about what you already said, and I just want to make sure I understood it, because I'm not entirely sure I did.

If I understand it, this rocket docket program was put in place at a time when your understanding was the sentence was the four corners of page 1. The fees and costs were on page 2, something called something else. And so people were coming in to court with the approval of all the players, and the judge was

going to enter an order that just confirmed that the sentence did not include the fines and fees that were on page 2 so the person was eligible to vote.

So far, am I on track?

THE WITNESS: Yes, you are. The sentence is on page 4 and 5, but you are on track.

THE COURT: All right.

Then the Supreme Court entered a ruling on the plain language of Amendment 4, but you understood that to say the fees and costs are always part of the sentence no matter which page of the packet they are in, and so at that point that program shut down?

THE WITNESS: Yes. The program -- the streamlined court review process, we had three tracks. The expedited one was track one. That shut down. We now only have track two and track three.

THE COURT: All right. And so then the additional discussion you had was about the different provision of the statute, 7066, under which if all the payees consent the financial obligation can be terminated?

THE WITNESS: Correct.

THE COURT: Different one of your three programs. Got it.

All right. Give me just a second.

(Pause in proceedings.)

THE COURT: This may well be a question where the answer is, I don't know.

There was some suggestion in the media, or whatever, that funds had been put together to pay off LFOs so that people could vote associated with one nationally or internationally known singer, a well-known star.

Do you know if that happened in any instances?

THE WITNESS: Yes, it did happen. And in Miami it happened, I think on -- it happened on several cases in Miami where the only amount owed was the public defender application fee, that for some reason it was placed in the judgment and sentence. So it was either two or four. And there were -- back then it was $40. So they have collected money, and they have paid.

THE COURT: Well, I'm -- if it was only the public defender application fee, I'm not sure that my next question is going to make much sense, or that there is even an answer, but here's what I was trying to figure out. I thought, maybe completely incorrectly, but I thought when all this came up and this lawsuit started that the State's position was that to be eligible to vote one had to fully satisfy the obligation, whatever that was, and that to determine the amount of the obligation for fines, fees, restitution, the way one would do it would be to figure out the original amount that was imposed, find the payments and what they were actually applied to, and

then see what the balance was. So that, for example, if somebody made a $100 payment, and it turns out $23 was applied on the collection agency's fee and that only $77 was credited to the amount owed, if you had started off owing $300 and you got that one $77 credit you would owe $223. And to be able to vote you would have to pay $223.

I now understand the State of Florida to assert that's not how it works. Even if your payment got credited $23 to the collection agency, and only $77 to the fine, you'd still count the $23 towards the $300 original obligation so that even though you owe $223, you only have to pay $200 to be able to vote.

What I was going to try to find out if you know is: If somebody -- the national star or whoever -- came in and said, "I'm going to pay off these amounts", did they look at the calculation the first way I described or the second way I described?

Do you know?

THE WITNESS: Well, I do know because we actually had a number of former clients, because we found out that the fund was open to actually pay some of the costs. So we had a list of former clients that we submitted to the funder for them to consider making those payments. So we did talk to our clerk of court, and we found out from our clerk of court, we said, Give us the exact amount that does not include collection fees or any other thing after the fact, just give us the amount, and we will

submit that in our application.

What we were told by the clerk of court was that if that amount was gonna be paid by that funder that it needed to have a memo specifically detailing what the money was going to be applied to. Otherwise, the clerk of court would have to use their normal prioritization and distribution schedule, which would mean that it would get applied to all sorts of things that did not take care of just the LFOs.

So that's a long answer, but that's what I know in terms of what can happen in Miami-Dade County.

THE COURT: And that's helpful. I want to go to a different part of that.

You've told me what will happen if somebody wants to pay going forward, at least what that person who gave you the answer thought was, that you would have to apply it in ordinary course. I also have a question not of how it would be applied going forward, but what happened to amounts applied in the past. And so I guess one way to ask it, you told me that you know some people got paid off, and the only amount remaining is the $40 public defender application fee.

Now, let me just use a hypothetical here that might or might not work. But just hypothetically, use my same number. There's an original $300, $30 gets allocated to the collection agency, maybe a $25 fee for setting up a payment plan. The person now pays a total of $420 because they've paid the

collection agency, they've paid the $25 fee. They're down to a balance of $40. They've actually paid more than $300, because their money has been allocated to various pots, but they still had to pay the $40 to be able to vote.

Is that how it works?

THE WITNESS: I do not know that formulation. I do not know about it. I haven't heard about that type of formulation, as to whether the clerk of court would do that right now. I have no idea if they've ran a directive. I certainly have not heard it. And our consortium has not met for about two months, three months, so we have not discussed that particular angle.

But, Judge, I did want to clarify one thing in terms of the public defender application fee that was still owed. Under the old -- actually, under the old -- under Senate Bill 7066, there were two parts to it. One is what's in the sentence and the other one is what is the requirement for completion of sentence.

Our interpretation for completion of sentence since the beginning was that costs were never included in what was required to be paid as completion of sentence, and the reason we came to that is because the statute only mentions fees and fines, and one of the versions before the final was passed included costs, and that was taken out.

So our interpretation was even when we look at pages 4

and 5, we are looking only for fees and fines. The only two fees that are listed as such in Florida statute are the public defender application fee and the clerk of court fee for a payment plan. So we would look at pages 4 and 5 to see is there a payment plan fee on that or on the probation order and is there a public defender application fee, and what we found -- the only fees that there were -- and I think it was only four cases -- was the public defender application fee on page 4. So we felt that if we could get those paid, then those cases would be expedited.

THE COURT: All right. So I understand how the fees came in.

Let me ask you one, I think, last question.

I just described a system where instead of paying attention to how payments were actually allocated the -- every dollar would be applied first to amounts in the original sentence and only afterward to any collection agency fee or fee for setting up a payment plan, that kind of thing. I'll call that first-dollar allocation.

Until I just suggested it, in all meetings with your consortium and others, had you ever heard it suggested that the way this worked was first-dollar allocation?

THE WITNESS: No, we did not.

THE COURT: So you heard that for the first time from me when I asked you questions just now?

THE WITNESS: Yes.

THE COURT: All right.

I heard it for the first time ten days ago when the State first filed something in this case saying that was how it worked.

That's all my questions.

Mr. McVay.

MR. MCVAY: Yes, sir. Sir, I've been sitting here. I have to use the restroom. Is there a possibility to take a five-minute break?

THE COURT: Absolutely.

Let's take -- well, let me do this. We can break for lunch. I don't know how much you have. We are at 1:12. I am happy to take a break and come back and finish. We can also just break and give you the hour to prepare. What's your preference?

MR. MCVAY: That would be fine, Your Honor. I'd appreciate it. That would be great.

Mr. Martinez, does that work for you?

THE WITNESS: Sure.

THE COURT: All right. Let's start at 2:15. It's just a couple of minutes more than an hour from right now. We'll start back at 2:15.

MR. MCVAY: I appreciate that, Your Honor. Thank you.

(Recess taken at 1:13 PM.)

(Resumed at 2:20 PM.)

THE COURT: I'm back.

Let me make sure everybody is on.

Ms. Ebenstein, are you there and hearing?

MS. EBENSTEIN: Yes, Your Honor. I can hear you, but I can't see.

THE COURT: Oh, that's because the back-up Post-it to make sure that the "off video" is working was still over the camera.

Scheduling problems sometimes come up during trials. In this one I anticipated that conducting a trial over video might present unique challenges. It has gone, I think, remarkably well. We've had to slow down and ask questions occasionally, but the video has worked and it's all been working.

We've had another significant scheduling matter unrelated to the video handling of the trial that has come up. We are going to have to push things back here for a little bit to figure out what the other scheduling issues are. So I'm going to be in recess until -- let's say 3:05. I'll plan on coming back online at 3:05 to take stock of where we are.

Mr. Martinez, that's inconvenient for you; it's inconvenient for everybody involved in the case, but I sometimes tell people, "There's no worse use of anyone's time than to be a witness in somebody else's lawsuit." Now we've taken up some of

your time and it's going to be inconvenient, so thank you for accommodating us. But if you'd be back available at five after three, we'll know at that point where we are and how to deal with it.

So thank you, all.

We'll be in recess until 3:05.

THE WITNESS: Thank you.

(Recess taken at 2:22 PM.)

(Resumed at 3:05 PM.)

THE COURT: Good afternoon. I'm going to make sure we are all connected.

Ms. Ebenstein, are you there?

MS. EBENSTEIN: Yes, Your Honor, I'm here.

THE COURT: Mr. Martinez?

THE WITNESS: I am here.

THE COURT: And Mr. McVay?

MR. MCVAY: Yes, sir, I am here.

THE COURT: All right. Let me start by saying we've managed to work out the scheduling issue, and all the lawyers are to be commended for very professionally working together to get that done.

Mr. Martinez, you are still under oath.

Mr. McVay, you may proceed.

MR. MCVAY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MCVAY:

Q. Mr. Martinez, I want to get clarification on one point you testified to earlier, and that is the modification provision that is in 98.075(1) that you talked quite a bit about. I thought that I heard you say it was only available in Miami-Dade County. I think what you meant, though -- and correct me if I'm wrong -- is that you had to have a Miami-Dade conviction only in order to utilize that process; is that what you testified to?

A. Yes, that is correct. For us to modify it here, it has to be Miami-Dade County on the convictions only.

Q. Okay. So nothing preventing other counties from utilizing this portion of the statute?

A. No.

Q. Okay. And you're actually aware that some of the other circuits are actually utilizing this portion of the statute; correct?

A. I don't know if they are utilizing that portion of the statute. I do know that they are using the statute to be able to either convert or terminate or do other things. What I've heard about the 15th Circuit is that what they're doing is they're actually taking the costs that were included as part of the sentence -- they've taken it out. So that's not exactly how we are doing modification, but I'm sure there are other places -- that some other places are being able to do that.

Q. Sure. Okay.

You talked about a pro se litigant for a moment, and you -- I think your testimony was you hadn't seen, in your experience, any pro se litigant file a motion on their own behalf; is that correct?

A. That's an Amendment 4 modification?

Q. Yes, sir.

A. Yes, that's correct.

Q. But you're not testifying that that -- that something prohibits that?

A. No --

Q. You just --

(Indiscernible crosstalk.)

A. -- not at all. Yeah, not at all. I only know what I know from the process we have in Miami because we talk -- well, before COVID, we used to talk on a regular basis about the things that were coming up, and we have not had one come up that was strictly somebody that was pro se that we were not aware of.

Q. Understood. Okay.

I want to move now to the packet that you talked about. You talked about a five-page packet, I believe, which would include the judgment and the sentence, and I think you described the other one as a memorandum of costs. And it was all one document or set of documents; is that correct?

A. There are multiple pages that are generated, and one of the

pages is actually the fingerprints as well, but the first one is judgment. The second one, depending on, you know, where you are in Miami, they'll call it -- the clerks call it memorandum of costs, but it's actually a court order, and that's page 2, and that charges costs and fees, and that follows the structure of 3.986 in the Rules of Criminal Procedure. It has forms. So ours follows that structure.

Q. Very good.

In those documents that you're talking about, those five -- that five-page packet, or however many pages it is, it's all entered at the same point in time during the criminal sentence; isn't that correct?

A. It's done when the case is closed; correct.

Q. And at the time of sentencing, when the judge is pronouncing sentencing, that's when that's entered into, when those things are finalized; correct?

A. All that happens -- all that happens as part of one event --

Q. Right.

A. -- which is when you are closing out, and it's typically through plea.

Q. And that event is when the Court is imposing on the defendant the penalty for which -- the offense for what the defendant has committed at the time of sentencing; correct?

A. Yes, the judge does that, and the judge typically does that

first. He pronounces the sentence, and it's usually -- unlike other counties, Miami-Dade County is usually agreed pleas; it's not plea to the court.

Q. Okay. Understood.

Now, when you represent a client on a plea agreement, you make sure that that client knows everything about what he or she is about to enter into; correct?

A. Correct. And that's how we train our lawyers, too.

Q. And your entire staff -- you knew my next question -- is trained that same way. And that is for a very important purpose; right? So that your clients can't come back later and say, Hey, he never told me that, or I never pled to that, I didn't know that; isn't that right?

A. Yeah. Well, the reason we do it is not because of that, because clients have come back and said, I was never told that, when we know we did. The reason we do it is we follow the Florida Public Defender Association guidelines for practice, for felony practice, and that includes advising your clients of all that the client is doing, all the client is giving up, and also the potential consequences. So it's all part of what we see as our obligation to the client; you're right.

Q. So one of those requirements would be to knowingly enter into a plea; correct? You have to know what you're entering into?

A. Correct.

Q. So when your -- it's safe to say then when your client is entering a plea, he or she is crystal clear as to the obligations that he or she is agreeing to; correct?
A. I think I can safely make that assumption because the judge makes sure of that.
Q. And so when you testified earlier that in certain instances the judges were not reading off the amounts of particular fines or fees or costs -- they were ordering those things, but you're saying they're not specifically reading the costs into the record; is that your testimony?
A. They are not even saying, the Court, I am ordering you to pay. What they normally do is they say, Mr. So-and-so, there are costs associated with this case. The costs total X amount. You need to go upstairs. I don't know what (indiscernible audio) the clerk is in, and they'll tell the person, You can go up there, set up a payment plan or go ahead and pay it, but the judges very seldom -- I have not heard a judge actually say, I'm ordering you to pay. What they do, as part of the discussion about what the sentence is and what just happened, is that they do tell them, You need to go to the clerk and pay for whatever, whatever the amounts are.
Q. And so when you're up in court with your client and you're conducting the plea colloquy, you would inform the Court and your client at the same time what the arrangement is; correct?
A. What the arrangement is for what?

Q. The plea arrangement, what the agreement was.
A. Oh, yeah, yeah, we would usually say, the state attorney and our office, we're agreeing to X,Y, and Z, and the client has agreed to it.
Q. And if the Court accepts that plea, it would then pronounce the sentence and agree to the terms, so to speak; correct?
A. Correct. Correct.
Q. And those would be the terms you just announced at the colloquy; correct?
A. Correct.
Q. Okay. You said sometimes records in Miami-Dade County are difficult to access. What I didn't hear you say is they were not available, though. It sounded like some are harder to get than others; is that fair?
A. That is correct. We've -- over -- we've learned in over 2,000 cases -- people have applied for a total of 2,000 cases, roughly, and of the 2,000, I think we have maybe five or six that we could not get the sentencing order, which is a very small number, and those are usually from late '70 to early '80s; nothing new.
Q. So if a former client of yours called and they were trying to find their record, you would direct them to the clerk; and you'd feel confident they'd have access to those documents if they went to the clerk's office and asked?
A. If they did that in Miami, we would get the records for

them. The issue is in other parts of the state where they may or may not be doing that.

Q. Sure. Okay.

What about client files within your office? Do you have a retention schedule for your felony client files?

A. We have a retention schedule for all our files. We've gone completely electronic in the last three years or so. So when we close cases out, we are now checking to make sure everything is scanned and then the file, the physical file, all the documents get destroyed. We have old files in the record center, and that's for the ones that have longer retention, like homicide cases, any cases where there's a life sentence. All those cases which are long-term, we have those at the record center, and we haven't scanned them.

Q. Okay. And you testified that if someone -- a former client were to call you up, your policy is to go ahead and help them to try to track down the information that they're looking for; correct?

A. Yes. We look for their judgment and sentence with the clerk, and we also run their prior criminal history to make sure, you know, they're not -- they're not going on a wild goose chase if they have a case that doesn't qualify.

Q. Understood. Okay.

MR. MCVAY: Just one moment, Your Honor. I'm looking through my notes here.

BY MR. MCVAY:

Q. One thing that you were asked about on direct is the impact this -- the impact of the criminal process on your clientele or the criminal defendant. And to be fair, I wanted to also ask you about -- in your training and experience, you've obviously seen the impact of victims that have been robbed or stolen from or their homes burglarized or their cars set on fire. You would agree that there's a heavy --

A. Absolutely.

Q. Okay. Very well.

MR. MCVAY: Your Honor, that's my final question. I was made aware that Mr. Rosenthal had a set of questions he wanted to ask for Miami-Dade.

THE COURT: All right. Mr. Rosenthal?

MR. ROSENTHAL: Yes, Your Honor, thank you so much. Can you hear me?

THE COURT: I can. Thank you.

CROSS-EXAMINATION

BY MR. ROSENTHAL:

Q. Good afternoon from a fellow Miami-Dade resident.

A. Hi. How are you?

Q. I would just like to ask you a couple of questions about your coalition from Miami-Dade County, if that's okay?

A. Yeah.

Q. So it's my understanding that the coalition was created to

implement Amendment 4 and Senate Bill 7066 in Miami-Dade County; is that correct?

A. That's correct.

Q. And that coalition is comprised of yourself; correct?

A. Yes.

Q. The State Attorney, Katherine Fernandez Rundle; correct?

A. Correct.

Q. The Criminal Conflict and Civil Regional Counsel for the Third District, Eugene Zenobi; correct?

A. Correct.

Q. The Clerk of the Eleventh Circuit, Harvey Ruvin; correct?

A. Correct.

Q. And the Honorable Bertila Soto, the Chief Judge of the Eleventh Circuit; is that correct?

A. Yes, but the main person was actually the Administrative Judge, Judge Newsom Savie. She's the administrative judge for circuit criminal.

Q. So a representative from the Eleventh Circuit judicial staff --

A. Right.

Q. -- or judiciary?

And the purpose of that coalition was also to coordinate communications regarding the processes and the plans that you come up with; correct?

A. Correct.

Q. Okay. And the first plan was announced in August of 2019; correct?
A. I don't remember the date, but that sounds about right.
Q. On or about?
A. Yeah.
Q. Okay. And so from August 19, 2020, there were opportunities for felons who had served their time of incarceration and probation and parole to seek a judicial remedy in Miami-Dade County in accordance with Amendment 4 and SB 7066; correct?
A. Correct.
Q. And that process that you've described in your prior testimony consisted of three different tracks; correct?
A. Correct.
Q. The first track would be what you called the four corners track, which is to say we'd look at what was on the four corners of the sentence and then make a determination about their ability to register to vote; is that correct?
A. That's correct.
Q. The second track being the termination track, which is the termination of the financial obligations based on who they were owed to; correct?
A. No. Actually, Track No. 2 -- the state attorney used to have these documents online. I don't believe they have them anymore. So I'm going to try to go by memory. Track No. 2 was

people that were seeking review and that were seeking modification, but those individuals were on a payment plan. So if they were on a payment plan, we would put it Track 2, and then if they were not on a payment plan and still -- and, you know, they had the amounts in the sentence document that they were still owing, then they would be Track 3. We never actually did Track 2 or Track 3 because there were so many on Track 1.

Q. Understood.

And Track 3 then would be the modification plan where you would seek modification of your sentence for purposes of being able to register to vote; correct?

A. Correct. And these -- this is all considered SCR, which is streamline court review. That's what we called it.

Q. And as I understood it, part of the -- at least the current implementation of Track 3 with the modification is the provision of a form motion and a financial affidavit to modify sentence for those people who are financially unable to pay any of their LFOs, that being costs, fines, restitution, or fees; correct?

A. Yes, but it does not include restitution. Restitution -- we really did not put a track in place on restitution. It was understood that the restitution cases -- unlike Tracks 1, 2 and 3, the restitution cases would go to the original judge, not to the administrative judge who was doing the streamlined project.

Q. But the courts still had the authority to modify the sentence for restitution?

A. Of course.
Q. It was just a question of which judge you went to?
A. That's it.
Q. Okay. And you testified that other countries -- other countries -- other counties -- I'm sorry -- did not implement the same processes as Miami-Dade County; is that correct?
A. That's correct.
Q. You don't believe that the process that Miami-Dade County has implemented is one that is inconsistent with Amendment 4, SB 7066; correct?
A. I think it's completely consistent with SB 7066.
Q. And so your belief is the other counties have not implemented that because they don't share that same belief?
A. I don't -- again, I don't want to guess why they haven't done it, but, you know, for us, it was very clear that we needed to come to a consensus so that this would not overwhelm the courts, because when we heard what the numbers were, we were really kind of shocked at the level of -- the number of cases and that if they were being heard in every division of the court, then all the other cases would fall by the wayside because of so much of this. So that's my -- that's primarily why we went with the streamlined expedited.
Q. Since this was an interpretation of Senate Bill 7066 as codified in 97.0751, which is an election law of the State of Florida, did you at any time think about seeking an advisory

opinion from the Secretary of State pursuant to 97.012 to provide both Miami-Dade County, and all the other counties in the state, clarity on the efficacy and legality of the process you were undertaking?

A. We did not do that process, but we did engage the Supervisor of Elections from Miami-Dade County in our meetings and we actually gave her the draft of what the order would look like, and I believe that she passed that draft on to either the Division of Elections or the Department of State. Because we wanted to make sure that the court order was something that would be acceptable, acceptable to the Supervisor of Elections.

Q. And you --

A. That's (indiscernible crosstalk).

Q. So it's your understanding that anybody who obtains that court order would be able to register to vote in Miami-Dade County and indeed vote?

A. Correct.

Q. Okay. Now, you testified that the current process is on a hiatus or delay because of COVID-19; is that correct?

A. That's correct.

Q. Do you have any reason to believe that that process won't continue again after the Florida Supreme Court reinforms courts that they can hear other cases other than emergency cases?

A. I think -- actually I don't think we need to wait for the Supreme Court. I think it's just a matter of locally for us to

all come to an agreement to what other hearings are okay to schedule, and I think -- because this is an important issue, I think those hearings will be scheduled, I'm guessing, within the next 30 days or so. We are definitely going to be talking about it soon, I expect.

Q. So if some were to say -- someone were to say that this process had ceased in Miami-Dade County, it would be accurate to say it only temporarily stopped in Miami-Dade County; correct?

A. That's correct. It's only temporary.

Q. Okay. And in terms of messaging, are you aware that on behalf of the coalition the state attorney has listed on her website the following statement, regarding the opinion from the Supreme Court:

"The opinion and packet are procedures but not our determination to assist returning citizens. In cooperation with the Public Defender's Office, courts, and clerk of courts, we have amended our procedures to provide returning citizens, who cannot afford to pay their financial obligations, an opportunity to obtain relief from the courts by filing an appropriate motion and financial affidavit to modify sentence."

Is that a proper --

A. I agree.

Q. That's a proper --

A. This is a -- that's a proper characterization of what we're doing.

Q. And so in Miami-Dade County, for felony convictions in Miami-Dade County, there is an opportunity for individuals who do not have an ability to pay any of their financial obligations to seek relief from the court and get a court order authorizing them to register to vote and to vote in elections; correct?
A. The court order doesn't authorize them to register to vote. The court order only states that they have completed the sentence, pursuant to Senate Bill 7066 and what Senate Bill 7066 says and what the statute says.
Q. Thank you for that correction.
A. It doesn't say -- it doesn't say you're authorized to register. It doesn't say that.
Q. So if somebody was only disqualified from voting because of outstanding financial obligations, that court order would authorize them -- would no longer make that disqualification preventative of their registering to vote; correct?
A. That's -- that's what we believe, and what we have recommended the individuals -- when they get their court order, we have recommended to them that they actually take the court order to the Supervisor of Elections so that the Supervisor of Elections has credible evidence that they're eligible to vote.
Q. And would you believe in Miami-Dade County that anybody who either registers to vote with that court order, or who actually votes with that court order, should have any fear of prosecution for signing an affidavit or a statement that they are properly

qualified to vote?

A. They should not fear that.

MR. ROSENTHAL: Okay. Thank you.

I have no further questions, Your Honor.

THE COURT: Before I go back to Ms. Ebenstein, let me jump in again. I always give all the lawyers a chance to ask questions after I ask any questions. I thought I understood it, and I appreciate Mr. Rosenthal's questions, which I -- I guess disabused me of my misunderstanding, but let me go back over it again and try to make sure I get it.

There's Track 1, Track 2, and Track 3?

THE WITNESS: Yes.

THE COURT: Track 3 is when the payee consents?

THE WITNESS: No, neither Track 2 nor Track 3 have anything to do with the payee. Track 2 and track 3 are both for modification. The only difference between Track 2 and Track 3 is the person who's applying, if they're on Track 2, if they are on a payment plan currently. And the only reason for that is just the state attorney's office wanted to make sure that people out in the community know that even if you're on a payment plan, you're eligible to go through this process and not have to wait until you have made all the payments to be able to vote.

THE COURT: All right. So I'm closing in on it. I still don't quite understand, but I'm getting closer. So let me try again.

Track 1 was the track based on the understanding that the so-called memorandum of costs was not part of the four corners --

THE WITNESS: Right.

THE COURT: -- and so all you were going to get was an order from the judge saying costs aren't part of the four corners, then you could take that and vote, because you didn't owe any LFOs that were covered at all. That's what you discontinued because of the Supreme Court decision?

THE WITNESS: Correct. Correct.

THE COURT: But it's still the process that you can go in and say I want an order saying that, for voting purposes, I don't owe the LFOs, and that process is still open -- subject to the court closure based on COVID -- but aside from the COVID-19 problem, that process is still in place so that somebody still can go in and say, I want an order saying I don't owe money for purposes of voting and then take that order over to the supervisor and register to vote?

THE WITNESS: That process still exists. It's on hiatus right now because of COVID, but that process does exist.

THE COURT: All right. And the difference between Track 2 and Track 3 is just that on Track 2 the person is on a payment plan, and on Track 3 the person is not on a payment plan?

THE WITNESS: That's it, yep.

THE COURT: Now I got it, so thank you. That's helpful.

THE WITNESS: Okay.

THE COURT: Let me go back before I give Ms. Ebenstein the last chance to ask questions to find out if Mr. McVay has questions just to follow up on mine.

MR. MCVAY: I do not, Your Honor. Thank you.

THE COURT: All right. And, Mr. Rosenthal, do you have questions just to follow up on mine?

MR. ROSENTHAL: No, Your Honor. Thank you.

THE COURT: All right. Ms. Ebenstein, redirect?

MS. EBENSTEIN: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. EBENSTEIN:

Q. Mr. Martinez, aside from Miami-Dade, Hillsborough County and Palm Beach County, does any other county permit modifications?

A. Not that I know of, no.

Q. Are you aware of -- in SB 7066, are you aware that it sets up a working group?

A. I think I was aware of that at some point.

MR. MCVAY: Beyond the scope; objection, Your Honor. I'm sorry, I did that backwards, but objection; beyond the scope.

THE COURT: Ms. Ebenstein, does this have something to

do with what we've been over on cross?

MS. EBENSTEIN: It does, Your Honor.

THE COURT: Well, I don't get it yet, but go ahead and maybe I'll see the connection.

MS. EBENSTEIN: Okay.

BY MS. EBENSTEIN:

Q. Do you know who the sponsor was of SB 7066?

A. I know in the House it was in Representative Jamie Grant's committee, and I think it was a committee bill in the House. And in the Senate, I don't remember who it was. I'm guessing it was Senator Brandes, but I'm not -- I would not swear to that.

Q. Were you aware that Representative Grant, who you are correct cosponsored this legislation, has stated during the working group hearing that the legislation does not permit modifications unless the debt was terminated?

A. I am aware of that comment either in the news media or on a video, but I don't know what part of a committee.

Q. Could we pull up PX694 at 29?

MR. MCVAY: Your Honor, I'm going to object that this exhibit was not designated for this witness, and I don't think they've laid the proper foundation. He said he doesn't know. He's heard about it in media potentially, but I --

THE COURT: Ms. Ebenstein, isn't this just argument, and can't you make it later? I mean, Representative Grant said what he said. We can talk all about that eventually, but does

Mr. Martinez have value to add to this discussion?

MS. EBENSTEIN: Okay. Your Honor. We can take down the exhibit. It doesn't impact Miami-Dade.

MR. MCVAY: Thank you, Your Honor.

BY MS. EBENSTEIN:

Q. So, Mr. Martinez, just so I understand, can somebody apply for a modification of their Miami-Dade debt if they have a conviction in another county?

A. No, they cannot.

Q. If I -- just to make it crystal clear, if I have a conviction in Miami-Dade with LFOs and a conviction in Broward County, I cannot go through the modification procedure even in only Miami-Dade?

A. No, you cannot until you've cleared that other county.

Q. Okay. So folks who have a conviction in other counties are excluded from the modification process in Miami-Dade?

A. Yes, the SCR process.

Q. The SCR process. And people with an out-of-state conviction are excluded from the modification -- the SCR modification process in Miami-Dade; is that right?

A. Yes.

Q. And people with a federal conviction are excluded?

MR. MCVAY: Your Honor, I'm going to object to leading questions.

THE COURT: Well, I've got it. I'm pretty well versed

that Miami-Dade state court can't change my sentence.

MR. MCVAY: Thank you, Your Honor.

MS. EBENSTEIN: Your Honor, what I'm trying to get at is that -- which people are excluded from seeking modification in Miami-Dade -- sorry. Let me ask that again.

BY MS. EBENSTEIN:

Q. Is anybody excluded from seeking modification of their Miami-Dade LFOs in Miami-Dade?

A. Yes. The people with felony convictions in other counties, felony convictions in other states, and felony conviction -- or felony conviction in federal court.

Q. They're not permitted to seek a modification, even only as to their Miami-Dade LFOs; is that right?

A. That's correct.

Q. They're just excluded from that process?

A. Correct.

Q. Okay. You testified that -- about people accessing their records. In most -- as far as you're aware, in most of the state, do people have to pay to access or photocopy their sentencing documents?

A. That -- yes, that's what I've heard.

MR. MCVAY: Objection. I'll withdraw it, Your Honor.

BY MS. EBENSTEIN:

Q. And you've described for the Court your efforts and the efforts of many officials in Miami-Dade County since August of

2019.

Since August of 2019, how many sentences were you able to get modified in Miami-Dade?

A. It was -- I think it's either 35 or 36, but I think 36 is the correct number, but there was an issue with one, so it's either 35 or 36.

Q. Okay. And do you know how many returning citizens live in Miami-Dade County?

A. I don't have that number off the top of my head.

Q. Okay.

A. I do know there has been an estimate of 150,000 felony convictions, which is a pretty large number.

MS. EBENSTEIN: Okay. Thank you, Mr. Martinez.

No further questions from me.

THE COURT: Thank you, Mr. Martinez. You can step down.

Thank you for your patience and dealing with our scheduling -- our two scheduling issues. Thank you for rearranging your schedule, too.

THE WITNESS: Thank you, Judge.

Thank you all.

Bye-bye.

THE COURT: Ms. Ebenstein, please call your next witness.

MS. EBENSTEIN: Your Honor, I believe we are calling

Ms. Scoon next. I know there's been some -- yes. There we go. We'd like to call Ms. Scoon, and my colleague, Sean Morales-Doyle, will be taking her direct testimony.

THE COURT: All right.

And Ms. Scoon, if you would please raise your right hand.

CECILE MARIE SCOON, PLAINTIFFS WITNESS, DULY SWORN

THE COURT: Please tell us your full name.

THE WITNESS: Is a Cecile Marie Scoon.

THE COURT: And then, Mr. Morales-Doyle, as you will have noticed, at this point it appears that there's a little bit of a delay in communicating the sound to Ms. Scoon, so if you would just pause and give her a chance to answer, we'll -- I can tell you starting off I have read Ms. Scoon's deposition.

MR. MORALES-DOYLE: Thank you, Your Honor.

And I spoke -- for the court reporter's reference, I believe that's Ms. Price who is going to be representing the defendants here.

THE COURT: All right. Thank you.

MR. MORALES-DOYLE: I will let Ms. Price speak for herself, but just wanted to tell you that.

MS. PRICE: Thank you.

DIRECT EXAMINATION

BY MR. MORALES-DOYLE:

Q. Good afternoon, Ms. Scoon.

Can you start off by telling me where you live?
A. I live in Panama City, Florida.
Q. And how long have you lived in Florida?
A. About 32 years.
Q. What is your current title with the League of Women Voters of Florida?
A. I'm the first vice president for the State League of Women Voters.
Q. How long have you held that position, and what positions have you held prior to that?
A. I've been first vice president behind our president about two years. And I think about two years I was the second vice president. And maybe for a short time I was just on the Board for the State League of Women Voters of Florida.
Q. Can you just briefly tell me what your responsibilities are as the first vice president --
THE COURT: Mr. Morales-Doyle, I need to interrupt you.
We can be here for weeks. This is the point in the trial where I need to tell people focus. I've read Ms. Scoon's deposition. If it helps, she used to try cases with me. So I've presided over a number of jury trials that Ms. Scoon tried. And as I say, I read the deposition. I really don't want to go back through all the background questions that have nothing to do with this case again. So let's get right to any new value

she can bring to the case.

MR. MORALES-DOYLE: Fair enough, your Honor. I just wanted to the lay the foundation for her knowledge of Amendment 4 with the League, but I'm happy to skip over that stuff, and apologies.

THE COURT: All that is already in the record, so we've got it.

BY MR. MORALES-DOYLE:

Q. Okay. Apologies. There is one background question that I don't believe is in the record so long as Ms. Brigham's declaration is being excluded, so if I might ask you, Ms. Scoon, what is the mission of the Florida League?

A. The mission of the Florida League, we do two things: one, is we want to register people to vote, as many people, as many different types of people as possible; and we want to educate people and encourage them to participate in the franchise. We educate them about the process of registering to vote, the importance of registering to vote. And we select issues that we try to educate people on, like public education or health care.

Q. And has Amendment 4 been one of those priority issues for the last few years?

A. Yes; it has. It's been full court press on so many levels.

When I became -- I guess right about the time I became -- between second and first vice president, we had an opportunity at our convention to raise the different issues. Every two

years at our state convection you go and you try to caucus, and one of the things we caucused on is getting back involved with this whole state organization on making sure people were educated about Amendment 4 and to encourage people to support Amendment 4.

So after that time in 2017, it's been full court press in terms of trying to have every league be involved. We have about 30 leagues across the state.

Q. And, Ms. Scoon, just for the Court's comments, I'm going to ask you to keep things as short as possible, and I'll try to ask follow-ups if necessary.

Were you personally involved in getting petitions signed for Amendment 4?

A. Yes. I was on a lot of levels. I, with my leadership team, directed how the whole state, all of our different leagues, were handling it, our voter services chairs. So we developed videos telling people -- informational videos, like a little clip. We developed fact sheets. We developed PowerPoints to train our league members how to talk about Amendment 4. We just went full court press.

I also myself went around the state at every opportunity at specified events and collected over 500 petitions myself.

Q. And in so doing, did you get questions about whether returning citizens would have to pay off their legal financial obligations in order to vote under Amendment 4?

A. No; we did not. People were very interested in the whole concept. Sometimes they would say, Well, I'm not going to do that for a murder. And we'd say, That's excluded.

Occasionally people would mention rape, or a sexual offense, that they would not feel comfortable, and that was excluded.

Very few people mentioned anything about financial. When I would say, Sentence was finished, I would give a summary. They'd say, Do you mean that they finished jail time and probation?

(Audio feed dropped.)

MR. MORALES-DOYLE: I lost your last few words there. I'm not sure if others did.

THE COURT: Yes. Ms. Scoon, we got to, they ask jail time, and we didn't get beyond that. So if you'll go back over from that point on forward.

THE WITNESS: Yes, sir.

A. So I would give them a little summary, you know, finished their sentence, and a lot of times it would be almost like automatic, they would say things like -- and a whole variety of people. I mean, I asked anybody who came near me, regardless of any presuppositions of whether they'd agree or not. So it was very interesting. But they would say, Do you mean -- by finishing the sentence, do you mean finishing jail time and probation?

MS. PRICE: Objection, Your Honor; hearsay.

THE COURT: The objection is overruled.

A. They would link those two things, and that's what they would say to me. I would say, yes, that's what I mean.

BY MR. MORALES-DOYLE:

Q. Cecile -- excuse me -- Ms. Scoon, does the League think that the right to vote should be dependent on paying money?

A. No; absolutely not. The League does not think that the fundamental right to vote should in any way be linked with the size of a person's pocketbook.

It's just too important, and people should not be prevented from that fundamental right because of their family circumstances, or financial circumstances.

Q. But at the time that Amendment 4 passed, did the League understand that the term -- that the phrase, "all terms of sentence," might be read to include legal financial obligations?

A. That wasn't totally clear to us. Our idea was that the legal financial obligations were generally conditions of probation, and so when the sentence was complete, including incarceration and probation, a lot of the legal financial obligations would be attached to the probation and would go away. That was our general understanding. We were more focused on getting people to sign the petitions, and get out there and encourage people.

Q. Okay. So at the time did you think that it was possible

for criminal legal financial penalties to stick with someone for the rest of their life?

A. No; we did not. Again, our understanding -- my prior experience has been primarily in the civil area, but our understanding was, again, that anything that was a part of fines and things like that usually were attached to the probation. So once the judge said, Finish your probation, that would generally go away.

Q. Now, I want to direct your attention to Defendant's Exhibit 2. I hope we can pull that up.

Ms. Scoon, have you seen that before?

A. For some reason on my screen I'm just seeing myself. I don't know what I should click under -- I have a binder that you sent me where I laid out all the exhibits. Should I look at the binder?

Q. Well, let's try one thing first. I think if you go down to the bottom of your screen, there should be, you know, three buttons, one on the left that is the camera button, one in the middle that is sort of a little gear, and then one on the right with two little arrows.

A. Yeah.

Q. Can you click the one on the right?

If you click the one on the right, I hope you'll shrink down to the corner of the screen. If not, then we will --

A. I did shrink down, but I -- for some reason I -- I'm

clicking on the layouts. At one point I saw everybody, but now I'm -- I am just -- (indiscernible crosstalk.)

It's a white screen to me right now.

Q. Do you mind hitting refresh one time, and then if we don't get this, I'll move on to using the paper that you've got with you, if we can.

MR. MORALES-DOYLE: Sorry about that, Your Honor.

THE WITNESS: I see the document. Refresh worked.

BY MR. MORALES-DOYLE:

Q. Great. Have you seen this document before?

A. Yes.

Q. Did you personally play a role in drafting this letter?

A. I played a role in the discussions that preceded the letter. I did not actually participate in this particular letter, but there are a lot of discussions about things that were contained in the letter I did participate in.

Q. Now, Ms. Scoon, in December of 2018, when this letter was written, what was the League's primary concern about the implementation of Amendment 4?

A. Wow. We were super concerned that we would be allowed to lawfully register returning citizens to vote who completed their sentence on day 1, which was January 8, 2019.

We had seen articles in the paper and, I think, comment by the governor that we should wait, we should wait for legislation, and implementing legislation to even allow us to

register people, and we were up in arms about that and talking and trying to say, Well, let's educate the agencies. Let's try to let them know that we are going to start January 8th, and we want them to understand our thinking about this.

So that was primarily what we were worried about. We actually thought it was possible people could be arrested. We didn't know what was going to happen.

Q. Who -- where did you hear the suggestion that there may be an issue with implementation right at the beginning?

A. Mostly through the media. During the campaign there was -- didn't seem to be any organized compet-- people against Amendment 4. But after it passed everybody was talking about it, and people were saying that we couldn't do it, that we needed implementing legislation, you need to wait until the session and laws are passed, you can't take any action; those people being legislators and the governor was quoted several times in the paper saying things like that.

Q. Were you concerned at the time, meaning December 2018, that the legislature would ignore the practice -- let me ask a different question. I'm sorry.

We just spoke for a second there about -- about whether legal financial obligation would be part of a sentence, and you mentioned that you thought they were typically done at the time probation is done. For obligations that weren't done at the end of probation, did the League have an understanding at the time

as to what would happen with those legal financial obligations?
A. If I'm -- repeat the question.
Q. For obligations that were not complete by the time probation was complete, did the League have an understanding at the time as to what would happen to those financial obligations?
A. We had a general understanding that -- in the state of Florida that many of the legal financial obligations had been converted to a civil lien at the time of sentencing, and we understood that oftentimes close to the end of probation a report would go to the judge and notify the judge Mr. Smith finished his incarceration, finished his -- about to finish probation, but his financial obligations have not been all paid.

There would be an evaluation whether the person had the ability to pay, were they just intentionally not paying, or what was going on; and usually -- most of the time it would be that the person had an inability to pay, they literally had no funds or had other obligations, family obligations, and some had become sick, disabled. So the judge would pretty much -- he or she would often say, I'm going to convert the legal financial obligations to a civil lien.

We learned more about that later through the process, but we were generally aware of that in 2018.
Q. And in December 2018, did the League have any reason to think that the legislature would pass a bill that would include those LFOs converted to civil judgments in the meaning of the

phrase "all terms of sentence"?
A. Absolutely not. Like I said, there had been no coordinated campaign against Amendment 4. There was nobody speaking up about it in any detail during the campaign which had just completed in November. So here we are in December, you know, basically a month later after Thanksgiving, and we had -- all we were talking -- all we saw was "You don't register anyone to vote in January." There was no discussion about -- that I can recall, anything about legal financial obligation.
MR. MORALES-DOYLE: And could we please turn to page 3 of this letter to a heading "Completion of All Terms of Sentence"?
BY MR. MORALES-DOYLE:
Q. Now, Ms. Scoon, I'd ask you to briefly take a look at that section of the letter and tell me, does that --
A. My -- excuse me.
(Indiscernible crosstalk.)
A. My screen didn't move. I see the first page. But I can look at it in my little book.
Q. Yes, please just turn to the paper and we'll --
A. Okay.
MR. MORALES-DOYLE: I think the court reporter is --
(Indiscernible crosstalk.)
THE WITNESS: You said page 3?

BY MR. MORALES-DOYLE:
Q. Yes.
A. Okay. I'm looking at page 3.
Q. Okay. And there's a header on page 3 that says "Completion of All Terms of Sentence."
A. Yes, I see that.
Q. In this letter, which the League was a signatory to, did the letter get into this question of conversion to civil liens that you were just talking about?
A. No, it did not expressly mention those words. It mentions that concept obliquely. It talks about that there could be some financial obligations that are not included in the sentence and anything like that would not have to be paid. It didn't do a deep dive, but it did mention that there are some things that would not have to be paid.
Q. And why did it not do a deep dive? I know you weren't involved in the drafting, but from your recollection of the discussions, why did it not do a deep dive?
A. People weren't focusing on that. That wasn't an issue that was raised at the time of something that we needed to be concerned about. So we were really pretty much focused on making sure everything was lined up and everybody was trained to do the proper voter registration and that Supervisors of Elections were informed and going to be friendly. In fact, ours and Bay County, we had a big party with them. We had cake and

we had coffee and the media was there. So we were trying to work towards that kind of event.

Q. Okay. And do you think this letter is inconsistent with the League's position that you expressed a few minutes ago on whether legal financial obligations are considered part of an individual sentence?

A. No, I don't. I think the two things can be together and run in the same direction. This paragraph is not as fully in detail as some others, and -- but I don't think that it knocks out the concept that they are legal financial obligations that are not going to be paid for various reasons. It doesn't state all the reasons, but it does mention they exist.

Q. Do you remember when the League did begin to worry about the legislature ignoring the conversion of LFOs to civil judgments?

A. Pretty much that happened during the legislative session, and I was there for most of the committee meetings as the lead person on Amendment 4 for the League. We were just seeing and hearing -- hearing testimony and seeing the proposed bills, and right in the bills, some of them said that it would negate the impact of the conversion of the criminal legal financial obligations into a civil matter, and it would be like sucking them back over to the criminal side. It would negate that impact.

Q. I want to switch now to Defendants' Exhibit 65, if we can.

If you can look at it in your binder there, Ms. Scoon.
A. Yes, I see it.
Q. Are you looking at a March 2019 letter to the Secretary of State from the League?
A. March 11, yes.
Q. Or I should say from the League and a number of other signatories.
A. Yes, there's quite a few.
Q. And turning again to page 3 of that letter to a header addressing terms of sentence.
A. Yes.
Q. Does this letter more fully lay out the League's position at the time on completion of legal financial obligations?
A. Yes, it does.
Q. And there in the third paragraph where there's some discussion of monetary obligations being considered conditions of probation, is that what you were discussing earlier about when your understanding -- about your understanding about legal financial obligations and when they terminated?
A. Yes, that's exactly right. We understood that many judges did not want the criminal matters to hang over the person who had gone to jail, and they wanted them to be free of criminal matters when their incarceration and probation was over. But they also wanted to document and have a means for the fines and fees and restitution to be paid on the civil side. If the

person who had committed the felony, if they came into resources, then that civil judgment would be available for enforcement.

Q. And now I'd like to look briefly at Defendants' Exhibit 82.

(Indiscernible audio.)

MR. MORALES-DOYLE: I'm sorry. I heard someone talking, but maybe (indiscernible audio).

MS. PRICE: I'm sorry. Can I -- this is Tara Price.

Can I clarify that this is on plaintiffs' trial exhibit list for this witness, because I'm not seeing that?

MR. MORALES-DOYLE: It wasn't, Your Honor. This was on the defendants' list of exhibits that they'd be using on cross, so I assumed that it was fair game for Ms. Scoon's examination.

MS. PRICE: Thank you.

THE COURT: It's fair game if it's on their list. That's fair enough.

If it helps you, let me tell you I'm very interested in the League's efforts to sign up voters and how SB 7066 affects that. I really don't care very much what the League of Women Voters' position was during the legislative session. I understand there were lots of people who took lots of positions. The statute got passed. So we can spend -- both sides have spent a lot of effort on this legislative process and who said what during that process, and I'll patiently listen to as much

of that as you want to do, but I can tell you, you're not persuading me very much.

MR. MORALES-DOYLE: I understand that, Your Honor, and I appreciate that comment.

I will just say that I think the defendants have made clear, including in their opening yesterday, that this is, you know, a part of -- one of the issues they are raising, and so I just want to make sure we have an opportunity to address it. But I'll move on quickly and I assure you most of the rest of the examination will be about registration efforts by the League.

THE COURT: I do understand that the defense has made a big deal about what some organizations said and you want to get them to explain what they said. My comment is directed to both sides. Whether somebody -- some individual in Orange County who would like to vote is entitled to vote under the United States Constitution and have very much to say isn't impacted very much by what some other organizations said during the legislative process.

MR. MORALES-DOYLE: I think one more question here, perhaps -- actually, make it two questions, if I might.

BY MR. MORALES-DOYLE:

Q. Ms. Scoon, looking at Defendants' Exhibit 82, does this letter more fully lay out the League's position regarding civil judgments that you described earlier than the December letter?

A. Yes, it does.
Q. Ms. Scoon, sitting here today, do you still think that legal financial obligations are always paid off or converted to civil obligations at the conclusion of parole and probation?
A. No. We've learned more about the process. I think there are some times when it's not always converted to a civil lien and it still remains.
Q. So then in that case, how long would such an obligation stay with a returning citizen?
A. If they have an inability to pay, then the rest of their life.
Q. And does the League think that returning citizens should have to pay those legal financial obligations before exercising the right to vote?
A. Absolutely not.
Q. Ms. Scoon, I want to jump ahead now to your voter registration efforts.
A. Okay.
Q. Could you briefly explain to me how the League literally conducts voter registration? What is the -- very quickly, sort of your typical method for doing voter registration?
A. Oh, yes. The League takes voter registration very, very seriously, and so every year a member has to go through a training process, and it's -- we have a quiz that answers the general questions and process of voter registration.

The person -- each member has to take the quiz and pass it 100 percent, and then the person's name is sent to the president of the League. And so when we have our voter registration drives and events, then that person -- the president will know which members can participate.

And we try to go to any public events, like parades, 4th of July events, Christmas parades, football games, things like that where we know there's going to be a lot of people usually in a good mood and not in a big hurry; and we like to register them to vote at libraries, the mall, things like that.

Q. And do you -- excuse me. Sorry.

Can you briefly explain what the typical voter registration transaction looked like prior to Amendment 4's passage at one of these events?

A. Yes. Well, like I said, we would be stationed in a Publix. We'd have a sign "Register to Vote." We would often have an activity at our table, to encourage people to come to the table, maybe directed to children, where they can get their face painted.

And while the adults were waiting in line, a League member would approach them with a clipboard and say, "Hi. Are you registered to vote?"

And the person would say, "Yes," or "No," or oftentimes "I just moved to town. I'd love to."

And you would hand them the clipboard and you'd say,

"Please fill out this form. If you have any questions, let me know and I'll answer."

A person would go through and most of the time they would not have questions. Sometimes they'd be, like, "Well, I'm moving from Place X to Place Y. What address do I put?" And you could answer that.

Sometimes they'd have questions about "Do I have to mention a party affiliation?" And you'd say no and explain, you know, consequences in a postprimary, what that means.

But the whole thing would probably take anywhere from 5 to 10, 15 minutes if the person had questions.

Q. And --

A. After we got the application back, one thing we did train our staff -- our members to do is to look and make sure everything was filled out on the form, like the date and the signature, the name, because occasionally people are in a hurry, and they miss a box, and that could prevent them from being properly registered. So we would absolutely check that before we'd say, Thank you. And that would -- we would then make sure that the application would be turned in to the Supervisor of Election probably -- within two to three days was our goal.

Q. Thank you.

And how did that typical transaction change after Amendment 4 went into effect on January 8, 2019?

A. Well, we did some additional training because we had

learned, through our many hours of doing voter registration and outreach, that a lot of times people with felony convictions or people with family members with felony convictions were very sensitive to the whole concept, didn't want to talk about it. I don't want to register, I can't, you know, would be kind of like very upset.

And so we -- we would be -- developed some language of how to handle it. So what we would say to the person is -- we would still give them the clip, and we'd say, Is there anything on the form that you have questions about? And, basically, once Amendment 4 passed, most people would say -- ask you about this. Can I register to vote? I have a felony. And then we'd say -- if they did self-identify like that, then we would say -- trying to not ask them, are you a murderer, because that's just very off-putting. Can you imagine?

So we would say, Did anybody die in the felony? And we would deal with the sexual thing. Is it anything to do with sex? And 99 percent of the people would say no. It had nothing do with either of those things.

And then the next question would be, Did you complete your sentence? And they would -- most of the people would say yes. If someone said, I'm not sure, then we would say, Well, is there any where you can look at your records to double-check?

And most of the time that's what we would do. We would take people at their word. If they were confident that they

completed their sentence, then we were happy to register them.

THE COURT: We're not getting sound.

BY MR. MORALES-DOYLE:

Q. Let me -- sorry about that -- fast-forward to after the passage of Senate Bill 7066.

Can you tell me how voter registration efforts for the League changed once Senate Bill 7066 was passed?

A. Yes. Immediately upon the passage of 7066, I received so many e-mails. People were terrified. They were afraid of getting a returning citizen, someone who had been incarcerated or had a felony, having them get in any kind of trouble because they were worried about the payment being mandatory, and the thing with the civil liens being taken out, the impact of the civil liens. So people were very hesitant to do voter registration.

It really took the wind out of our sails and a lot our events because basically our experience has been, when you are just out in the public, then probably one in four or one in five people that you're just talking to has a problem with having a felony, and so it was, like, just a really hard thing for people to manage and to do the education and the disappointment when the person would, you know, be unsure about their -- their financial -- legal financial obligations.

So what we tried to do so we wouldn't be stymied -- and we -- so we tried to come up with a way to basically look at

some of the records with the people, and that became extremely cumbersome.

Q. Did you change your approach to training at all as a result of these concerns?

A. Yes, we did. We developed a PowerPoint and training and a lot of -- like I said, we had phone calls, conferences, webinars, guidelines, again letting people know that if the person had any -- now we would say -- we would actually ask the question, Are you sure that you've paid all your fines and fees and things of that nature? And what we found was most people were not sure. So that people started e-mailing saying, Well, I can't do this; I don't want to be responsible and have this person, you know, potentially be questioned by authorities or face possible prosecution after they've worked so hard to get back on their feet.

Q. And when you say people would start calling and e-mailing, you're referring to League members?

A. Yes, my team, my very enthusiastic team that had been petition gatherers and out there in the heat and just really committed. That kind of like grounded a little bit to a halt. It was a big change.

Q. Was there any portion of League members that were still able to continue with registration or at least going to try to continue with registration?

A. Yes. We had some very experienced League members that were

willing to look at the person's records with them. The League also developed a training -- a two-hour training, continuing legal education program, that the Florida Bar approved for two hours of CLE, and our idea was -- once 7066 passed, it had a portion that said you can get a modification. So what we thought we would do is provide the free CLE and ask -- and try to develop educated pro bono attorneys who could then look at a person's record, a returning citizen's record, with them and help them figure out what legal financial obligations, if any, remained; and depending on the person's situation and the lawyer's willingness, they could also potentially file a petition for modification. So we went to the education piece and tried to do that. We did do that.

Q. So this is a continuing legal education that you were providing in order to make it possible for League volunteers to actually register returning citizens after Senate Bill 7066 passed?

A. Yes. It basically just became much, much harder for people, but we didn't want to just sit on our hands and just, you know, wait. We said, well, you know, this is not something we're happy about, but let's see if we can make a difference by getting lawyers involved.

Actually, what had happened was lawyers around the state were e-mailing me and e-mailing the state League, and I would get the referral: How can I help? What can I do? So we were

sort of getting a constant stream of interested attorneys, and we actually have probably trained I'd say somewhere between 500 to maybe 700 attorneys either in person, an in-person training, or they went on our website and clicked on our CLE.

Q. Ms. Scoon, this probably goes without saying, given the judge's previous comments, but are you an attorney?

A. Yes, I am.

Q. And as an attorney and League member, have you yourself attempted to register returning citizens since Senate Bill 7066 was passed?

A. Yes. What we did is we organized training sessions around the state where I would go and give an in-person training, and we might have a group of about 40 to maybe 50 lawyers, and then we would work with the local community to try to get the word out to the returning citizens, and we would serve the lawyers lunch. Usually someone would donate the lunch, a not-for-profit. Then we would go directly and work with the returning citizens. So I've done that where I would sit at a table and go through the questionnaire and look things up with the returning citizen. I've done that for about ten people.

Q. You mean trying to look up the legal financial obligations; you've done that for about ten people?

A. Yes. Some people actually -- you would maybe think that they would remember everything about their criminal experience, but for many people, it was such a horrific and difficult time,

they were afraid, and just, you know, out of control for them, they've often kind of, like, not remembering all the details. So you would -- they would know some of it, and then you'd look at the records with them, and they'd go, Oh, because at the time they were just so traumatized by jail, leaving their family, and all of that. So often you would look at the records, and it wouldn't necessarily match their memory.

Q. And the people that you tried to look up legal financial obligations for, about how long did that process usually take you?

A. At least 30 minutes to an hour on the easiest ones, and then there were several where it took me four or five hours, and I wasn't always able to get a final answer because you just keep looking and looking and clicking and e-mailing the court, Can you send me this document? And it was just very cumbersome, very lengthy.

Q. And if you aren't able to come to a reliable answer in that situation, what do you do for the person you're trying to help?

A. We would give them information that we were able to glean, and I would usually e-mail them whatever documents I had found just so they could start building their little records at home, and I would say, Unfortunately, we are not able to determine -- we are not able to get all the records to show that you paid. I understand you said you paid the probation office, but they've moved or they didn't keep the records; they didn't send them to

the clerk. There were just so many things that -- oh, I paid restitution directly to the person. And so it was just a lot of brick walls.

Q. You mentioned earlier a little bit as to why the League is hesitant to register a person in that situation, but can you just tell me quickly: What is it that is making the League shy away from registering people without that definitive determination?

A. Well, we don't want to do anything to cause harm. We are here -- to any individual, we are here to help. We are here to encourage and uplift and bring people in, make them a part of the civic involvement, hear everybody's voice.

And word travels fast if somebody has a negative outcome because they registered to vote. In many communities where there is already a great fear of the government and distrust, that would be extremely harmful to that individual, and it would make the registering of people even more difficult, not even those -- not even just those with felony convictions, just people with economic issues. You know, they're just not comfortable. And then, you know, my brother got arrested and got charged with improperly registering. That would just not be good and people -- the League workers were very concerned about that.

Q. You talked a lot about the training you provided your members. Was the training you were providing after Senate Bill

7066 the same whether the League was providing it in Miami or providing it in Bay County where you are?
A. The training was -- much of it was the same, but when we did the training in Miami, we did inform people of the public defender's agreement. Mr. Martinez, his office -- we would refer them to go down to his office to connect and to volunteer with his team. We understood -- we were informed and learned that the Miami-Dade area had different sentencing forms than what we had in North Florida and also Central Florida, so they were able to do different things down there that we were not able to do up north.
Q. Can you -- so you've said now that this would sometimes take hours for you after Senate Bill 7066. I think I forgot to ask you. Before Senate Bill 7066 was passed -- and you described the registration process post-Amendment 4, but pre-Senate Bill 7066, so early 2019, about how long was that process taking to register a returning citizen?
A. That process might take maybe 5 minutes more than the standard 5 to 15 minutes. Most of time they are just so excited. They really wanted to register. So it was almost the same. Very, very small difference.
Q. Can you tell me what impact Senate Bill 7066 has had on the League's efforts outside of the efforts to register returning citizens specifically?
A. Oh, yeah. I can tell you it has dominated not just my

volunteer time but many of our members'. It has taken a lot of our board direction, our limited resources. We survive pretty much on donations. It's just been a huge, huge effort to address and try to surmount the impediments of Senate Bill 7066.

I mean, just a lot of other things that the League is very concerned about are -- we have issues that are determined again from convention, about four or five that we work on every year, and it's siphoned off a lot of our energy, our employees who -- two or three employees. It siphoned off their energy to work on other issues. It's had a very huge impact.

Q. How different would this process you've described be if you knew that obligations converted to civil judgments did not count as terms of the sentence?

A. I believe that it would make our life much, much easier because my experience of looking at actual documents, looking -- getting the person's name, looking on -- usually we would go to the Department of Corrections' website, and we would have their name, their social -- they're there to tell you -- and their date of birth. So you would see the picture, and you look at the person sitting there is the same person, and so you could click on those documents, and then you would go from there to the actual circuit courts where the sentencing documents were, and you would open them up, and a lot of times it would be right there. It would say -- once you actually read the sentencing documents, it would say converted to a civil lien or civil

judgment. Different jurisdictions would refer to it as either a lien or a judgment.

And so we can usually see, if you took the time to actually click on all the documents and open them, that was time-consuming. If you did that, then you would -- that person -- if that was the completion of their legal financial obligations, they could register to vote.

Q. And what effect would it have on the process if legal financial obligations post-probation and parole didn't count at all?

A. You mean that if they would still have to pay the financial obligations?

Q. No; I'm sorry. What if -- setting aside the issue of conversion to civil judgment, what if when someone was done with probation and parole you didn't have to worry at all about whether they continued to owe legal financial obligations? What impact would that have on registration?

A. Well, that would totally facilitate the process and would take away the burden of members feeling afraid of possibly getting somebody in trouble for trying to assert their civic duty or their opportunity to join in the franchise. That would just really get us back to registering the average person who does not have a felony conviction.

Q. So back to the time period you talked about from before Amendment 4.

A. Yes, that would be wonderful, because my experience is that individuals, when you ask them have they finished their sentence, they well know whether they finished their incarceration, and they well know if they finished their parole or probation. That part nobody's been confused about.

I've had people go, yeah, I can register to vote. And then I'd say, okay, you finished your incarceration? And did you finish your probation? Oh, darn, no, I didn't finish.

Nobody's confused about that. They know. They may not know all their legal financial obligations, but they absolutely know incarceration and supervision. They've got that, like, straight.

Q. Great. I'd like to now turn you to Defendant's Exhibit 170. I'm hoping we can put that up even though you should probably grab your binder.

And I want to direct your attention to the information, Nos. 1 and 2, on the application form.

A. Okay. I've got 170.

Q. And, Ms. Scoon, have you seen this document before?

A. Yes.

Q. Do you understand this to be a registration form that the state has offered up as a possible procedure moving forward for the implementation of --

A. That is my understanding. It says on the form "draft."

Q. Just -- let's be careful, both of us. I'm having trouble

with it, too, to make sure we wait and pause after we finish so that we don't talk over one other for the court reporter's benefit.

Now, looking at the area next to Nos. 1 and 2 there, those are the boxes someone has to check to demonstrate their eligibility to vote when registering; is that right?

A. Yes.

Q. Or I should say to -- to affirm that they meet the eligibility requirements for registration; right?

A. Yes.

Q. Looking at this form, do you think that this form would solve the problems that you've been talking about in terms of getting returning citizens registered to vote?

A. No. Because my experience has been over many, many years is most of the time when you're talking to somebody who has a felony conviction and you're educating about signing a petition or registering to vote, they are very uncomfortable talking about it. They don't want to make it public. They hunch their shoulders. They look down. If their child is with them, they kind of push the child away a little bit so the child may not hear that mommy or daddy, or whatever the family member, has a felony.

Sometimes they'll walk away, and then when their family's gone, they'll come back to me and say something. This whole thing about having to mark and affirm on a public piece of paper

that you are, you know, calling the name that I'm a felon I think would be problematic, and some people might get the form and look at it and not be comfortable and just not even complete it.

I think that's a problem. The thing that was good about the old form is that a person who had never had a felony and a person who had a felony but their rights were restored, we all mark the same box, so nobody was self-identifying that they had a felony. You either -- you know, we were all in the same -- same grouping, and I think that would be better. I think this listing how you had a felony, and how it was returned, I think would dissuade quite a few people.

Q. Ms. Scoon, I want to quickly -- I promise -- turn back to the League's position about Senate Bill 7066 when it was being debated in the legislature. Did the League have concerns about the impact that that Bill would have on certain populations?

A. Absolutely. Any -- we stated them in as many ways as we could, certainly in writing. The issue is that Florida, like many southern states, the state itself had enforced many racist laws with housing, education, jobs, and things of that nature where people living today had less opportunity to be financially successful.

So here you have the state that actually created an environment, which was very oppressive, and has had a huge impact on the African-American community in terms of financial

success, and so for one, people say, well, you know, you got -- everybody's got to jump this high, and you got to meet this threshold, which would be the financial legal obligations, but you've -- you've -- you have disabled the person to jump. You've put weights on their legs.

So the state itself created a lot of the problems. The state itself allowed the problems to go on and on, and many of those -- the impacts of -- the financial impacts exist today, so it just didn't seem fair in any way, shape, or form for the state to say, oh, this on its face looks neutral when the state itself had created impediments to particular groups of people.

So that was very, very concerning. It was clear that that was going to have a larger impact on African-Americans.

Q. And did you make that point to the legislature during the session?

A. I believe I did make it to them. We had probably, I don't know, seven or eight hearings, so I don't remember exactly what was said when, but when that became clear that that was the way it was going to go, we certainly made that known, and we certainly made it known in writing, the impact. And we also wrote to the Governor and asked the Governor to veto it. I think that was one of the main reasons, veto Senate Bill 7066.

MR. MORALES-DOYLE: Thank you, Ms. Scoon. I have nothing further for direct.

THE COURT: Ms. Price, cross-examination?

MS. PRICE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. PRICE:

Q. Ms. Scoon, my name is Ms. Price. I'm representing the Secretary. It's good to see you again.

A. Likewise.

Q. Just a few questions for you.

A. All right.

Q. My understanding of your testimony is that the League of Women Voters' position has evolved over time, hasn't it?

A. Yes. I think our understanding of what the impediments were has evolved because we weren't aware that legal financial obligations was going to be an issue (indiscernible crosstalk).

Q. Thank you.

Now, before Amendment 4 passed, no felons were eligible to register to vote absent clemency; isn't that correct?

A. That is correct.

Q. And I think, as you testified today, the League of Women Voters is still registering people to vote; isn't that correct?

A. Yes, on more of a limited basis, but we are still when we have a chance.

Q. Still registering, yes.

And you regularly train your volunteers before they participate in voter registration drives; correct?

A. Yes. It's required that we do our training update, pretty

much the training, once a year.
Q. Yes. And so especially after voter registration laws change, you regularly train your volunteers; isn't that correct?
A. Yes, we try to make it -- make sure the quiz and training is current.
Q. Yes. And the training is available online on your website for volunteers and others; isn't that correct?
A. Yeah. The quiz, I think, is for our League members, (indiscernible audio) that we've done a PowerPoint in training. We trained hundreds of groups and individuals and that is how to become a third-party voter registrant. A lot of entities didn't know about that, so that is available. You can just click on our website. You can go to our website and click on that to get training on how to become a third-party voter registrant because you cannot -- you cannot register people to vote unless you or your organization has gone through that process with the state.
Q. Okay. And so it's your testimony that the League is still doing that right now on its website?
A. It's there available, yes, for people.
Q. And I believe part of that training, when volunteers encounter more time-intensive cases, it directs them to refer those potential registrants to attorneys providing services pro bono through the League; isn't that correct?
A. It's not exactly like that because what we've done is we -- we try to make -- we have a listing of the lawyers who went to

our in-person trainings, and we have them fill out a survey, would you be willing to do pro bono?

So what we've been doing is we've been partnering with the Florida Rights Restoration Coalition because they actually work with returning citizens on many levels, not just the right to vote. They're very encouraging, very supportive on so many levels to get people back on their feet.

So we give those names to the Florida Rights Restoration Coalition, and when they get approached by returning citizens, in fact it's their organizational base, then they are doing the match for us.

Q. Okay. Thank you. And that was into my next question is that the League was still working with the Florida Rights Restoration Coalition to help potential registrants; isn't that correct? I think that's your testimony?

A. Yes. For this and what we're doing, we're doing it through referring the trained attorneys through (indiscernible audio) attorneys (indiscernible audio) program. We refer the names of the attorneys who have volunteered to do pro bono, we send that on.

Q. So you're still doing the training for the attorneys doing pro bono, and then you're still working with potential registrants and the Florida Rights Restoration Coalition; isn't that correct?

A. We are not doing any more in-person training. It became

too laborious and expensive, and we weren't able to fund the flights, and get around the state, and the hotel stays and all the other expenses just on simple travel. So we've curtailed in-person training. We are not doing that.

And there have been a lot of questions and issues, and the various litigation has caused even our volunteer attorneys to be a little hesitant because they want to see what's going to happen. And then the Florida Supreme Court's ruling, all that has -- all of those things has chilled, I guess, the whole program.

Q. But it's your testimony that you still -- I think you said the League has trained 500 to 700 attorneys to offer pro bono services?

A. Yes. Not all of them have agreed. They've gotten the training, but not all of them -- I'd say maybe 60 percent have said they wanted to do pro bono work. A lot of them, they just wanted to get the CLEs, so not all of the people trained have been signed up to do pro bono work. We would ask them that, and they would mark yes or no.

Q. Okay. And your testimony today, if I understand correctly, is that the League of Women Voters of Florida's concern with regard to voter registration drives is based upon the additional time it takes; isn't that correct?

A. That's one of the concerns.

MS. PRICE: Your Honor, I have no further questions.

MR. MORALES-DOYLE: I'm a little concerned we may have lost the judge.

Your Honor, are you still there?

Cecile, you might want to hit refresh while we are waiting, because I think you lost video feed awhile ago.

THE WITNESS: All right.

THE COURT: I'm back now. I've been off for about a minute.

So, Ms. Price, you were asking a question. I got to just after the court reporter told you to slow down.

MS. PRICE: Yes, Your Honor. The court reporter can read back --

THE COURT: Hold -- hold on just a minute for me, and I'll catch up.

(Pause in proceedings.)

THE COURT: I do have a rough draft as we go, so I'll make sure I haven't missed anything.

(Pause in proceedings.)

THE COURT: Oh, I didn't miss anything at all. So, go ahead.

MS. PRICE: Your Honor, I have no further questions. Thank you.

THE COURT: Mr. Morales-Doyle, before you start I did have an area I wanted to inquire about.

Ms. Scoon?

THE WITNESS: Yes, sir.

THE COURT: I'm going to give you a hypothetical. It's going to have some numbers. I'm not going to make you do the arithmetic. I'll tell you what they add up to.

My hypothetical is this: The defendant gets sentenced and is ordered to pay $300 in costs. The defendant is going to make partial payments and has to pay a $25 fee for the ability to make partial payments. The defendant makes a $100 payment through a collection agency. Even though the defendant pays $100, the collection agency takes $23, and only $77 gets sent to the clerk. So the original charge was $300. $25 was added. $77 was credited. And now the net amount due is $248. So you've got all these trainings of all these lawyers, and all these volunteers, the amount due on the clerk's records is $248.

The Secretary of State now has said in this lawsuit that the amount that has to be paid in order to be able to vote is not $248, but only $200. The Secretary of State says every dollar that the person pays gets deducted from the original amount no matter how it was actually allocated. So even though the collection agency took $23, that's still -- the person still gets credit for that. The $25 doesn't get added on. I call this first-dollar credit. So every dollar the defendant has paid has been deducted from the amount that has to be paid in order to be able to vote.

In all the trainings you've done, and all the

volunteers you've sent into the field, have you ever told anybody that in those circumstances the amount that would have to be paid in order to vote is $200, not $248?

THE WITNESS: No; we haven't. We've actually gotten feedback that the clerks were telling people differently than what you said. So we would try to reason with the clerks and say that they shouldn't be adding on these additional fees and money that the third party was trying to collect. And some of the times the answer would be, it was out of their hands. So that has been a problem with the -- basically getting right down into the nitty-gritty of trying to let people know exactly how much they owed. So part of our training also went to trying to modify it, because we were finding it very difficult to find out exactly to the penny what was owed. And the idea would be that you would bring that problem to the Court, and hopefully there would be a resolution, but we haven't even got that far.

THE COURT: All right. Until I just described to you what I call the first dollar method, had you ever heard anybody say that that is actually how it is done; that it's actually a first-dollar method, and that the amount due would only be $200?

THE WITNESS: No, sir. It's just the opposite. They insist on getting their costs and fees and percentages, and you want to make partial payments, and it's $5.00 -- whatever little -- $5.00 every time you pay, you pay that. So it's opposite to what you just said.

THE COURT: All right. Thank you.

Ms. Price, any questions to follow up on mine?

MS. PRICE: Just a couple, Your Honor, if that's okay.

CROSS-EXAMINATION

BY MS. PRICE:

Q. Ms. Scoon, I would just like to clarify, when you do these trainings for attorneys, you do train them on the statutes and direct them to read the statutes; do you not?

A. Yeah; we train them on the statute. We have the quote of the statute there, and it's up to them to read it.

Q. And those statutes would include Section 98.051(1), which is the statute on the restoration of voting rights, so it was part of 7066?

A. Yes.

MS. PRICE: Thank you, very much.

No further questions, Your Honor.

Mr. Morales-Doyle, any redirect?

MR. MORALES-DOYLE: Very brief, Your Honor.

REDIRECT EXAMINATION

BY MR. MORALES-DOYLE:

Q. Ms. Scoon, prior to the passage of Senate Bill 7066, did the League ever design a continuing legal education in order to help get people registered?

A. No, that was really going a little bit far afield. What -- no. We never had a need to do anything like that.

Q. And since the passage of Senate Bill 7066, have there been issues that you, yourself, work on as a league vice president that you've been unable to work on as a result of your focus on implementing Senate Bill 7066?

A. Yes. I used to be very involved with our health care coalition, and also the education, and I can't do anything. I tried not to -- trying to stay abreast of everything that's going on with Amendment 4. We still have a lot of interest. We still have our monthly meetings and phone calls. In fact, I have my monthly meeting this evening, and I have a lot of people wanting to know what's going on, what opportunities are available for them to help.

MR. MORALES-DOYLE: I have nothing further, Your Honor.

Thank you, Ms. Scoon.

THE COURT: Thank you, Ms. Scoon. You may step down.

Mr. Morales-Doyle, or Ms. Ebenstein, if you're there, tell me the sequence and where we stand.

We are 10 minutes till 5:00. This is the point in a trial where I say, if you have a good 10 minute witness, but that may be overly optimistic.

Who is next, and should we break at this point for the day? Where are we?

MS. EBENSTEIN: Your Honor, I think we should break at this point. The witness -- I understand the witness that we had

intended to call won't be available today for other reasons.

If we could start early tomorrow, we'd be happy to do that, or however Your Honor would like to arrange it.

THE COURT: 9:00 is probably ambitious enough. I think one of the defense lawyers mentioned yesterday we have -- you know, it's not a problem for people of my generation, but for most of you there are children, and such things, and the schools are closed and the arrangements are different, so people are sharing with personal obligations. You've all done a very good job of cooperating and moving forward, but I don't want to try to start earlier than 9:00. So let's start at 9 o'clock.

I'll finish up with what I said earlier. This gets to be the time at the trial where I try to tell people continue to focus. The tendency is always to swat at every gnat the other side has brought up, so don't do that. Let's just keep focused on the real issues.

Tell me overall where we are. We've gone a good bit slower than I thought we might. We've been talking for the most part about relevant material, so I'm not trying to close anybody down. I want you to make your record, but tell me where we are.

MS. EBENSTEIN: Your Honor, we think we are a little bit behind schedule, and the four plaintiffs groups were going to discuss it after court today. We're hoping that if we need to amend our estimate for how many days we will need, we could bring it up tomorrow morning. We just want to touch base and

see which witnesses are left, and we're trying to be as focused as possible with each of our witness's testimony.

THE COURT: Mr. McVay, is that the same thing on your side?

MR. MCVAY: Your Honor, we would just ask if --

THE COURT: McVay, I'm sorry.

MR. MCVAY: I'm sorry.

We would just ask if they would advise who they plan to call, at least -- like they did last night, and tell us so we can plan accordingly.

THE COURT: I take it you have communication, e-mails or whatever, where you can be in touch with each other, so as much information as you can share about the order of proof, it makes everybody's life a little easier.

I did have a couple of things I needed to tell you about.

First, Ms. Ebenstein, I think you had told me that your designations were in -- the deposition designations were in the record, and I don't think they are. There was some discussion of cross designations, or whatever, but I don't have your list of what parts of depositions you want in the record.

It's discussed in ECF 283-1, and it almost looks to me like perhaps what you wanted to file isn't what actually got filed. So I've got some discussion of the depositions, but not the actual designations.

MS. EBENSTEIN: All right.

THE COURT: So if you will look at that and let me know, and then I'll read those.

I wanted to mention Ms. Haughwout mentioned that early in her career she had been in the firm named Fonvielle and Hinkle. The local people probably know, but for those of you that don't, that was not me. It was my brother. It was a long time ago. I probably met Ms. Haughwout 30 years ago, but if I did, I don't remember it.

I started by -- Go ahead, Ms. Ebenstein.

MS. EBENSTEIN: I'm sorry, Your Honor. My colleagues are telling me that the (indiscernible audio.)

THE COURT: Wait. We can't hear you. Try again.

MS. EBENSTEIN: The depo designations should be ECF 282 and 398. My apologies if I gave you the wrong ECF number yesterday.

THE COURT: 282 and 389. Give me just a minute.

MS. EBENSTEIN: And I believe that we just filed -- oh. Yes, I'm sorry. 282 should have the designations, and we just filed, I believe, 389 that has highlighted those designations from 282 into the actual depo transcript.

THE COURT: Ah. Okay. They were indeed in 282. I had missed them. But 389 I'll get and I'll read those.

MS. PRICE: Your Honor -- I'm sorry.

THE COURT: At the beginning of the --

Go ahead, Ms. Price.

MS. PRICE: I'm sorry. I don't mean to interrupt.

I understand that the plaintiffs did file some of the designations today, and we haven't had an opportunity to talk with them since we've been in trial, but I did want to let them know I believe Ms. Timmann's deposition doesn't include designations or our cross-designations, and so they may want to look at that and refile that document.

THE COURT: All right. Who is that? Which one?

MS. PRICE: I believe it was Ms. Timmann.

THE COURT: All right. So, Ms. Ebenstein, you can check on that if there is something that needs to be refiled.

At the beginning of the trial, I went through the exhibits that I had admitted and gave exceptions. I noted the exception for Judge Blake's declaration. I had missed Ms. Haughwout's and Mr. Martinez's declarations. Had I -- in my defense, poor as it is, there were hundreds of exhibits and many hundreds of objections, and I had not wanted to admit those. I don't think they had anything in it that's not already covered in the live testimony and, frankly, the importance of excluding the declaration has passed because the witness has testified live. I don't think that makes any difference. If it makes a difference to somebody, bring it back up, and we'll see how to unscramble those eggs. I just had not intended to admit those.

I think that's all of my notes.

Is there anything else, Ms. Ebenstein, from the plaintiffs' side that you think we need to do this evening?

MS. EBENSTEIN: Your Honor, just a last question. We weren't sure whether you wanted designations for expert depositions either on our side or on the defendants' side. Is that something you'd like us to also designate?

THE COURT: Well, I didn't know anybody was designating those. I did read the report and I've now -- I think they are all going to testify. So if you are asking my preference, my preference would be not to read additional depositions, but if there are parts that you would like me to read and save the time presenting it live in court, I'll be happy to do it. I don't know what was on the designations you actually exchanged with one another.

MS. EBENSTEIN: Okay. Thank you, Your Honor. I will check with my -- with my co-counsel and see if there is a need for expert transcripts they think they need to designate, and we will let defense counsel know if we intend to do that.

MS. PRICE: I think we lost the judge.

(Pause in proceedings.)

THE COURT: I was briefly gone and now I'm back. You may have thought I just abruptly ended court without saying goodbye. I didn't mean to. I think we were at the end.

Ms. Ebenstein, anything further on your side?

MS. EBENSTEIN: Not for the plaintiffs. Thank you.

THE COURT: All right. And, Ms. Price?

MS. PRICE: Yes, Your Honor, briefly.

I would just note on the deposition designations for experts, I believe all the experts were deposed after the deposition designations and the counter-designations were due, so we've not had the opportunity to go through -- particularly with this late time and with the experts actually testifying, at this point we would not support that, but we are happy to talk with defense counsel, but --

THE COURT: All right. Look at it and talk with each other, and then we'll address it tomorrow. If one side has a different view than the other, we'll deal with it.

MS. PRICE: Thank you, Your Honor.

THE COURT: Otherwise --

MS. PRICE: Sorry.

THE COURT: Yes.

MS. PRICE: I'm sorry, Your Honor.

THE COURT: Go ahead.

MS. PRICE: I just wanted to clarify whether plaintiffs had any idea of any witnesses tomorrow, whether they were theirs or ours or number or anything at this point.

MS. EBENSTEIN: We do. Like we did last night, we'll confirm that and e-mail it to the defendants.

MS. PRICE: Okay. Thank you.

THE COURT: I take it from that they would appreciate

the e-mail sooner rather than later. So when you work it out, get it to them as quickly as you can.

Very good. Thank you. I will be back at 9 o'clock tomorrow morning.

We'll be in recess.

MS. PRICE: Thank you, Your Honor.

MS. EBENSTEIN: Thank you.

(Proceedings concluded at 4:59 PM on Tuesday, April 28, 2020.)

* * * * * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Any redaction of personal data identifiers pursuant to the Judicial Conference Policy on Privacy is noted within the transcript.

/s/ Megan A. Hague 4/28/2020

Megan A. Hague, RPR, FCRR, CSR Date
Official U.S. Court Reporter

I N D E X

No. 20-12003

In the United States Court of Appeals for the Eleventh Circuit

KELVIN LEON JONES, ET AL.,

Plaintiffs–Appellees,

v.

RON DESANTIS, ET AL.,

Defendants–Appellants.

APPENDIX VOLUME VI

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
NO. 4:19-CV-300-RH-MJ

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

BONNIE RAYSOR et al.,

Plaintiffs,

v.

CASE NO. 4:19cv301-RH-MJF

LAUREL M. LEE, in her official capacity as Secretary of State, and

CRAIG LATIMER, in his official capacity as Supervisor of Elections of Hillsborough County, Florida,

Defendants.

_____/

ORDER AMENDING THE COMPLAINT IN NO. 4:19cv301

The unopposed motion of the plaintiffs in Case No. 4:19cv301 to deem the complaint in that case amended to add as a defendant Craig Latimer, in his official capacity as Supervisor of Elections of Hillsborough County, Florida (ECF No. 15 in Case No. 4:19cv301 and ECF No. 400 in Consolidated Case No. 4:19cv300) is granted. Mr. Latimer is joined as a defendant in No. 4:19cv301 and is deemed to have asserted in that case all defenses he asserted in the consolidated case. The plaintiffs are not required to file anything further to confirm that the complaint in No. 4:19cv301 has been amended, and Mr. Latimer is not required to file an answer to the complaint as amended or to take any further action to preserve all defenses previously asserted.

SO ORDERED on May 7, 2020.

s/Robert L. Hinkle
United States District Judge

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

OPINION ON THE MERITS

The State of Florida has adopted a system under which nearly a million otherwise-eligible citizens will be allowed to vote only if they pay an amount of money. Most of the citizens lack the financial resources to make the required payment. Many do not know, and some will not be able to find out, how much they must pay. For most, the required payment will consist only of charges the State imposed to fund government operations—taxes in substance though not in name.

The State is on pace to complete its initial screening of the citizens by 2026, or perhaps later, and only then will have an initial opinion about which citizens must pay, and how much they must pay, to be allowed to vote. In the meantime,

year after year, federal and state elections will pass. The uncertainty will cause some citizens who are eligible to vote, even on the State's own view of the law, not to vote, lest they risk criminal prosecution.

This pay-to-vote system would be universally decried as unconstitutional but for one thing: each citizen at issue was convicted, at some point in the past, of a felony offense. A state may disenfranchise felons and impose conditions on their reenfranchisement. But the conditions must pass constitutional scrutiny. Whatever might be said of a rationally constructed system, this one falls short in substantial respects.

The United States Court of Appeals for the Eleventh Circuit has already ruled, in affirming a preliminary injunction in this very case, that the State cannot condition voting on payment of an amount a person is genuinely unable to pay. *See Jones v. Governor of Fla.*, 950 F.3d 795 (11th Cir. 2020). Now, after a full trial on the merits, the plaintiffs' evidence has grown stronger. This order holds that the State *can* condition voting on payment of fines and restitution that a person is able to pay but *cannot* condition voting on payment of amounts a person is unable to pay or on payment of taxes, even those labeled fees or costs. This order puts in place administrative procedures that comport with the Constitution and are less burdensome, on both the State and the citizens, than those the State is currently using to administer the unconstitutional pay-to-vote system.

I. The Consolidated Cases

These are five consolidated cases. The plaintiffs assert the requirement to pay to vote is unconstitutional across the board or alternatively as applied to those who are unable to pay the amount at issue. There are differences from one case to another in the plaintiffs' legal theories and in the named defendants. All the defendants are named only in their official capacities.

In No. 4:19cv301, the plaintiffs are Bonnie Raysor, Diane Sherrill, and Lee Hoffman, individually and on behalf of a class and subclass. The defendants are the Florida Secretary of State and, under a consented amendment,[1] the Hillsborough County Supervisor of Elections. These plaintiffs assert the pay-to-vote system violates the Twenty-Fourth Amendment, which prohibits a state from denying or abridging the right to vote in a federal election by reason of failure to pay "any poll tax or other tax." On this claim the plaintiffs represent a class of all persons who would be eligible to vote in Florida but for unpaid financial obligations, with this exception: named plaintiffs in the other consolidated cases are excluded from the class.

These plaintiffs also assert the pay-to-vote system discriminates against citizens who are unable to pay and thus violates the Equal Protection Clause. On this claim the plaintiffs represent a subclass of all persons who would be eligible to

[1] *See* ECF No. 18 in 4:19cv301.

vote in Florida but for unpaid financial obligations that the person asserts the person is genuinely unable to pay, again excluding other named plaintiffs.

Finally, these plaintiffs assert, but not on behalf of a class, that the pay-to-vote system is void for vagueness, denies procedural due process, and violates the National Voter Registration Act, 52 U.S.C. § 20501 et seq.

In No. 4:19cv302, the plaintiffs are 12 individuals and 3 organizations. The individuals are Jeff Gruver, Emory Marquis Mitchell, Betty Riddle, Karen Leicht, Keith Ivey, Kristopher Wrench, Raquel L. Wright, Steven Phalen, Jermaine Miller, Clifford Tyson, Latoya A. Moreland, and Curtis D. Bryant. The organizations are the League of Women Voters of Florida, the Florida State Conference of the NAACP, and the Orange County Branch of the NAACP. The defendants are the Secretary of State and the Supervisors of Elections of Alachua, Broward, Duval, Hillsborough, Indian River, Leon, Manantee, Miami-Dade, Orange, and Sarasota Counties.

These plaintiffs assert the pay-to-vote system discriminates against citizens who are unable to pay in violation of the Due Process and Equal Protection Clauses. They assert the State has failed to provide uniform guidance and that the pay-to-vote system thus is being applied inconsistently in different counties, violating the principle established by *Bush v. Gore*, 531 U.S. 98 (2000). The plaintiffs assert the pay-to-vote system violates the Fourteenth Amendment

because determining the amount that must be paid to vote imposes an unwarranted burden on potential voters. The plaintiffs assert the pay-to-vote system imposes an unconstitutional "poll tax or other tax," is unconstitutionally vague, denies procedural due process, unduly burdens political speech and associational rights in violation of the First Amendment, is racially discriminatory, and violates the National Voter Registration Act. The plaintiffs originally asserted, but now have abandoned, a claim under the Ex Post Facto Clause.

In No. 4:19cv304, the plaintiffs are Rosemary Osborne McCoy and Sheila Singleton. The defendants are the Governor of Florida, the Secretary of State, and the Duval County Supervisor of Elections. The plaintiffs assert the pay-to-vote system discriminates against citizens who are unable to pay in violation of the Equal Protection Clause. They assert the system violates the Twenty-Fourth Amendment, discriminates based on gender, denies procedural due process, is void for vagueness, and violates the Eighth Amendment's ban on excessive fines.

In No. 4:19cv272, the plaintiff is Luis Mendez. In No. 4:19cv300, the plaintiff is Kelvin Leon Jones. In both cases, the defendants are the Governor, the Secretary of State, and the Hillsborough County Supervisor of Elections. Mr. Mendez and Mr. Jones have not participated since early in the litigation and did not appear at trial. This order dismisses their claims without prejudice and, as the State

agreed on the record would be proper, restores them to the plaintiff class and subclass.[2]

The Governor and Secretary of State are the defendants who speak for the State of Florida in this litigation. They have consistently taken the same positions. For convenience, this order sometimes refers to them collectively as "the State."

The cases were originally consolidated for case-management purposes, but they have now been tried together. This order consolidates the cases for all purposes, sets out the court's findings of fact and conclusions of law, enters an injunction, and directs the entry of judgment.

II. Disenfranchisement, Amendment 4, and SB7066

Beginning in 1838, Florida's Constitution allowed the Legislature to disenfranchise felons.[3] The Legislature enacted a disenfranchisement provision at least as early as 1845.[4]

A state's authority to do this is beyond question. In *Richardson v. Ramirez*, 418 U.S. 24 (1974), the Supreme Court read an apportionment provision in section 2 of the Fourteenth Amendment as authority for states to disenfranchise felons. As Justice O'Connor, speaking for the Ninth Circuit, later said, "it is not obvious"

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[2] *See* Trial Tr., ECF No. 417 at 39.

[3] *See Johnson v. Governor of Fla.*, 405 F.3d 1214, 1218 (11th Cir. 2005).

[4] *Id.*

how the section 2 apportionment provision leads to this result. *Harvey v. Brewer*, 605 F.3d 1067, 1072 (9th Cir. 2010). But one way or the other, *Richardson* is the law of the land.

Recognizing this, in *Johnson v. Governor of Florida*, 405 F.3d 1214 (11th Cir. 2005) (en banc), the court explicitly upheld Florida's then-existing disenfranchisement provisions. The bottom line: Florida's longstanding practice of denying an otherwise-qualified citizen the right to vote on the ground that the citizen has been convicted of a felony is not, without more, unconstitutional.

Florida has long had an Executive Clemency Board with authority to restore an individual's right to vote. But the Board moves at glacial speed and, for the eight years before Amendment 4 was adopted, reenfranchised very few applicants.[5] For the overwhelming majority of felons who wished to vote, the Executive Clemency Board was an illusory remedy.

Florida's Constitution allows voter-initiated amendments. To pass, a proposed amendment must garner 60% of the vote in a statewide election.[6] Amendment 4, which passed with 64.55% of the vote, added a provision

[5] *See, e.g.*, Prelim. Inj. Hr'g Tr., ECF No. 204 at 170-71; *see also* Pls.' Ex. 893, ECF No. 286-13 at 55-65.

[6] Fla. Const. art XI, § 5(e).

automatically restoring the voting rights of some—not all—felons. The new provision was codified as part of Florida Constitution article VI, section 4.

The full text of section 4, with the new language underlined, follows:

> (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.
>
> (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

Fla. Const. art. VI, § 4 (emphasis added). The exclusion of felons convicted of murder or sexual offenses is not at issue in these cases. References in this order to "felons" should be read to mean felons convicted only of other offenses, when the context makes this appropriate.[7]

At least on its face, Amendment 4 was self-executing. Under Florida law, the amendment's effective date was January 8, 2019. Individuals with felony

[7] This order does not use the plaintiffs' proposed term "returning citizens." The order instead uses "citizens" or "individuals" when the context is clear but "felons" when necessary, because the term is both more accurate and less cumbersome. "Returning" is inaccurate or at least imprecise; the citizens have not been away, except, for some, in prison, and most who went to prison have been back for years or decades. Respect is not a zero-sum game—more is almost always better. This order aims at providing equal respect to those on both sides, save as necessary to accurately set out the facts and ruling.

convictions began registering to vote on that day. Supervisors of Elections accepted the registrations.[8] This accorded with Florida law, under which Supervisors are required to accept facially sufficient registrations, subject to later revocation if a voter is found ineligible.

During its spring 2019 session, the Legislature took up issues related to Amendment 4, eventually passing a statute referred to in this order as SB7066. The statute includes a variety of provisions. Two are the most important for present purposes.

First, SB7066 explicitly defines the language in Amendment 4, "completion of all terms of sentence including probation or parole," to mean not just any term in prison or under supervision but also financial obligations included in the sentence—that is, "contained in the four corners of the sentencing document." Fla. Stat. § 98.0751(2)(a). This does not include amounts "that accrue after the date the obligation is ordered as a part of the sentence." *Id*. § 98.0751(2)(a)5.c.

Second, SB7066 explicitly provides that a financial obligation still counts as part of the sentence—still must be paid for the person to be eligible to vote—if the sentencing court converts it to a civil lien. *Id*. Conversion to a civil lien, usually at the time of sentencing, is a longstanding Florida procedure that courts often use for

[8] *See* Pls.' Ex. 44, ECF No. 152-41 at 3-4; *see also* Pls.' Ex. 66, ECF No. 152-63.

obligations a criminal defendant cannot afford to pay.[9] Conversion takes the obligation out of the criminal-justice system and leaves the obligation enforceable only through the civil-justice system.

The financial obligations included in a sentence may include fines, fees, costs, and restitution.

Fines are imposed in a minority of cases.[10] The amount is determined by the court, subject to a maximum set by statute. For a small number of offenses, there is a mandatory fine of at least a specified amount.[11]

Fees and costs are imposed in all cases, with few if any exceptions, though there was a time when that was not so.[12] Each type of fee or cost is authorized, indeed usually required, by statute. These are not traditional court costs of a kind usually awarded in favor of a prevailing litigant; they are instead a means of funding the government in general or specific government functions. [13] An

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[9] *See* Fla. Stat. § 938.30(6)-(9); Prelim. Inj. Hr'g Tr., ECF No. 204 at 94; Pls.' Ex. 189, ECF No. 167-20 at 48; Trial Tr., ECF No. 396 at 61-62, 100

[10] *See* Trial Tr., ECF No. 396 at 28-29.

[11] *See, e.g.*, Fla. Stat. §§ 806.13(6)(a) (requiring a fine for certain criminal mischief offenses); 812.014(2)(c)(7) (requiring a $10,000 fine for theft of a commercially farmed animal).

[12] *See* Trial Tr., ECF No. 396 at 34-35.

[13] *See* Trial Tr., ECF No. 396 at 23-35.

example is a flat $225 assessment in every felony case, $200 of which is used to fund the clerk's office and $25 of which is remitted to the Florida Department of Revenue for deposit in the state's general revenue fund.[14] Another example is a flat $3 assessment in every case that is remitted to the Department of Revenue for further distribution in specified percentages for, among other things, a domestic-violence program and a law-enforcement training fund.[15]

Restitution is ordered in a minority of cases and is payable to a victim in the amount of loss as determined by the court. Restitution is sometimes awarded jointly and severally against participants in the same crime, even when they are charged in different cases. Most restitution orders require payment directly to the victim, but some orders provide for payment through the Clerk of Court or Department of Corrections, who charge a fee before payment of the remainder to the victim. Over time, the fee has sometimes been a percentage, sometimes a flat amount.

The parties have sometimes referred to amounts a criminal defendant must pay as "legal financial obligations" or "LFOs." This order adopts this terminology but uses it in a precise, more limited way: to refer only to obligations that the State

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[14] *See* Fla. Stat. § 938.05(1)(a); *see also* Trial Tr., ECF No. 396 at 95.

[15] *See* Fla. Stat. § 938.01(1).

says must be paid before a felon's right to vote is restored under Amendment 4 and SB7066. The terminology does not change when the obligation is paid; if it was an "LFO" when imposed, it remains an "LFO" after payment—once an "LFO," always an "LFO." As we shall see, the State's position on whether an amount is covered by SB7066 has not always been clear or consistent. But for purposes of this order, by definition, whatever the State says is covered is an "LFO"; any other obligation is not.

III. The Eleventh Circuit Ruling on Inability to Pay

Early in this litigation, the plaintiffs moved for a preliminary injunction on some but not all of their claims. After an evidentiary hearing, a preliminary injunction was granted in favor of the 17 individual plaintiffs and against the Secretary of State and the Supervisors of Elections in the counties where the plaintiffs resided.[16]

The preliminary injunction had two parts. First, an enjoined defendant could not take any action that both (a) prevented a plaintiff from registering to vote, and (b) was based only on failure to pay an LFO that the plaintiff asserted the plaintiff was genuinely unable to pay. Second, an enjoined defendant could not take any action that both (a) prevented a plaintiff from voting and (b) was based only on a failure to pay an LFO that the plaintiff showed the plaintiff was genuinely unable

[16] ECF No. 207.

to pay. In short, plaintiffs who claimed inability to pay could register, and plaintiffs who showed inability to pay could vote.

The preliminary injunction explicitly allowed the Secretary to notify Supervisors of Elections that an individual plaintiff had unpaid LFOs that would make the plaintiff ineligible to vote absent a showing of genuine inability to pay. The preliminary injunction left the state discretion on how the plaintiffs would be allowed to establish their inability to pay.

The State appealed. The United States Court of Appeals for the Eleventh Circuit affirmed, squarely holding that Florida cannot prevent an otherwise-eligible felon from voting just because the felon has failed to pay LFOs the felon is genuinely unable to pay. *Jones v. Governor of Fla.*, 950 F.3d 795 (11th Cir. 2020). This order of course follows the Eleventh Circuit's decision—and would reach the same result anyway.

This order does not repeat or even attempt to summarize the Eleventh Circuit decision. On the inability-to-pay claim, the Eleventh Circuit's analysis is more important than anything included in this order.

IV. The Florida Supreme Court Decision on "All Terms of Sentence"

After entry of the preliminary injunction and while the federal appeal was pending, the Florida Supreme Court issued an advisory opinion in response to a request from the Governor. *See Advisory Op. to the Governor Re: Implementation*

of Amendment 4, the Voting Restoration Amendment, 288 So. 3d 1070 (Fla. 2020) The court said "all terms of sentence including probation and parole," within the meaning of Amendment 4, includes financial obligations. This settles the question of whether fines, fees, costs, and restitution are covered; they are.

The court did not address what "completion" of these amounts means, because the Governor explicitly told the court he was not asking for an advisory opinion on that issue. *Id*. at 1074-75. The issue is important, because "completion" could reasonably be construed to mean payment to the best of a person's ability, bringing Amendment 4, though not SB7066, into alignment with the plaintiffs' inability-to-pay argument and *Jones*. The Florida Supreme Court did not address the issue, instead heeding the Governor's limitation on his request for an advisory opinion.

V. The Plaintiffs

Determining how much a person convicted of a felony in Florida was ordered to pay as part of a criminal sentence is not as easy as one might expect. It is sometimes easy, sometimes hard, sometimes impossible. Determining how much a person has paid, especially given the State's byzantine approach to calculating that amount, is more difficult, but this, too, is sometimes easy, sometimes hard, sometimes impossible. This is addressed below in the analysis of the merits.

The record includes evidence on the plaintiffs' obligations, often introduced by the State, apparently to show how easily their obligations could be calculated. But even with a team of attorneys and unlimited time, the State has been unable to show how much each plaintiff must pay to vote under the State's view of the law. For Mr. Gruver, the State submitted a judgment, but it does not include any financial obligations.[17] Mr. Gruver says he was ordered to pay fees and costs totaling $801.[18] He is genuinely unable to pay that amount. The record includes a civil judgment for that amount dated 17 days after Mr. Gruver was sentenced.[19] Perhaps the criminal judgment included the same amount and it was converted to a civil lien 17 days later. Or perhaps no amount was included in the criminal judgment at all. Mr. Gruver says that with interest and collection fees, the debt has grown to roughly $2,000.[20]

One cannot know, from the information in this record, whether any financial obligation was included in the "four corners" of Mr. Gruver's criminal judgment. *See* Fla. Stat. § 98.0751(2)(a). If this is the best the State's attorneys could do, one

[17] Defs.' Ex. 17A, ECF No. 148-18 at 3-5.

[18] Pls.' Ex. 3, ECF No. 152-2 at 3.

[19] Defs.' Ex. 17A, ECF No. 148-18 at 2.

[20] Pls.' Ex. 24, ECF No. 152-23 at 2.

wonders how Mr. Gruver or the Division of Elections could be expected to do better.

Mr. Mitchell was unaware he owed any amount until he registered to vote and received a notice from his county's Clerk of Court.[21] He now believes he owes $4,483 arising from convictions in Miami-Dade and Okeechobee Counties.[22] The record does not show what amounts were included in his sentences.[23] The Miami-Dade Clerk of Court's website includes a docket entry indicating $754 was assessed as costs.[24] One cannot know, from this record, what amount the State asserts Mr. Mitchell must pay to vote. But Mr. Mitchell works at a nonprofit without salary; even if the amount was only $754, Mr. Mitchell would be unable to pay it.[25]

Ms. Riddle was convicted of felonies between 1975 and 1988 in two different counties. She asked the Clerks of Court for copies of the records of the

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[21] Pls.' Ex. 4, ECF No. 152-3 at 5.

[22] *Id.*

[23] *See* Defs.' Ex. 17B, ECF No. 148-19.

[24] *Id.* at 6.

[25] *See* Pls.' Ex. 4, ECF No. 152-3 at 5.

convictions, but she was told the Clerks were unable to find them.[26] Ms. Riddle apparently owes roughly $1,800 in connection with later convictions, but the Clerk's records do not match those maintained by the Florida Department of Law Enforcement. Ms. Riddle is unable to pay that amount.[27] Ms. Riddle does not know, and despite diligent efforts has been unable to find out, how much the State says she must pay to vote.

Ms. Leicht was convicted of a federal felony and ordered to pay over $59 million in restitution jointly and severally with others.[28] She is unable to pay that amount. After Amendment 4 passed, she was hesitant to register to vote, fearing criminal prosecution, but a state senator encouraged her to register, and she did.[29]

Mr. Ivey was convicted of a felony in 2002. His judgment shows he was assessed $428 in fees, but he did not know he owed any amount until a reporter told him in 2019.[30] Mr. Ivey has not asserted or proven he is unable to pay. The

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[26] *See* Prelim. Inj. Hr'g Tr., ECF No. 204 at 162-65.

[27] *Id.* at 165-66.

[28] Pls. Ex. 6, ECF No. 152-5 at 3.

[29] *Id.*

[30] *See* Defs.' Ex. 17C, ECF No. 148-20 at 4; *see also* Pls.' Ex. 7, ECF No. 152-6 at 3.

judgment shows no fine, but a printout from the Clerk of Court seems to say "minimum fines" were assessed.[31] The amount the State asserts Mr. Ivey must pay to vote is apparently $428, but that is not clear.

Mr. Wrench apparently owes $3,000 in connection with felony convictions.[32] He is unable to pay that amount. But it is unclear whether he would have to pay this amount, or anything close to it, to be able to vote.

Mr. Wrench was convicted of felonies under two case numbers on December 15, 2008.[33] The State introduced copies of the judgments, but it is unclear whether the copies are complete. The criminal judgments, or at least the portion in the record, do not show any financial obligations. But on February 2, 2009, a civil judgment was entered under the first case number for $1,874 in "financial obligations"—no further description was provided—that, according to the civil judgment, had been ordered as part of the sentence.[34] Similarly, on March 15, 2011, more than two years later, a civil judgment was entered under the second case number for $601 in unspecified "financial obligations" that, again according

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[31] *See* Defs.' Ex. 17C, ECF No. 148-20 at 33-34.
[32] *See* Pls.' Ex. 8, ECF No. 152-7 at 3.

[33] *See* Defs.' Ex. 17D, ECF No. 148-21 at 8-12, 18-20.

[34] *Id.* at 4.

to the civil judgment, had been ordered as part of the sentence.[35] It is unclear what amount, if any, the State asserts Mr. Wrench must pay on these convictions to be eligible to vote.

Mr. Wrench was convicted of another felony on November 7, 2011.[36] An order included in the judgment assessed costs of $200 with other amounts struck through and initialed.[37] But a civil judgment was entered on March 5, 2012 for $871.[38] It is unclear what amount the State asserts Mr. Wrench must pay on this conviction to be eligible to vote.

Ms. Wright was convicted of a felony. Her sentence included $54,137.66 in fines and fees.[39] The judge immediately converted the full amount to a civil lien.[40] Ms. Wright is employed part-time and earns $450 per month.[41] She is unable to pay the fines and fees.

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[35] *Id.* at 15.

[36] *Id.* at 26.

[37] *Id.* at 27-28.

[38] *Id.* at 23.

[39] *See* Pls.' Ex. 9, ECF No. 152-8; *see also* Defs.' Ex 17E, ECF No. 148-22.

[40] Defs.' Ex. 17E, ECF No. 148-22 at 10.

[41] *See* Pls.' Ex. 9, ECF No. 152-8 at 4.

Dr. Phalen was convicted of a felony in Wisconsin in 2005.[42] He was assessed $150,000 in restitution and has made regular payments, but he still owes $110,000. Under Wisconsin law, he would be eligible to vote. The State of Florida has acknowledged in this litigation that a felony conviction in another state does not make a person ineligible to vote in Florida if the person would be eligible to vote in the state where the conviction occurred.[43] So Dr. Phalen is eligible to vote in Florida, he just didn't know it when he joined this litigation.

Mr. Miller was convicted in 2015 of two felonies and a misdemeanor that were prosecuted as part of the same case.[44] The judgment assessed $1,221.25 in fees and costs and $233.80 in restitution.[45] He paid $252 on the restitution obligation—more than the original assessment—but the Department of Corrections says he still owes $1.11, apparently based in part on the Department's 4% surcharge for collecting payments.[46] The records of the Florida Department of Law

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[42] *See* Pls.' Ex. 10, ECF No. 152-9.

[43] Trial Tr., ECF No. 408 at 81.

[44] *See* Defs.' Ex. 17F, ECF No. 148-23.

[45] *Id.* at 9-10.

[46] Pls.' Ex. 11, ECF No.152-10 at 3-4, 35-38.

Enforcement and Clerk of Court give different amounts still owed for fees and costs, but whatever the accurate number, Mr. Miller is unable to pay it.

Mr. Tyson was convicted of felonies between 1978 and 1998.[47] He was ordered to pay fees, costs, and restitution. He paid the restitution. He has been unable, despite extraordinary effort, to determine the amount still owed for fees and costs.[48] There are discrepancies in the available records that cannot be reconciled. But whatever the precise balance, Mr. Tyson is unable to pay it. Even so, it is no longer clear the State contends Mr. Tyson must pay the outstanding balance to be able to vote, as addressed below in the discussion of the merits.

Ms. Moreland was convicted of a felony and ordered to pay $618 in fees and costs, but a separate cost sheet listed the amount as $718.[49] She is unable to pay either amount. She registered to vote when she thought she was eligible, but the Manatee County Supervisor of Elections removed her from the roll based on the unpaid LFOs, after giving proper notice. The Supervisor has reinstated her pending developments in this litigation.

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[47] *See* Pls.' Ex. 12, ECF No. 152-11.

[48] *See, e.g.*, Prelim. Inj. Hr'g Tr., ECF No. 204 at 172-79; *see also* Trial Tr., ECF No. 393 at 185.

[49] *See* Pls.' Ex. 531, ECF No. 354-7 at 47, 80.

Mr. Bryant owes more than $10,000 in fines, fees, and costs assessed on felony convictions.[50] He pays $30 per month under a payment plan but is unable to pay the full amount or whatever amount he would have to pay to vote.[51] He registered to vote after Amendment 4 was adopted, believing he was eligible. In due course, though, he learned of the State's contrary position. He submitted a declaration early in this litigation, but he was not a named plaintiff when the preliminary injunction was issued, and the preliminary injunction thus did not explicitly apply to him.[52] Even though the Eleventh Circuit affirmed the preliminary injunction before the March 2020 presidential primary in an opinion making clear that Mr. Bryant is constitutionally entitled to vote, he chose not to vote.[53] Having left his criminal past behind, he did not wish to risk prosecution.[54]

Ms. McCoy was convicted of a felony and ordered to pay $666 in fees and $6,400 in restitution through the Clerk of Court.[55] She paid the fees but is unable to

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[50] Trial Tr., ECF No. 397 at 68.

[51] *Id.* at 66-68.

[52] *See* Pls.' Ex. 23, ECF No. 152-22.

[53] Trial Tr., ECF No. 397 at 73-74.

[54] *Id.*

[55] *See* Defs.' Ex. 17H, ECF No. 148-25 at 35-57.

pay the restitution.[56] The restitution balance, with interest, has grown to $7,806.72. Ms. McCoy tried to set up a payment plan but was told the Clerk of Court does not allow payment plans for restitution.[57]

Ms. Singleton was sentenced for a felony on April 8, 2011.[58] The judgment is in the record. It includes $771 in fees and costs.[59] Ms. Singleton is unable to pay that amount. The judgment does not mention restitution. A separate restitution order was entered requiring Ms. Singleton to pay the victim $12,110.81; the judge's signature was undated, but the order was file-stamped July 9, 2014, over three years after Ms. Singleton was sentenced.[60] The record includes another restitution order directing Ms. Singleton to pay a different victim $12,246.00; that order bears no date.[61] If, as appears likely, Ms. Singleton was not ordered to pay restitution until three years after she was sentenced, the State apparently agrees that

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[56] *See* Prelim. Inj. Hr'g Tr., ECF No. 204 at 134-36.

[57] Trial Tr., ECF No. 397 at 57.

[58] *See* Defs.' Ex. 17I, ECF No. 148-26 at 4-8.

[59] *Id.* at 6.

[60] *Id.* at 9-10.

[61] *Id.* at 2-3.

she can vote without paying the restitution.[62] Ms. Singleton would not have known this had she not participated in this litigation.

Ms. Raysor was convicted of a felony. Her judgment is not in the record, but she signed a payment plan calling for $30 monthly payments toward a total obligation of $5,000.[63] She is current on her payments and on pace to pay the full balance by 2031. She is unable to pay a greater amount—as the State apparently acknowledged by agreeing to the payment plan.

Ms. Sherrill has felony convictions. Her judgments are not in the record. It is unclear what financial obligations were imposed as part of the sentence, but the outstanding balance is $2,279.[64] Ms. Sherrill is unable to pay that amount.

Mr. Hoffman has felony convictions. He believes he owes $1,772.13 in one county and $469.88 in another county in connection with the convictions.[65] He is unable to pay those amounts. Mr. Hoffman also has a misdemeanor conviction in a case erroneously titled on the docket as a felony[66]—a recurring problem that led

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[62] Trial Tr., ECF No. 408 at 104.

[63] *See* Pls.' Ex. 15, ECF No. 152-14.

[64] *See* Defs.' Ex. 17K, ECF No. 148-28; *see also* Pls.' Ex. 16, ECF No. 152-15.

[65] *See* Pls.' Ex. 17, ECF No. 152-16.

[66] *See* Defs.' Ex. 17L, ECF No. 148-29 at 26-28; *see also* Trial Tr., ECF No. 408 at 210-12.

the Secretary of State's Division of Elections to incorrectly assert more than 20 others were ineligible to vote in one county alone.[67]

The League of Women Voters is an advocate for increased voter registration and turnout. The League conducts voter-registration drives and conducts programs to educate the public.[68] The Florida State Conference of the NAACP and the NAACP's Orange County Branch are member-based civil-rights organizations who advocate for the rights of members, including the right to vote.[69] The NAACP organizations have members directly affected by the State's pay-to-vote system—who are unable to vote under that system but will be able to vote if the plaintiffs prevail in this litigation.

The confusion created by SB7066 and the State's failure to articulate clear standards for its application, together with the difficulty determining whether any given felon has unpaid LFOs, caused the League and the State Conference of the NAACP to expend resources unnecessarily and interfered with their voter-registration activities. Each organization curtailed its voter-registration activities out of fear that citizens who registered with the organization's help might be

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[67] *See* Earley Dep. Designations, ECF No. 389-3 at 45-46; *see also* Pls' Exs. 76-77, ECF No. 152-73, 152-74.

[68] *See* Trial Tr., ECF No. 396 at 155.

[69] *See* Trial Tr., ECF No. 397 at 6-7.

prosecuted, even if the organization and the citizen believed the citizen was eligible. As a result, the organizations signed up fewer new voters—and are continuing to sign up fewer new voters—than they otherwise would have.

VI. The Registration Process

To be eligible to vote in Florida, a person must submit a registration form. If the county Supervisor of Elections deems the form complete on its face, the Secretary of State's Division of Elections determines, using personal identifying information, whether the person is real. If so, the person is added to the voting roll, subject to later revocation if it turns out the person is ineligible.[70]

The Division of Elections takes the laboring oar at that point, reviewing the registration for, among other things, disqualifying felony convictions.[71] The Division also periodically reviews all prior registrations for felony convictions, because a person who was eligible at the time of initial registration may be convicted later.

If the Division finds a disqualifying felony conviction, the Division notifies the proper Supervisor of Elections. Some Supervisors review the Division's work

[70] *See* Defs.' Ex. 16, ECF No. 148-16 at 5; *see also* Earley Dep. Designations, ECF No. 389-3 at 29.

[71] Defs.' Ex. 16, ECF No. 148-16 at 6-8; *see also* Fla. Stat. § 98.075(5).

for accuracy; some do not.[72] If the Supervisor concludes, with or without an independent review, that the registrant is not eligible to vote, the Supervisor sends the registrant a notice giving the registrant 30 days to show eligibility.[73] The registrant may request a hearing before the Supervisor, and if unsuccessful may file a lawsuit in state court, where review is de novo.[74] Requests for a hearing are extremely rare; even long serving Supervisors have rarely conducted more than one or two during an entire tenure.[75]

Supervisors sometimes address felony convictions on their own, without awaiting notice from the Division that a registrant is ineligible. The Supervisors do not, however, have the resources to perform the bulk of the screening process or to conduct hearings on individual issues like the amount of a registrant's LFOs or a registrant's ability to pay.

VII. Standing

The defendants have asserted lack of standing on multiple grounds. Their positions were rejected in earlier orders and are addressed here only briefly.

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[72] *See, e.g.*, Earley Dep. Designations, ECF No. 389-3 at 60-63, 129-30; *see also* Pls.' Ex. 69, ECF No. 152-66; Latimer Dep. Designations, ECF No. 389-4 at 90-91.

[73] *See* Fla. Stat. § 98.075(7).

[74] Fla. Stat. § 98.0755.

[75] *See* Trial Tr., ECF No. 393 at 42; *see also* Trial Tr., ECF No. 402 at 54-55.

In *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992), the Supreme Court said the "irreducible constitutional minimum of standing contains three elements." First, the plaintiff "must have suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." *Id*. (internal quotation marks and citations omitted). Second, "there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court." *Id*. (internal quotation marks, ellipses, and brackets omitted). Third, "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Id*. (internal quotation marks omitted); *see also Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547-48 (2016).

The State says the plaintiffs lack standing because they have already registered to vote. But the State says most or all are ineligible to vote, and fraudulently voting is a felony. If the plaintiffs win this lawsuit, they will be able to vote; if they lose, most will not be able to vote. The plaintiffs have standing to challenge provisions that prevent or deter them from voting.

The State says the plaintiffs have no standing because, according to the State, the plaintiffs challenge only SB7066 as applied, not Amendment 4. Because Amendment 4 requires payment of LFOs, the State says, holding SB7066

unconstitutional as applied would make no difference; the plaintiffs would still have to pay their LFOs to be able to vote.

One flaw in the argument is the assertion that SB7066 goes no further than Amendment 4. As addressed ahead, SB7066 has a number of provisions that Amendment 4 lacks, including, for example, the definition of "completion," the treatment of LFOs that are converted to civil liens, and the prescription of a specific, flawed registration form. The Secretary of State's Division of Elections is following procedures, some attributed to SB7066, that cannot be gleaned from Amendment 4.

Much more significantly, the State is simply wrong when it asserts the plaintiffs do not challenge application of Amendment 4 to otherwise-eligibile citzens with unpaid LFOs. The complaints were filed before the Florida Supreme Court construed Amendment 4 to cover LFOs, so it is not surprising that the complaints focused on SB7066 and its explicit reference to LFOs. But it has been clear all along that the plaintiffs assert it is unconstitutional to condition voting on payment of LFOs, especially those a person is unable to pay. The preliminary injunction, entered before the State filed its answers, read the complaints this way.[76] The Eleventh Circuit clearly understood this on appeal. *See, e.g.*, *Jones*, 950

[76] *See* ECF No. 207 at 7-8.

F.3d at 800 (noting that the plaintiffs brought suit, "challenging the constitutionality of the LFO requirement"). The plaintiffs explicitly confirmed their position on the record at the trial, making clear they challenge the requirement to pay LFOs as a condition of voting, whatever the source of that requirement, including Amendment 4.[77]

Here, as always, the plaintiffs are the masters of their claim. *See, e.g.*, *United States v. Jones*, 125 F.3d 1418, 1428-29 (11th Cir. 1997). The State cannot redefine the plaintiffs' claim to the State's liking and attack only the claim as redefined. So the State's argument is unfounded.

Further, in closing argument, the plaintiffs said that if their complaints could somehow be construed not to allege that Amendment 4, to the extent it conditions voting on payment of LFOs, is unconstitutional as applied, then they requested leave to amend the complaints to conform to the evidence—that is, to include such a claim.[78] No amendment is necessary, because the complaints allege and have been construed all along to include such a claim, and the State has known it all along, or at least from the date when the preliminary injunction was issued. If, however, the complaints were somehow read more narrowly, I would grant leave

[77] Trial Tr., ECF No. 417 at 26-27, 48-49.

[78] Trial Tr., ECF No. 417 at 27-28; *see also* Fed. R. Civ. P. 15(b).

to amend, so that the claim can properly be resolved on the merits. The State would suffer no prejudice.

The officials who are primarily responsible for administering the Florida's election system and registering voters are the Secretary of State at the state level and the Supervisors of Elections at the county level. The Secretary is not always a proper defendant in an election case. *See Jacobson v. Fla. Sec'y of State*, No. 19-14552, 2020 WL 2049076 (11th Cir. Apr. 29, 2020). But the Secretary has a substantial role in determining whether felons are eligible to vote. Indeed, she has the primary role in determining whether a felon who has registered should be removed from the roll, including on the ground of unpaid LFOs. She does not deny she is a proper defendant here.[79]

Prior governors have asserted they are not proper defendants in cases of this kind. But here the Governor asserts an interest and says he does not wish to be dismissed. He made the same assertion in the prior appeal, and the Eleventh Circuit, without deciding whether he had a stake in the matter, allowed him to remain in the case. *See Jones*, 950 F.3d at 805-06. This order takes the same approach.

The Supervisors of Elections have asserted they are not proper defendants, but they, too, have a critical role in registration and removal of felons from the

[79] Trial Tr., ECF No. 417 at 43.

rolls. They are proper defendants, as explained at greater length in denying their motion to dismiss. *See* ECF Nos. 107, 110 at 7-9, 272 at 60-63; *see also Jacobson*, 2020 WL 2049076 at *9.

In sum, the plaintiffs have standing, and the Secretary and Supervisors, if not also the Governor, are the officials who can redress the claimed violations. The Secretary and Supervisors, if not also the Governor, are proper defendants. *See Ex parte Young*, 209 U.S. 123 (1908).

VIII. Reenfranchisement Must Comply with the Constitution

When a state decides to restore the right to vote to some felons but not others, the state must comply with the United States Constitution, including the First, Fourteenth, Fifteenth, Nineteenth, and Twenty-Fourth Amendments. It is no answer to say, as the State does, that a felon has no right to vote at all, so a state can restore the right to vote or not in the state's unfettered discretion. Both the Supreme Court and the Eleventh Circuit have squarely rejected that assertion.

In *Richardson v. Ramirez*, 418 U.S. 24 (1974), the plaintiffs were felons who had completed their terms in prison and on parole but who, under California law, were still denied the right to vote. The Supreme Court rejected their claim that this, without more, violated the Equal Protection Clause.

Even so, the Court did *not* say that because a state could choose to deny all felons the right to vote and to restore none of them, the state's decision to restore

the vote to some felons but not others was beyond the reach of the Constitution. Quite the contrary. The Court remanded the case to the California Supreme Court to address the plaintiffs' separate contention that California had not treated all felons uniformly and that the disparate treatment violated the Equal Protection Clause. *Id.* at 56. The remand was appropriate because when a state allows some felons to vote but not others, the disparate treatment must survive review under the Equal Protection Clause. The same is true here.

It is no surprise, then, that in the earlier appeal in this very case, the Eleventh Circuit took the same approach. The court made clear that the state's decision on which felons to reenfranchise was subject to constitutional review—indeed to heightened scrutiny. *See Jones*, 950 F.3d at 809, 817-23.

Similarly, in *Johnson v. Governor of Florida*, 405 F.3d 1214 (11th Cir. 2005) (en banc), the court upheld Florida's decision to disenfranchise all felons, subject to restoration of the right to vote by the Florida Executive Clemency Board. Again, though, the court did *not* say that a state's decision to restore the vote to some felons but not others was beyond constitutional review. Instead, citing an equal-protection case, the court made clear that even in restoring the right of felons to vote, a state must comply with other constitutional provisions. *See id.*, 405 F.3d at 1216-17 n.1 (citing *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 668 (1966)).

An earlier decision to the same effect is *Shepherd v. Trevino*, 575 F.2d 1110 (5th Cir. 1978). There the court said a state's power to disenfranchise felons does not allow the state to restore voting rights only to whites or otherwise to "make a completely arbitrary distinction between groups of felons with respect to the right to vote." *Id*. at 1114. As a decision of the Old Fifth Circuit, *Shepherd* remains binding in the Eleventh. *See Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir.1981) (en banc).

Other courts, too, have recognized that provisions restoring the voting rights of felons are subject to constitutional review. *See, e.g.*, *Harvey v. Brewer*, 605 F.3d 1067, 1079 (9th Cir. 2010) (O'Connor, J.) (holding the Equal Protection Clause applicable to Arizona's felon-restoration statute but rejecting the plaintiffs' claim on the merits; noting that a state could not restore the vote only to felons of a specific race or only to those over six feet tall); *Johnson v. Bredesen*, 624 F.3d 742, 746-50 (6th Cir. 2010) (holding the Equal Protection Clause applicable to Tennessee's felon-restoration statute but rejecting the plaintiffs' claim on the merits); *Owens v. Barnes*, 711 F.2d 25, 26-27 (3d Cir. 1983) (holding the Equal Protection Clause applicable to Pennsylvania's felon-restoration statute but rejecting the plaintiff's claim on the merits).

This unbroken line of decisions puts to rest any assertion that the State can simply do as it pleases when restoring the right to vote to some felons but not others. The State may now have abandoned that position.

IX. Inability to Pay

The case involves individuals with at least one felony conviction, with no conviction for murder or a sexual offense, who have completed all prison or jail terms and all terms of supervision, and whose right to vote under Amendment 4 and SB7066 turns entirely on LFOs. There are two distinctions that are critical to the constitutional analysis. The first is between individuals who have paid their LFOs and those who have not. The second involves only individuals who have unpaid LFOs; the distinction is between individuals who can afford to pay the LFOs and those who cannot. In *Jones*, the focus was on the second distinction. Both are at issue now. There are also equal-protection claims asserting race and gender discrimination, but they are addressed in later sections of this order.

A. The Proper Level of Scrutiny

In *Jones*, the Eleventh Circuit applied "heightened scrutiny" to the pay-to-vote system's treatment of citizens who are unable to pay the amount at issue—that is, to the distinction between citizens who are able to pay their LFOs and those who are not. The court said heightened scrutiny applies because the system creates "a wealth classification that punishes those genuinely unable to pay fees, fines, and restitution more harshly than those able to pay—that is, it punishes more harshly solely on account of wealth—by withholding access to the ballot box." *Jones*, 950 F.3d at 809.

The court derived this holding from a long line of Supreme Court decisions. *See, e.g.*, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996); *Bearden v. Georgia*, 461 U.S. 660 (1983); *Zablocki v. Redhail*, 434 U.S. 374 (1978); *Tate v. Short*, 401 U.S. 395 (1971); *Williams v. Illinois*, 399 U.S. 235 (1970); *Griffin v. Illinois*, 351 U.S. 12 (1956). No purpose would be served by repeating here the Eleventh Circuit's full analysis. *Jones* settles the issue, and even without *Jones*, the result would be the same—for the reasons set out in *Jones*, in the order that *Jones* affirmed, and in the many Supreme Court decisions on which those holdings relied. The pay-to-vote system, at least as applied to those unable to pay, is subject to heightened scrutiny.

Jones did not address the proper level of scrutiny for the pay-to-vote system as applied to citizens who are *able* to pay—that is, for the distinction between

citizens who have paid their LFOs and those who can afford to pay but have not done so. The system still impacts voting, a feature that, in any other circumstance, would trigger heightened scrutiny. Indeed, a wide array of state election laws, even those without a direct impact on the right to vote, are subject to more than typical rational-basis scrutiny. A court must identify and weigh "the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiffs seek to vindicate against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights." *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780,789 (1983) (internal quotation marks omitted)).

Nonetheless, in *Shepherd v. Trevino*, 575 F.2d 1110, 1115 (5th Cir. 1978), the court held a reenfrachisement law subject to only rational-basis scrutiny. The law afforded more favorable treatment to felons convicted in Texas state court than to those convicted in federal court. As *Jones* makes clear, *Shepard* does not require rational-basis scrutiny when other factors are present, including, for example, race (as noted in *Shepard* itself) or wealth (as involved in *Jones*). And *Shepard* predated *Anderson* and *Burdick*. Still, no later, binding decision directly contravenes *Shepard*. Absent other grounds for applying a higher level of scrutiny, *Shepard* remains a binding decision that requires application of only rational-basis scrutiny.

This order applies heightened scrutiny to the pay-to-vote system as applied to those unable to pay (as *Jones* requires) and rational-basis scrutiny to the system as applied to those able to pay (as *Shepard* requires).

B. Heightened Scrutiny

Heightened scrutiny requires an analysis of the legitimate governmental interests allegedly served by a challenged provision. Before entry of the preliminary injunction, the State's primary argument was that in deciding to reenfranchise some citizens but not others, a state can do as it wishes, with no meaningful constitutional review. As set out above, that is plainly incorrect. The State also briefly identified a single legitimate interest allegedly served by the pay-to-vote system: the interest in reenfranchising only those felons who have completed their sentences.

The State went further in its appeal of the preliminary injunction, identifying additional interests allegedly served by the pay-to-vote system, including punishment, enforcing its laws, debt collection, and administrative convenience. But the Eleventh Circuit held they all fell short. The evidence now in the record after a full trial further support the Eleventh Circuit's analysis.

The State has not identified any additional interests allegedly served by the pay-to-vote system. When reminded, late in closing argument at the end of the

trial, that the State had identified interests on appeal but nothing more in this court, the State said only that it stood by whatever it said on appeal.[80]

Jones thus settles the question whether the pay-to-vote system, as applied to citizens who are genuinely unable to pay their LFOs, survives heightened scrutiny. It does not. The plaintiffs are entitled to prevail on their claim that they cannot be denied the right to vote based on failure to pay amounts they are genuinely unable to pay.

C. Rational-Basis Scrutiny

Jones expressed "reservations" about whether the pay-to-vote system, as applied to those genuinely unable to pay, "would pass even rational basis scrutiny." *Jones*, 950 F.3d at 809. The record now shows the reservations were well founded. First, the evidence shows the system does not pass rational-basis scrutiny under the analysis set out in *Jones*. Second, the evidence shows additional irrationality: the State has shown a staggering inability to administer the system and has adopted a bizarre position on the amount that must be paid. The State's actions now call into question whether the pay-to-vote system is rational even as applied to those who are able to pay.

Jones noted two possible approaches to rational-basis scrutiny. First, the court said the issue might be whether the pay-to-vote system is rational as applied

[80] *See* Trial Tr., ECF No. 417 at 71-74.

to felons genuinely unable to pay their LFOs. Second, the court said the issue might be only whether the pay-to-vote system is rational as applied to the universe of felons with LFOs, including those who both can and cannot pay. On this second view, a plaintiff cannot assert an individual as-applied challenge to a provision that is subject to only rational-basis scrutiny; such a provision need only be rational in its typical application. *Jones* did not definitively resolve the question of which of these approaches is appropriate—and there was no need for a resolution, because the court applied heightened scrutiny.

Following the Eleventh Circuit's lead, this order takes on these rational-basis issues, first addressing which approach is proper, then addressing each in turn.

(1) The Proper Approach to Rational-Basis Scrutiny

The better view is that a plaintiff can assert an individual as-applied challenge to a provision that is subject to rational-basis review, just as a plaintiff can assert an as-applied challenge to a provision that is subject to strict or heightened scrutiny. The level of scrutiny affects the analysis on the merits, but there is no reason to preclude a plaintiff from asserting that a provision is unconstitutional as applied to the plaintiff, regardless of the proper level of scrutiny. Quite the contrary. Standing is a prerequisite to federal jurisdiction. To establish standing, a plaintiff must show a concrete and particularized injury. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548-50 (2016). This makes it more

appropriate, not less, for a plaintiff to focus on application of a challenged provision to the plaintiff, not just to others. It is thus not surprising that, as *Jones* recognized, the Supreme Court has on occasion "considered the rationality of a statute as applied to particular plaintiffs without opining on its rationality more generally." *Jones*, 950 F.3d at 814 (citing *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 435 (1985)).

To be sure, administrative convenience is a legitimate state interest that in most circumstances provides a rational basis for line-drawing, even when some affected individuals fall on the wrong side of the line—when some individuals are treated in a manner that, but for administrative convenience, would make little or no sense. But this is a merits issue, not a question of whether the plaintiff may assert an as-applied challenge in the first instance.

As it turns out, the outcome here is the same regardless of which approach to rational-basis scrutiny is applied.

(2) Rational-Basis Scrutiny as Applied to the Plaintiffs

First, if an individual as-applied challenge can be brought in a rational-basis case, *Jones* settles the question, holding the pay-to-vote system irrational as applied to individuals who are unable to pay:

> [I]f the question on rational basis review were simply whether the LFO requirement was rational as applied to the truly indigent—those genuinely unable to meet their financial obligations to pay fees and fines, and make restitution to the victims of their crimes—

> we would have little difficulty condemning it as irrational. Quite simply, Florida's continued disenfranchisement of these seventeen plaintiffs is not rationally related to any legitimate governmental interest.

Jones, 950 F.3d at 813.

(3) Rational-Basis Scrutiny of the Mine-Run Case

Jones said the outcome under the second approach—the approach looking not at application of the pay-to-vote requirement to those unable to pay but instead to all felons affected by the requirement—might turn on the proportion of felons on each side of the line. The court said:

> If rational basis review, then, generally is designed to ask only if the codification has some conceivable relation to a legitimate interest of the state, we would readily say that the LFO requirement as applied to the whole class of felons is rational. The analysis becomes more difficult, however, when the requirement is irrational as applied to a class of felons genuinely unable to pay *if* this class of the impecunious actually resembles the mine-run felon who has otherwise completed the terms of his sentence. Put another way, if the LFO requirement is irrational as applied to those felons genuinely unable to pay, and those felons are in fact the *mine-run* of felons affected by this legislation, then the requirements may be irrational as applied to the class as a whole.

Id. at 814 (emphasis in original).

The record now shows that the mine-run of felons affected by the pay-to-vote requirement are genuinely unable to pay.[81] I find as a fact that the

[81] *See* Trial Tr., ECF No. 388 at 61-62, 73-88; Trial Tr., ECF No. 396 at 16-23, 29-34, 37-40, 42-44, 84, 90-93, 99-100; Trial Tr., ECF No. 393 at 157-162; Pls.' Ex.

overwhelming majority of felons who have not paid their LFOs in full, but who are otherwise eligible to vote, are genuinely unable to pay the required amount, and thus, under Florida's pay-to-vote system, will be barred from voting solely because they lack sufficient funds.[82]

Indeed, given the State's other methods for enforcing the requirement to pay, there is no reason to believe—and the Legislature had no reason to believe—that any significant number of felons were able to pay but chose not to. The State's other enforcement methods include not only those available to ordinary creditors but also the ability to suspend a felon's driver's license and the ability to imprison a felon who is still on supervision and chooses not to pay.

(4) Administrative Irrationality

The analysis to this point has tracked *Jones*. First, as applied to those who are unable to pay, the pay-to-vote system is subject to heightened scrutiny and fails. Second, as applied to those who are unable to pay, the pay-to-vote system fails even rational-basis scrutiny. Third, if as-applied challenges are not available to a subset of those affected by a provision that is subject to only rational-basis

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894, ECF No. 360-48; Pls.' Ex. 299, ECF No. 349-5; Pls.' Ex. 156, ECF No. 348-15 at 4-7, 10-18; Pls' Ex. 298, ECF No. 349-41; Pls.' Ex. 462, ECF No. 353-27; Pls.' Ex. 876, ECF No. 360-34.

[82] The evidence supporting this finding includes the expert testimony of Dr. Daniel A. Smith. I credit Dr. Smith's testimony in full.

scrutiny, the pay-to-vote system still fails, because the system is irrational as applied to the mine-run of affected felons and thus is irrational as a whole.

What has been said to this point would be enough to resolve this claim. But there is more. The State has shown a staggering inability to administer the pay-to-vote system and, in an effort to reduce the administrative difficulties, has largely abandoned the only legitimate rationale for the pay-to-vote system's existence.

The administrative difficulties arise primarily at three levels.

1. Determining the Original Obligation

First, many felons do not know, and some have no way to find out, the amount of LFOs included in a judgment.[83] In recent years, most Florida counties, but not all, have used a standard form of judgment. If a felon knows to obtain from the county of conviction a copy of the judgment, the original amount of LFOs will usually, but not always, be clear.[84]

Few individuals will know, however, that they must obtain copies of their judgments. Most will start with the internet or telephone or perhaps by going in

[83] *See* Trial Tr., ECF No. 396 at 51-58, 81-83, 92, 98-99; Trial Tr., ECF No. 393 at 168-69, 172; Prelim. Inj. Hr'g Tr., ECF No. 204 at 163-65; *see also* Pls.' Ex. 7, ECF No. 152-6 at 3.

[84] *See* Trial Tr., ECF No. 396 at 102; Trial Tr., ECF No. 393 at 187; *see, e.g.*, Defs.' Ex. 17C, ECF No. 148-21 at 4; Defs.' Ex. 17F, ECF No. 148-23 at 10.

person to the office of the county Supervisor of Elections or Clerk of Court. Trying to obtain accurate information in this way will almost never work. A group of well-trained, highly educated individuals—a professor specializing in this field with a team of doctoral candidates from a major research university—made diligent efforts over a long period to obtain information on 153 randomly selected felons.[85] They found that information was often unavailable over the internet or by telephone and that, remarkably, there were inconsistencies in the available information for all but 3 of the 153 individuals.[86]

For felons who are astute enough or learn that they need copies of their judgments to determine how much they must pay to vote, the problem is not solved. Few felons already have copies of their judgments, especially after any term in custody or when years or decades have passed.[87] Many counties charge a fee for a copy of a judgment.[88] Many felons cannot afford to pay a fee, and

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[85] *See* Pls.' Ex. 892, ECF No. 360-47; *see also* Trial Tr., ECF No. 388 at 143-206, 221-25.

[86] *See* Pls.' Ex. 892, ECF No. 360-47 at 9-10, 38-56, 67-68; *see also* Trial Tr., ECF No. 388 at 185-86. I credit the testimony of Dr. Traci R. Burch, the professor responsible for this research.

[87] *See* Trial Tr., ECF No. 396 at 56; Prelim. Inj. Hr'g Tr., ECF No. 204 at 163-65, 172.

[88] *See* Trial Tr., ECF No. 388 at 229; Pls.' Ex. 892, ECF No. 360-47 at 16.

requiring a potential voter to pay a fee that is not part of a felony sentence presents its own set of constitutional issues.

In any event, for older felonies, a copy of the judgment may not be available at all, or may be available only from barely legible microfilm or microfiche or from barely accessible archives, and only after substantial delay.[89] As one example, a Supervisor of Elections said she had been unable to assist a person with a 50-year-old conviction for which records could not be found; the Supervisor could not determine the person's eligibility to vote.[90] And even when records can eventually be found, delaying a voter's ability to register presents its own set of constitutional issues.

Even if a felon manages to obtain a copy of a judgment, the felon will not always be able to determine which financial obligations are subject to the pay-to-vote requirement. Judgments often cover multiple offenses, with sentences imposed simultaneously, often without matching financial obligations with specific offenses. The offenses may include felonies on which a conviction is entered, felonies on which adjudication is withheld, and misdemeanors. Only felonies on which a conviction is entered disqualify a felon from voting and thus may be

[89] *See* Trial Tr., ECF No. 396 at 81-83; Trial Tr., ECF No. 393 at 170-72, 186-88.

[90] Trial Tr., ECF No. 393 at 19-20.

subject to the pay-to-vote system. But when a judgment does not allocate financial obligations to specific offenses, it is impossible to know what amount must be paid to make the person eligible to vote.

An example well illustrates the problem. The Director of the Division of Elections—the ranking state official actively working on these issues—was shown at trial the judgment of Mr. Mendez, one of the 17 named plaintiffs.[91] The judgment applies to both a felony and a misdemeanor and includes a $1,000 fine, but the judgment does not indicate whether the fine applies to the felony or the misdemeanor or partly to one and partly to the other. The Director said she did not know whether Mr. Mendez would be allowed to vote only upon payment of the fine—that this was an issue that would require further analysis.[92]

In sum, 18 months after adopting the pay-to-vote system, the State still does not know which obligations it applies to. And if the State does not know, a voter does not know. The takeaway: determining the amount of a felon's LFOs is sometimes easy, sometimes hard, sometimes impossible.

2. Determining the Amount that Has Been Paid

Determining the amount that has been paid on an LFO presents an even greater difficulty. It is often impossible.

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[91] *See* Trial Tr., ECF No. 408 at 190-200; Defs.' Ex. 17N, ECF No. 148-31.

[92] Trial Tr., ECF No. 408 at 197-98.

It does not help that the State has adopted two completely inconsistent methods for applying payments to covered obligations. This order addresses each method in turn. For convenience, the order attaches labels to each method that, while not entirely accurate, will make explanations less cumbersome.

(a) The Actual-Balance Method

The most obvious method for determining whether an obligation has been paid is to determine the original amount of the obligation and to deduct any principal payments that have been made on the obligation. This happens every day across the nation and indeed across the world. It happens for mortgages, car loans, student loans, credit cards, and all manner of installment obligations. When payments are applied in this manner, what remains is the actual balance owed on the obligation. This order refers to this method of applying payments as the actual-balance method.

The most obvious method for determining the amount that must be paid under the State's pay-to-vote system is the actual-balance method. Suppose, for example, a judgment requires a felon to pay $300. The felon is unable to pay all at once and so sets up a payment schedule. The county charges, and the felon pays, a $25 fee for setting up the payment schedule.[93] In due course the county turns the

[93] Trial Tr., ECF No. 396 at 29.

matter over to a collection agency.[94] The felon pays $100 to the collection agency, which keeps $40 as its fee and turns over $60 to the county for application on the felon's debt. The county's records will show the outstanding balance as $240, calculated as $300 - $60. Using the actual-balance method, the felon will be required to pay $240 to vote.

The hypothetical is realistic in most respects. Many counties, perhaps most, assess a $25 fee for setting up a payment plan.[95] Most counties, perhaps all, routinely turn accounts over to collection agencies. Collection agencies routinely charge fees of up to 40% and routinely remit to a county only the net remaining after deducting the fee.[96] County records routinely show only the net payment, not the amount retained by the collection agency.[97] The only unrealistic part of the

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[94] *Id.* at 29, 32, 93; *see also* Trial Tr., ECF No. 393 at 201-02, 206-07. Some of the individual plaintiffs have had their outstanding LFOs sent to a collections agency. *See, e.g.*, Pls.' Ex. 24, ECF No. 152-23; Pls.' Ex. 11, ECF No. 152-10; Trial Tr., ECF No. 388 at 41-42; Trial Tr., ECF No. 397 at 66-67.

[95] *See* Fla. Stat. § 28.246(5); *see also* Trial Tr., ECF No. 396 at 29; Pls.' Ex. 15, ECF No. 152-14 at 13.

[96] *See* Fla. Stat. §§ 938.35, 28.246(6); Trial Tr., ECF No. 393 at 190, 206-07; Prelim. Inj. Hr'g, ECF No. 204 at 96-98.

[97] Trial Tr., ECF No. 388 at 221-25; Trial Tr., EF No. 393 at 190, 206-07; Prelim. Inj. Hr'g Tr., ECF No. 204 at 98.

hypothetical is this: in recent years, all felons have been assessed fees well in excess of $300.

When testifying at trial, the Assistant Director of the Division of Elections initially testified, in effect, that the actual-balance method is the proper method for determining how much a felon must pay to vote.[98] In response to a similar hypothetical—the same as posed above but without the $25 fee for setting up a payment plan—the Assistant Director testified that the felon would be required to pay $240 to vote, calculated as the initial $300 obligation less the net payment of $60.[99] The Assistant Director also acknowledged an email she sent to a Supervisor of Elections in September 2019 using the actual-balance method and concluding, based on this method, that a specific felon was not eligible to vote.[100]

In November 2019, the Work Group that SB7066 established to study administration of this system made recommendations.[101] One was that the State establish a system for clearly matching payments to the specific obligations to which they applied. This matters under the actual-balance method but not under the

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[98] Trial Tr., ECF No. 413 at 153-55.

[99] *Id.*

[100] *Id.* at 157-161; *see also* Pls.' Ex. 854, ECF No. 360-12.

[101] *See* Pls.' Ex., 279 & Defs' Ex. 27, ECF No. 240-1 at 19.

State's newly adopted alternative method, as addressed below. The recommendation thus makes clear that the Work Group believed the actual-balance method was the proper method for determining the amount that must be paid to vote.

The actual-balance method was also consistent with the State's position in this litigation. In opposing the preliminary injunction, the State said a felon could call the Clerk of Court to determine the "outstanding" amount of fees and costs.[102] This could only refer to the actual-balance method, which requires the Clerk to know the net amount of payments that have been applied on an obligation, not the gross amount of all payments, whether or not applied on the obligation, as required for application of the State's alternative method, as addressed below.

The record includes an example. A Clerk's records showed a payment of $76.92.[103] The plaintiffs' expert managed to work backwards and figure out that, in all likelihood, this resulted from a $100 payment to a collection agent, whose fee agreement allowed it to retain 30% of the net payment.[104] Dividing $100 by 1.3 yields a payment to the Clerk of $76.92 and a fee to the agent of $23.08. But

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[102] *See* ECF No. 132 at 28.

[103] *See* Trial Tr., ECF No. 388 at 199-202, 221-25.

[104] *Id.* at 221-25.

nothing in the Clerk's records showed this is what happened. If one's goal was to determine total payments, rather than the outstanding balance, there would be no way to do it—unless, perhaps, an expert assisted by a team of Ph. D. candidates had time to pour over records and work backwards. This could not have been what the State meant.

Similarly, in the State's brief in the Eleventh Circuit, the State repeatedly said the requirement was to pay any "outstanding" LFOs.[105]

Nothing in this record suggests that before March 2020, anyone believed or even considered it possible that the amount a felon would be required to pay to vote would properly be calculated using anything other than the actual-balance method. It is not surprising, then, that one Supervisor of Elections testified she had never heard of the alternative method the State now embraces.[106]

As the litigation progressed, though, it became evident that the actual-balance method presented substantial, perhaps insurmountable constitutional difficulties. The State's records were incomplete and inconsistent, especially for older felonies, and often did not match payments with obligations. This made it

[105] *See, e.g.*, *Jones v. Govenor of Fla.*, No. 19-14551, Appellant's Br. at 19, 41, 43.

[106] Trial Tr., ECF No. 413 at 169-70; Trial Tr., ECF No. 393 at 38-39,

impossible to calculate the balance owed in many cases. An expert analysis showed inconsistencies for 98% of a randomly selected group of felons.[107]

The case of one named plaintiff, Clifford Tyson, is illustrative. An extraordinarily competent and diligent financial manager in the office of the Hillsborough County Clerk of Court, with the assistance of several long-serving assistants, bulldogged Mr. Tyson's case for perhaps 12 to 15 hours.[108] The group had combined experience of over 100 years.[109] They came up with what they believed to be the amount owed. But even with all that work, they were unable to explain discrepancies in the records.[110]

Other examples abound. Restitution is usually payable only to the victim directly.[111] A sentence often, indeed usually, includes an order prohibiting the defendant from contacting the victim.[112] The defendant may have no record of amounts paid, especially if they were paid years or decades ago, and may never

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[107] *See* Pls.' Ex. 892, ECF No. 360-47 at 9.

[108] Trial Tr., ECF No. 393 at 185.

[109] *Id.*

[110] *Id.* at 183-86.

[111] *Id.* at 157; Prelim. Inj. Hr'g Tr., ECF No. 204 at 104-05.

[112] *See, e.g.*, Trial Tr., ECF No. 397 at 60.

have known how the victim applied them—whether, for example, amounts were credited to interest, and if so, in what amount. The State has no record of restitution payments at all, except in the smaller number of cases in which restitution is payable to or through the Clerk of Court or Department of Corrections.[113]

When this information is unknown, it may be unknowable. Individual victims may have died or moved to parts unknown, and corporate victims may have gone out of business or been merged into other entities. Indeed, there may be nobody to pay, even if a felon is willing and able to make a payment. Insisting on payment of amounts long forgotten seems an especially poor basis for denying the franchise.

In addition, in many cases, probably most, a felon could not pay the outstanding balance without being required to pay additional amounts—amounts that were not included in a sentence and that a felon could not, under any plausible theory, be required to pay as a condition of voting.

Two examples illustrate the problem.

First, suppose a felon owes $100 and wishes to pay it to become eligible to vote. If the debt has been turned over to a collection agency, the Clerk of Court will not accept a payment. The felon will have to pay the collection agency a

[113] Trial Tr., ECF No. 393 at 157; Prelim. Inj. Hr'g Tr., ECF No. 204 at 104-05.

greater amount, as much as $166.67, to produce a net payment of $100 to the Clerk. It is hard to explain why a felon should have to pay the additional $66.67 to be able to vote.

Second, if restitution is payable not directly to the victim but through the Clerk of Court or Department of Corrections, the Clerk or Department imposes a charge for processing the payment—sometimes a specific amount, sometimes a percentage. The record includes, as an example, a 4% fee.[114] On that basis, a felon who owes $100 in restitution will have to pay $104 to vote—not just the $100 included in the sentence. It is hard to explain why a felon should have to pay the additional $4 to be able to vote. Indeed, it is hard to explain why the $4 charge is not a tax prohibited by the Twenty-Fourth Amendment.

That the $4 fee is a tax can be shown by comparing a purchase to a theft. If an individual buys a grill for $100, the state exacts a 6% sales tax; the buyer must pay $106. If an individual steals the grill, the court will require restitution of the same $100, and, upon payment, the state may exact a 4% charge. If the $6 charge is a tax, as it plainly is, it is hard to explain why the $4 charge is not also a tax. There is no plausible theory under which a felon can be required to pay a $4 tax to vote. The same analysis applies when the State's take is not 4% but a flat fee.

[114] *See, e.g.*, Pls.' Ex. 11, ECF No. 152-10 at 3-4, 34-38.

The takeaway: under the actual-balance method, determining what part of an LFO has been paid is sometimes easy, sometimes hard, sometimes impossible.

(b) The Every-Dollar Method

To avoid some of these intractable constitutional difficulties, in March 2020, less than two months before the trial, the State abruptly changed course.[115] The State adopted what I referred to at trial as the "first-dollar method," an appellation the parties adopted, not as accurate but as convenient, and perhaps out of deference to the court. A better description is the "every-dollar method," a description that is used in this order.

The State decided, entirely as a litigating strategy, that instead of having to pay the outstanding balance of a specific obligation, an individual would be required only to make total payments on any related obligation, whether or not included in the sentence itself, that added up in the aggregate to the amount of the obligations included in the sentence.[116] Put differently, the State decided to retroactively reallocate payments, now applying every payment to the obligations in the original sentence, regardless of the actual purpose for which the payment

[115] *See* Defs.' Ex. 167, ECF No. 343-1; Defs.' Ex. 144, ECF No. 352-11; *see also* Trial Tr., ECF No. 408 at 127-30; Trial Tr., ECF No. 413 at 169-70.

[116] Trial Tr., ECF No. 413 at 169; Trial Tr., ECF No. 308 at 130, 165, 170.

was made or how it was actually applied. And the State decided to treat future payments the same way.

The approach can be illustrated with the same hypothetical set out above. Recall that the judgment required payment of $300; the county imposed, and the felon paid, a $25 fee to set up a payment plan; and the felon paid $100 to a collection agency, which kept $40 and remitted $60 to the county. This left an actual balance of $240, calculated as $300 - $60. Now, though, the State says the individual needs to pay only $175 to vote, calculated as $300 - $25 - $100. The State treats the $25 fee that the felon paid to set up a payment plan not as having been paid on that fee but as having been paid on the original $300 obligation. And the State treats the entire $100 paid to the collection agency as having been paid on the original $300 obligation, even though $40 of that amount never made it to the county, was not credited on the $300 obligation, and is not even reflected in the county's records.[117]

If the every-dollar approach accomplished its goal of shoring up the State's position in this litigation, it would present, for the affected part of the plaintiffs' claims, a voluntary-cessation issue. A "defendant's voluntary cessation of allegedly unlawful conduct ordinarily does not suffice to moot a case." *Friends of*

[117] *See* Trial Tr., ECF No. 393 at 190-91, 206-07; Trial Tr., ECF No. 388 at 221-25; Prelim. Inj. Hr'g, ECF No. 204 at 97-98.

the Earth, Inc. v. Laidlaw Envtl. Servs., Inc., 528 U.S. 167, 174 (2000). The same is true for an individual claim within a case. A claim becomes moot only "if subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id*. at 189 (internal quotation marks and citations omitted).

When the defendant is a governmental entity, "there is a rebuttable presumption that the objectionable behavior will *not* recur." *Troiano v. Supervisor of Elections in Palm Beach Cty.*, 382 F.3d 1276, 1283 (11th Cir. 2004) (emphasis in original). Relevant considerations include whether the change in the governmental entity's position was adopted only in response to litigation and whether the change has been incorporated into a statute or rule or formal policy. *See Rich v. Sec'y, Fla. Dep't of Corr.*, 716 F.3d 525, 531-32 (11th Cir. 2013); *Atheists of Fla., Inc. v. City of Lakeland*, 713 F.3d 577, 594 (11th Cir. 2013). Here the every-dollar method was adopted only in response to the litigation; it is not set out in a statute or rule or even in a formal policy; and it could be abandoned just as easily as it was adopted. The State could easily revert to the actual-balance method.

As it turns out, the every-dollar method makes the pay-to-vote system's constitutional deficiencies worse, not better; the State's change of course undermines—it does not shore up—the State's position. This makes the discussion of voluntary cessation largely academic.

The explanation is this. The State's principal justification for the pay-to-vote system is that a felon should be required to satisfy the felon's entire criminal sentence before being allowed to vote—that the felon should be required to pay the felon's entire debt to society. But the every-dollar method gravely undermines this debt-to-society rationale. Under the every-dollar approach, most felons are no longer required to satisfy the criminal sentence. Four illustrations make the point.

First, recall that in the hypothetical set out twice above, the judgment required payment of $300; the county imposed, and the felon paid, a $25 fee to set up a payment plan; and the felon paid $100 to a collection agency, which kept $40 and remitted $60 to the county. This left an actual balance of $240, calculated as $300 - $60. Under the every-dollar approach, though, the State says the individual can vote upon payment of only $175, calculated as $300 - $25 - $100. The $175 payment will leave a balance of $65 still owed on the criminal sentence—an amount whose payment can be enforced as part of the criminal case. But the State says the felon can vote. The debt to society, defined as compliance with the sentence, has not been paid.

Second, recall that in a different hypothetical set out above, $100 in restitution could be paid only by tendering $104 to the entity designated to collect it, perhaps the Department of Corrections. The Department would take its 4% fee, or $4, and send the remaining $100 forward as payment to the victim in full. Under

the every-dollar approach, however, the individual could vote upon payment of just $100, not $104. From a $100 payment, the Department would still take its 4% fee and so would apply the payment as $3.85 to the Department and $96.15 to the victim. The State says the felon could vote, even though the victim would still be owed $3.85.[118] The same analysis would apply if the Department charged a flat fee, not a percentage. Either way, the debt to society, defined as compliance with the sentence, would not have been paid.

Third, Mr. Tyson was convicted of multiple felonies long ago. He was sentenced to probation. The sentences included restitution, now paid in full, and fees with an outstanding balance Mr. Tyson is unable to pay. While on probation, Mr. Tyson was required to pay, and sometimes did pay, $10 per month toward the cost of supervision.[119] As the State acknowledges, when a felon is required to pay the cost of supervision, this is not an amount that must be paid to vote; the amount is not part of the sentence but instead accrues later.[120] Under the every-dollar method, though, the amount is credited against the amount that must be paid to

[118] *See, e.g.*, Trial Tr., ECF No. 408 at 173-75.

[119] *See* Prelim. Inj. Hr'g Tr., ECF No. 204 at 174-75.

[120] *See* ECF No. 408 at 103; Fla. Stat. § 98.0751(2)(a)5.c. (stating that "all terms of sentence" does not include amounts that "accrue after the date the obligation is ordered as part of the sentence").

vote. Mr. Tyson has not paid all the LFOs that were imposed as part of his sentences. But under the every-dollar method, he may be eligible to vote, even though his debt to society, defined as compliance with the sentence, has not been paid.

Fourth, Christina Paylan's sentence included $513 in fees she has not paid.[121] She took an appeal and paid $1,554.65 toward the cost of preparing the record. The fact that she pursued an appeal should have nothing to do with whether she can vote. But under the State's every-dollar approach, she is eligible to vote, even though her LFOs were not paid, because her payment for appellate costs exceeded the LFOs. She is eligible to vote, that is, even though her debt to society, defined as compliance with the sentence, has not been paid.

This fourth example shows just how far the State is willing to stray from any approach that makes sense. Consider three individuals who committed the same crime and drew the same sentence, including the same LFOs. All three are out of prison and off supervision. The first individual has money, pays the LFOs, and can vote. The second and third have no money, owe the same amount on their LFOs, and cannot pay it. The only difference between the second and third is this: the second found a relative who put up funds for an appeal, while the third took no appeal. Under the State's pay-to-vote system, coupled with the every-dollar

[121] *See* Pls.' Ex. 854, ECF No. 360-12; Trial Tr., ECF No. 413 at 157-60.

method, the first and second individuals can vote; the third cannot. The first can vote because she has money. The second can vote because she took an appeal. This should not disqualify a person from voting—but it also should not make a person eligible who otherwise would not be. The third cannot vote because she does not have money and did not take an appeal. This result is bizarre, not rational.

The amounts in some of these examples are small, but the numbers could be multiplied by 10 or 100 or 1,000, and the principle would be the same. Moreover, the Supreme Court has made clear that when the issue is paying to vote, even $1.50 is too much. *See Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 664 n.1, 668 (1966). On voting issues, the old British maxim holds true: in for a penny, in for a pound.

Many more examples could be given showing the irrationality of the pay-to-vote system when coupled with the every-dollar method. Individuals will be allowed to vote with unpaid restitution, even when they can afford to pay. The same will be true for fines, fees, and costs. In sum, the every-dollar method thoroughly departs from, and thus undermines, the debt-to-society rationale.

What the Fifth Circuit said of a different reenfrachisement argument is equally true of Florida's every-dollar argument: "The ingenuity of this argument is matched only by its disingenuousness." *Shephard v. Trevino*, 575 F.2d 1110, 1113 (5th Cir. 1978). The every-dollar approach is contrary to the State's original

understanding, was conceived only in an effort to shore up the State's flagging position in this litigation, and renders the pay-to-vote system more irrational, not less.

In any event, the takeaway for the administrability analysis is this: even using the every-dollar method, determining the amount of payments allocable to LFOs is sometimes easy, sometimes hard, sometimes impossible.

3. Processing Registrations in the Division of Elections

The Secretary of State's Division of Elections screens all newly registered voters for felony convictions.[122] The Division also periodically screens previously registered voters to determine whether they have new convictions.[123]

Before Amendment 4, the process consisted primarily of matching two sets of data, one consisting of registrants, the other of felons. The Division ordinarily required matches on at least three of four data points: full name, driver's license number, social security number, and state identification card number.[124] If there was a match—the registrant was a felon—the Division needed only to check on restoration of rights, either through the Florida Executive Clemency Board or

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[122] *See* Defs.' Ex. 16, ECF No. 148-16 at 6-8; *see also* Fla. Stat. § 98.075(5).

[123] *See* Defs.' Ex. 16, ECF No. 148-16 at 6-8; *see also* Fla. Stat. § 98.075(5).

[124] Defs.' Ex. 16, ECF No. 148-16 at 7-8.

under another state's laws.[125] The Division reported to the proper Supervisor of Elections any match that, in the Division's terminology, was not "invalidated" through restoration of rights. The Division was staffed to handle the workload.

Amendment 4 and SB7066 increased the workload by several orders of magnitude. The question was no longer just whether there was a match that had not been invalidated by the Clemency Board or under another state's laws. Now the Division had to address three new questions: whether a matched individual had a felony conviction for murder or a sexual offense, whether the individual was in custody or on supervision, and whether the individual had unpaid LFOs.[126]

Florida law requires a budget analysis in connection with proposed legislation. The analysis for the bill that was rolled into SB7066 projected a need for 21 additional employees to process the increased workload.[127] The estimate was almost surely too low. But the Legislature allocated no funds for additional employees, and the Division has hired none.

As of the time of trial, the Division has 85,000 pending registrations of individuals with felony convictions—registrations in need of screening for murder

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[125] *Id.* The Division uses an unreliable website to assess other states' laws.

[126] *See id.* at 8-9.

[127] Pls.' Ex. 313, ECF No. 349-14 at 27.

and sexual offenses, for custody or supervision status, and for unpaid LFOs.[128] In the 18 months since Amendment 4 was adopted, the Division has had some false starts but has completed its review of not a single registration. Indeed, while the Division has worked on murder and sexual offenses and on custody or supervision status, the Division has not even begun screening for unpaid LFOs, with this exception: the Division's caseworkers have preliminarily screened the 17 named plaintiffs for unpaid LFOs, and the Division Director has reviewed the work on some but not all of the 17. None of the 17 is ready to go out.[129]

Even without screening for unpaid LFOs, all the Divison's caseworkers combined can process an average of just 57 registrations per day.[130] The LFO work, standing alone, is likely to take at least as long as—probably much longer than—the review for murder and sexual offenses and for custody or supervision status. Even at 57 registrations per day, screening the 85,000 pending registrations will take 1,491 days. At 261 workdays per year, this is a little over 5 years and 8 months. The projected completion date, even if the Division starts turning out work today, and even if screening for LFOs doesn't take longer than screening for

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[128] Trial Tr., ECF No. 408 at 185-86; Trial Tr., ECF No. 413 at 84.

[129] Trial Tr., ECF No. 408 at 199-200.

[130] *Id.* at 146, 185-86.

murders, sexual offenses, custody, and supervision, is early in 2026. With a flood of additional registrations expected in this presidential election year, the anticipated completion date might well be pushed into the 2030s.[131]

To be sure, days before the trial began, the Department of State entered into an interagency agreement with the Florida Commission on Offender Review. The Commission apparently will provide staffing assistance. But it is unlikely the assistance will offset the work needed to process LFOs, let alone cut into the work needed on murder and sexual offenses and custody or probation status. The Division's figure of 57 registrations per day is still the best estimate of the overall processing rate. The State has provided no evidence that, even with the Commission's help, it will be able to complete its review of the pending and expected applications earlier than 2026.[132]

The takeaway: 18 months after Amendment 4 was adopted, the Division is not reasonably administering the pay-to-vote system and has not been given the resources needed to do so.

4. The Deterrent Effect on Registrants

Because of the State's failure to administer the pay-to-vote system reasonably, many affected citizens, including some who owe amounts at issue and

[131] *See* Trial Tr., ECF No. 388 at 104-05.

[132] *See* Defs.' Ex. 168, ECF No. 343-2; *see also* Trial Tr., ECF No.408 at 147.

some who do not but cannot prove it, would be able to vote or even to register only by risking criminal prosecution. It is likely that if the State's pay-to-vote system remains in place, some citizens who are eligible to vote, based on the Constitution or even on the state's own view of the law, will choose not to risk prosecution and thus will not vote.

The State says felons who register in good faith need not fear prosecution and those who are eligible will not be deterred from registering or voting. The assertion rings hollow. It is true that a conviction for a false affirmation in connection with voting requires a showing of willfulness, *see* Fla. Stat. § 104.011, and a conviction for illegally voting requires a showing of fraud, *see id*. § 104.041. For at least four reasons, though, the State's confidence that prospective voters will not be unjustifiably deterred is misplaced.

First, SB7066 provides immunity from prosecution for those who registered in good faith between January 8, 2019, when Amendment 4 took effect, and July 1, 2019, when SB7066 took effect. A proposal to add a good-faith provision for other registrants was rejected.[133]

[133] *See* Rep. Geller, Proposed Amendment 239235 to HB 7089 (2019), available at https://www.flsenate.gov/Session/Bill/2019/7089/Amendment/239235/PDF.

Second, the State's registration form includes a warning that a false statement is a felony; the warning omits the statutory requirement for willfulness.[134] Accurate advice of the penalties for submitting a false registration is proper, indeed required. *See* 52 U.S.C. § 20507(a)(5). But here the advice is not complete; an individual attempting to register is told, in effect, that the individual will have committed a felony if it turns out the individual was not eligible, regardless of willfulness. The deterrent effect is surely strong on individuals who have served their time, gone straight, and wish to avoid entanglement with the criminal-justice system.[135] Indeed, the deterrent effect is surely strong for individuals who are in fact eligible but are not sure of that fact. That the Director of the Division of Elections cannot say who is eligible makes clear that some voters also will not know.

Third, the record includes evidence that a local official—one whose home address was protected from public disclosure under Florida law—used her City

[134] *See* Pls.' Ex. 35, ECF No. 152-33 (pre-SB7066 registration form); Pls.' Ex. 36, ECF No. 152-34 (post-SB7066 registration form); Defs.' Ex. 169, ECF No. 343-3 (April 17, 2020 draft registration form); Defs.' Ex. 170, ECF No. 343-4 (April 17, 2020 draft registration form).

[135] *See* Trial Tr., ECF No. 397 at 73; *see also* Prelim. Inj. Hr'g Tr., ECF No. 204 at 172, 153.

Hall address when registering to vote.[136] This was improper but perhaps understandable; some public officials and law enforcement officers whose jobs make them vulnerable to retaliation use office addresses for mail and other purposes. The official was charged and entered into a deferred-prosecution agreement. In Florida, where any voter can challenge any other voter's eligibility, and where a mistake can lead to a prosecution, it is hardly surprising that a felon who is newly eligible to vote but unsure of the rules would decide not to risk it.

Fourth, a Supervisor of Elections who advocated voter registration advised one or more prospective voters who were unsure of their eligibility to submit registrations so the issues could be addressed. The Secretary of State at that time—not the current Secretary—sent the Supervisor a strident letter instructing him not to do this again.[137] This casts doubt on the State's professed tolerance for good-faith mistakes or even for good-faith efforts to determine eligibility.

The takeaway: it is certain that some eligible voters will choose not to vote because of the manner in which the State has administered—and failed to administer—the pay-to-vote system.

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[136] *See* Pls.' Ex. 288, ECF No. 348-25; Pls.' Ex. 289, ECF No. 286-19.

[137] Pls.' Ex. 82, ECF No. 152-79.

(5) A Concluding Word on Rational-Basis Scrutiny

The State's inability to reasonably administer the pay-to-vote system, including its inability in many instances even to determine who is eligible to vote and who is not, renders the pay-to-vote system even more irrational than it otherwise would be.

Far from undermining the Eleventh Circuit's conclusion that the pay-to-vote system is unconstitutional as applied to those unable to pay, the evidence now further supports that view and, if anything, calls into question the conclusion that the system is rational even as applied to those who are able to pay.

A note is in order, too, about the interplay between this analysis and the defendants' assertion in the prior appeal, addressed alternatively in the Eleventh Circuit's opinion, that an as-applied challenge to a provision subject to only rational-basis scrutiny looks not to the specific plaintiffs but to the mine-run of cases. If that were correct—as set out above, it is not—the conclusion would be inescapable that the entire pay-to-vote system is unconstitutional, because the record now shows that the mine-run case is a person who is genuinely unable to pay. In *Jones*, the Eleventh Circuit said the State almost conceded the point—that is, said that if the mine-run case was a person unable to pay, the entire system would fall. *See Jones*, 950 F.3d at 814.

The State has offered only three justifications for the pay-to-vote system. The first is the punishment or debt-to-society rationale—that a felon should be required to satisfy the felon's entire criminal sentence before being allowed to vote. But this does not justify requiring payment by those unable to pay, and the State has itself severely undercut this rationale by adopting the every-dollar method, under which many felons will be allowed to vote before paying all amounts due on their sentences.

The second purported justification is the debt-collection rationale—that the system provides an incentive to pay the amounts at issue. But one cannot get blood from a turnip or money from a person unable to pay. And the State has far better ways to collect amounts it is owed. Moreover, one might well question the legitimacy of the State's interest in leveraging its control over eligibility to vote to improve the State's financial position.

The third purported justification is administrative convenience—that the state should be able to pursue the first two goals efficiently. This third justification is entirely derivative of the other two; if the debt-to-society and debt-collection rationales cannot sustain the pay-to-vote system, neither can administrative convenience. This order will improve, not compromise, the administrability of the State's system.

The pay-to-vote system does not survive heightened or even rational-basis scrutiny as applied to individuals who are unable to pay and just barely survives rational-basis scrutiny as applied even to those who are able to pay.

X. Poll Tax or Other Tax

The Twenty-Fourth Amendment to the United States Constitution provides that a citizen's right to vote in a federal election "shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax." The State says the amendment does not apply to felons because they have no right to vote at all, but that makes no sense. A law allowing felons to vote in federal elections but only upon payment of a $10 poll tax would obviously violate the Twenty-Fourth Amendment.

Florida has not, of course, explicitly imposed a poll tax. The financial obligations at issue were imposed as part of a criminal sentence. The obligations existed separate and apart from, and for reasons unrelated to, voting. Every court that has considered the issue has concluded that such a preexisting obligation is not a poll tax. *See, e.g.*, *Johnson v. Bredesen*, 624 F.3d 742, 751 (6th Cir. 2010); *Harvey v. Brewer*, 605 F.3d 1067, 1080 (9th Cir. 2010); *Thompson v. Alabama*, 293 F. Supp. 3d 1313, 1332-33 (M.D. Ala. 2017); *Coronado v. Napolitano*, No. cv-07-1089-PHX-SMM, 2008 WL 191987 at *4-5 (D. Ariz. Jan. 22, 2008).

This does not, however, end the Twenty-Fourth Amendment analysis. The amendment applies not just to any poll tax but also to any "other tax." As the State has emphasized in addressing Florida's Amendment 4, "words matter."[138] The same principle applies to the Twenty-Fourth Amendment. The words "any . . . other tax" are right there in the amendment.

There is no defensible way to read "any other tax" to mean only any tax imposed at the time of voting or only any tax imposed explicitly for the purpose of interfering with the right to vote. "Any other tax" means "any other tax." A law prohibiting citizens from voting while in arrears on their federal income taxes or state property taxes would plainly violate the Twenty-Fourth Amendment. A state could not require a voter to affirm, on the voter-registration form or when casting a ballot, that the voter was current on all the voter's taxes. The very idea is repugnant.

The only real issue is whether the financial obligations now at issue are taxes. As the Supreme Court has made clear time and again, whether an exaction is a "tax" for constitutional purposes is determined using a "functional approach," not simply by consulting the label given the exaction by the legislature that imposed it. *See, e.g.*, *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 564-66 (2012) (collecting cases).

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[138] *See* ECF No. 132 at 32.

The Supreme Court has said the "standard definition of a tax" is an "enforced contribution to provide for the support of the government." *United States v. State Tax Comm'n.*, 421 U.S. 599, 606 (1975) (quoting *United States v. La Franca*, 282 U.S. 568, 572 (1931)). More recently, the Court has said the "essential feature of any tax" is that "[i]t produces at least some revenue for the Government." *Nat'l Fed'n*, 567 U.S. at 564 (citing *United States v. Kahriger*, 345 U.S. 22, 28 n.4 (1953)).

The plaintiffs say cases like *National Federation* and *Kahriger* deal with the meaning of tax under Article I and thus do not apply to the Twenty-Fourth Amendment. And indeed, one might well conclude that the definition of a tax under the Twenty-Fourth Amendment should be as broad as the evil that led to the amendment's enactment: the pernicious practice of requiring citizens to pay to vote. But Article I and *Kahriger* were in the books when the Twenty-Fourth Amendment was adopted. The better approach is to read the Twenty-Fourth Amendment the same way.

Restitution payable to the private victim of a crime—not to a government—is intended to compensate the victim, not raise revenue for the government. Restitution thus lacks the essential feature of a tax. This makes clear that restitution payable to a private victim is not a tax. And while the issue is perhaps closer, the result is the same when restitution is payable to a government as a victim.

Restitution that is payable to the government is intended not to fund government operations but to reimburse the government for actual losses it has suffered in the past. In short, restitution is intended to compensate the victim, regardless of the victim's identity, and is not a tax.

For criminal fines, the issue is closer. Fines generate revenue for the government that imposes them, but the primary purpose is to punish the offender, not to raise revenue. Fines vary from individual to individual. They are imposed based on the court's assessment of culpability, or, in the case of minimum mandatory fines, based on the legislature's assessment of culpability.

In *National Federation*, the Court did not provide an exhaustive list of relevant considerations relevant to the functional approach to determining whether an exaction is a tax. But the Court did address the consideratons that were important there. One was the size of the exaction; a "prohibitory" charge is likely a penalty, while a modest charge is more likely a tax. *Id*. at 565-66. A second consideration is scienter; punishment is more likely to be imposed on those who intentionally break the law. *Id*. at 565-66. A third consideration is who enforces the exaction—whether a taxing authority or agency with responsibility to punish those who violate the law. *Id.* at 566.

These same considerations are instructive here. Fines vary in amount from case to case, but they are often substantial or, in the language of *National*

Federation, "prohibitory." *Id*. at 566. Unlike fees or costs, fines ordinarily are imposed only on those who are adjudged guilty, almost always of an offense that requires scienter. And the amount of a fine is determined by the sentencing authority, that is, by the judge in the criminal case. In sum, under a functional analysis, fines are criminal penalties, not taxes.

The same is not true for the many categories of fees routinely assessed against Florida criminal defendants. Florida has chosen to pay for its criminal-justice system in significant measure through such fees.[139]

The fees are sometimes denominated "costs," though they are not court costs of the kind routinely assessed in favor of the party who prevails in litigation. Whether an assessment is labeled a fee or cost makes no relevant difference, as demontstrated by SB7066 itself. The statute first says "all terms of sentence" includes "fines or fees," leaving out costs. Fla. Stat. § 98.0751(2)(a)5.b. But in the next sentence, the statute says the covered amounts do not include "fines, fees, or costs" that accrue after the date the obligation is ordered as part of the sentence. *Id*. § 98.0751(2)5.c. Nobody has attributed any significance to the omission of "costs"

[139] *See* Fla. Const., art. V, § 14 (providing that all funding for clerks of court must be obtained through fees and costs, with limited exceptions); *see also* Trial Tr., ECF No. 396 at 34-35.

from the first of these provisions. For convenience, this opinion sometimes refers to all such charges as "fees."

Every criminal defendant who is convicted, and every criminal defendant who enters a no-contest plea of convenience or is otherwise not adjudged guilty but also not exonerated, is ordered to pay such amounts.[140] In one county, for example, the fees total at least $668 for every defendant who is represented by a public defender and $548 for every defendant who is not, and more if there are multiple counts.[141]

There is no controlling authority, and very little authority at all, addressing the question whether assessments like these are "other taxes" within the meaning of the Twenty-Fourth Amendment. The most persuasive discussion of the issue is in a dissenting opinion. *See Johnson v. Bredesen*, 624 F.3d 742, 770-72 (6th Cir. 2010) (Moore, J., dissenting). The statute at issue there required felons to pay restitution and child support before being reenfranchised. The court held these were not taxes—a holding fully consistent with the analysis set out above. Judge Moore noted, though, that the state took a 5% fee for processing child-support payments, and she asserted this fee was an "other tax" prohibited by the Twenty-Fourth Amendment. The reasoning applies much more persuasively to the fees at

[140] *See* Trial Tr., ECF No. 396 at 25, 27-28, 77-78, 97.

[141] *See* Trial Tr., ECF No. 396 at 23-24.

issue here, which are not merely fees for processing payments on assessments that are not themselves taxes; the fees at issue here have been directly levied by, and are paid in full to, state governmental entities.[142]

In any event, the *National Federation* factors favor treating the fees assessed in Florida as taxes, not penalties. For most categories of fees, the amount is fixed, and with rare exceptions, the amount is comparatively modest, certainly not "prohibitory." Most fees and costs are assessed without regard to culpability; a defendant adjudged guilty of a violent offense ordinarily is assessed the same amount as a defendant who is charged with a comparatively minor nonviolent offense, denies guilt, pleads no-contest, and is not adjudged guilty. The amount of a given fee, while nominally imposed by the judge, is ordinarily determined by the Legislature. And the fees are ordinarily collected not through the criminal-justice system but in the same way as civil debts or other taxes owed to the government, including by reference to a collection agency.

In sum, the fees are assessed regardless of whether a defendant is adjudged guilty, bear no relation to culpability, and are assessed for the sole or at least primary purpose of raising revenue to pay for government operations—for things

[142] Less persuasively, Judge Moore also asserted restitution payable to the state as a victim was an "other tax." This order does not accept that view.

the state must provide, such as a criminal-justice system, or things the state chooses to provide, such as a victim-compensation fund. A tax by any other name.

If a state chose to fund its criminal-justice system by assessing a $10 fee against every resident of the state, nobody would doubt it was a tax. Florida has chosen to fund its criminal-justice system by assessing just such a fee, but to assess it not against all residents but only against those who are alleged to have committed a criminal offense and are not exonerated. As a measure designed to raise revenue to fund the government, this would be a tax even if exacted only from those adjudged guilty. The result is made more clear by the state's exaction of the fee even from those not adjudged guilty.

If, as the Supreme Court held in *National Federation*, the government's assessment of $100 against any person choosing not to comply with the legal obligation to obtain conforming health insurance is a tax, a larger assessment against a person who is charged with but not adjudged guilty of violating some other legal requirement is also not a tax, at least when, as in Florida, the purpose of the assessment is to raise money for the government. And if a fee assessed against a person who is not adjudged guilty is a tax, then the same fee, when assessed against a person who *is* adjudged guilty, is also a tax.

The Twenty-Fourth Amendment precludes Florida from conditioning voting in federal elections on payment of these fees and costs. And because the Supreme

Court has held, in effect, that what the Twenty-Fourth Amendment prescribes for federal elections, the Equal Protection Clause requires for state elections, Florida also cannot condition voting in state elections on payment of these fees and costs.

XI. Race Discrimination

The Gruver plaintiffs assert a claim of race discrimination. This order sets out the governing standards and then turns to the claims and provisions at issue.

A. The Governing Standards

To prevail on a claim that a provision is racially discriminatory, a plaintiff must show that race was a motivating factor in the provision's adoption. *See, e.g.*, *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252 (1977); *Washington v. Davis*, 426 U.S. 229 (1976). A racially disparate impact is relevant to the question whether race was a motivating factor, but in the absence of racial motivation, disparate impact is not enough.

If race was a motivating factor, the defendant may still prevail by showing that the provision would have been adopted anyway, even without the improper consideration of race. *See, e.g.*, *Mt. Healthy City Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977); *see also Hunter v. Underwood*, 471 U.S. 222, 228 (1985).

B. Amendment 4

The plaintiffs make no claim that race was a motivating factor in the voters' approval of Amendment 4. The amendment was intended to restore the right to

vote to a large number of felons. It was an effort to expand, not contract, the electorate. Most voters probably were aware that the proportion of African Americans with felony convictions exceeds the proportion of whites with felony convictions—this is common knowledge. But if anything, the voters' effort was to restore the vote to African American felons, as well as all other felons, not to withhold it.

C. The Florida Supreme Court Ruling

The plaintiffs also do not assert the Florida Supreme Court was motivated by race when it issued its advisory opinion holding that "all terms of sentence," within the meaning of Amendment 4, include financial obligations.

D. SB7066

The plaintiffs *do* assert that SB7066 was motivated by race. The State makes light of the argument, asserting that SB7066 merely implements Amendment 4, and that SB7066, like Amendment 4, expands, not contracts, the electorate. But that is not so. SB7066 includes many provisions that go beyond Amendment 4 itself, including some that limit Amendment 4's reach in substantial respects. Amendment 4 had already expanded the electorate; SB7066 limited the expansion.

The State also offers lay opinion testimony that key legislators were not motivated by racial animus—testimony that would not be admissible over

objection, proves nothing, and misses the point.[143] It is true, and much to the State's credit, that the record includes no evidence of racial animus in any legislator's heart—no evidence of racially tinged statements, not even dog whistles, and indeed no evidence at all that any legislator harbored racial animus.

Under *Arlington Heights*, though, the issue is not just whether there was racial animus in any legislator's heart, nor whether there were other reasons, in addition to race, for a legislature's action. To establish a prima facie case, a plaintiff need only show that race was a motivating factor in adoption of a challenged provision. *See Hunter*, 471 U.S. at 227-28; *see also United States v. Dallas Cty. Comm'n*, 739 F.2d 1529, 1541 (11th Cir. 1984).

The issue is far more serious than the State recognizes. Indeed, the issue is close and could reasonably be decided either way.

Four aspects of SB7066 are adverse to the interests of felons seeking reenfrachisement and are worthy of discussion here.

SB7066's most important provision, at least when it was adopted, defined "all terms of sentence," as used in Amendment 4, to include financial obligations. The Florida Supreme Court later ruled that this is indeed what this phrase means, rendering this part of SB7066 inconsequential. This does not, however, establish that the Legislature's treatment of this issue was not motivated by race.

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[143] Meade Dep. Designations, ECF No. 342-1 at 121.

When SB7066 was enacted, it was possible, though not likely, that the court would reach a different result. More importantly, it was possible the court would not rule on this issue before the 2020 election, and that felons with unpaid financial obligations would be allowed to register and vote. Indeed, this was already occurring. Some Supervisors of Elections believed Amendment 4 did not apply to financial obligations.[144] So SB7066's provision requiring payment of financial obligations was important.

SB7066's second most important provision was probably its treatment of judicial liens. Florida law allows a judge to convert a financial obligation included in a criminal judgment to a civil lien. Judges often do this, usually because the defendant is unable to pay. The whole point of conversion is to take the obligation out of the criminal-justice system—to allow the criminal case to end when the defendant has completed any term in custody or on supervision.

When a defendant's criminal case is over, and the defendant no longer has any financial obligation that is part of or can be enforced in the criminal case, one would most naturally conclude the sentence is complete. The Senate sponsor of

[144] *See* Trial Tr., ECF No. 393 at 10-11; Barton Dep. Designations, ECF No. 389-2 at 49-50; Earley Dep. Designations, ECF No. 389-3 at 72-73.

SB7086 advocated this view.[145] But the House sponsor's contrary view prevailed, and, under SB7066, conversion to a civil lien does not allow the person to vote.[146]

This result is all the more curious in light of the State's position in this litigation that when a civil lien expires, the person is no longer disqualified from voting.[147] So the situation is this. The State says the pay-to-vote system's legitimate purpose is to require compliance with a criminal sentence. When the obligation is removed from the criminal-justice system, the person is still not allowed to vote. But when the obligation is later removed from the civil-justice system—when the civil lien expires—the person can vote. Curious if not downright irrational.

In any event, it cannot be said that on the subject of civil liens, SB7066 simply followed Amendment 4.

The third SB7066 provision that bears analysis is the registration form it mandates. The form is indefensible, provides no opportunity for some eligible

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[145] *See, e.g.*, Pls.' Ex 400, ECF No. 351-28; *see also* Pls.' Ex. 893, ECF No. 286-13 at 47-48.

[146] *See* Pls.' Ex. 893, ECF No. 286-13 at 47-48; *see also* Fla. Stat. § 98.0751.

[147] *See* Trial Tr., ECF No. 408 at 84-85, 144; Trial Tr., ECF No. 413 at 16-17.

felons to register at all, and is sure to discourage others.[148] It is so obviously deficient that its adoption can only be described as strange, as was the Legislature's failure to correct it after the State was unable to defend it in any meaningful way in this litigation and actively sought a legislative cure.

The fourth aspect of SB7066 that warrants attention is its failure to provide resources to administer the system the statute put in place. The Legislature was provided information on needed resources and surely knew that without them, the system would break down. SB7066 provided no resources.

SB7066 included many other provisions, some favorable to felons seeking reenfranchisement.[149] The issue on the plaintiffs' race claim is not whether by enacting SB7066, the Legislature adopted the only or even the best reading of Amendment 4 or implemented the amendment in the best possible manner. The issue is whether the Legislaure was motivated, at least in part, by race.

SB7066 passed on a straight party-line vote. Without exception, Republicans voted in favor, and Democrats voted against.[150] The defendants' expert testified

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[148] Prelim. Inj. H'rg Tr., ECF No. 204 at 201-04; Prelim. Inj. H'rg Tr., ECF No. 205 at 49-50.

[149] *See*, *e.g.*, Fla. Stat. §§ 98.0751(2)(a)(5)(d), (e) (allowing a court to modify some financial obligations).

[150] *See* Pls.' Ex. 893, ECF No. 286-13 at 87.

that felon reenfrachisment does not in fact favor Democrats over Republicans.[151] He based this on studies that might or might not accurately reflect the situation in today's Florida and might or might not apply to felons with unpaid LFOs as distinguished from all felons. What is important here, though, is not whether the LFO requirement actually favors Democrats or Republicans, but what motivated these legislators to do what they did.

When asked why, if reenfranchisement has no partisan effect, every Republican voted in favor of SB7066 and every Democrat voted against, the State's expert suggested only a single explanation: legislators misperceived the partisan impact.[152] As he further acknowledged, it is well known that African Americans disproportionately favor Democrats.[153] He suggested no other reason for the legislators' posited misperception and no other reason for the straight party-line vote.

This testimony, if credited, would provide substantial support for the claim that SB7066 was motivated by race. If the motive was to favor Republicans over Democrats, and the only reason the legislators thought these provisions would accomplish that result was that a disproportionate share of affected felons were

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[151] Trial Tr., ECF No. 402 at 113-14.

[152] *See id.* at 117-18.

[153] *Id.*

African American, prohibited racial motivation has been shown. *See, e.g.*, *Hunter v. Underwood*, 471 U.S. 222, 233 (1985); *N. Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204, 226-27 (4th Cir. 2016). The State has not asserted the Legislature could properly consider party affiliation or use race as a proxy for it and has not attempted to justify its action under *Hunt v. Cromartie*, 526 U.S. 541, 551 (1999) (noting that a state could engage in political gerrymandering, "even if it so happens that the most loyal Democrats happen to be black Democrats and even if the State were conscious of that fact").

Parenthetically, it bears noting that the expert's explanation is troublesome, even apart from its racial implications. *See, e.g.*, *Anderson v. Celebrezze*, 460 U.S. 780, 793 (1983) ("As our cases have held, it is especially difficult for the State to justify a restriction that limits political participation by an identifiable political group whose members share a particular viewpoint, associational preference, or economic status.").

Before turning to the contrary evidence, a note is in order about two items that do not show racial motivation.

First, the House sponsor of SB7066 emphatically said during legislative debate that the bill was simply a faithful implementation of Amendment 4—in effect, "nothing to see here." This is not true. SB7066 included much that was not in Amendment 4, even as later construed by the Florida Supreme Court. The

plaintiffs say this "faithful steward" argument was a pretext to hide racial motivation. And the plaintiffs are correct that pretextual arguments often mask prohibited discrimination. But there are other, more likely explanations for the sponsor's argument. It was most likely intended simply to garner support for SB7066 and perhaps to avoid a meaningful discussion of the policy choices baked into the statute. The argument says nothing one way or the other about the policy choices or motivation for the legislation.

Second, the House sponsor also said during debate that he had not sought information on racial impact and had not considered the issue at all. The plaintiffs say this shows willful blindness to the legislation's obvious racial impact and was again a pretext for racial discrimination. Properly viewed, however, the sponsor's statement does not show racial motivation. It probably shows only an awareness that a claim of racial discrimination was possible, perhaps likely, and a reasonable belief that, if the sponsor requested information on racial impact, the request would be cited as evidence of racial bias. *See, e.g.*, *McCrory*, 831 F.3d at 230 (citing the request for and use of data on race in support of a finding of intentional race discrimination in voting laws). And while any suggestion that the sponsor did not know SB7066 would have a racially disparate impact could reasonably be labeled pretextual, that is not quite what the sponsor said. On any fair reading, the sponsor's assertion was simply that race should not be a factor in the analysis—an

entirely proper assertion. The statement says nothing one way or the other about whether perceived partisan impact was a motivating factor for the legislation, about whether the perceived partisan impact was based on race, or about whether race was thus a motivating factor in the passage of SB7066.

In sum, the plaintiffs' race claim draws substantial support from the inference—in line with the testimony of the State's own expert—that a motive was to support Republicans over Democrats, coupled with the legislators' knowledge that SB7066 would have a disparate impact on African Americans, who vote for Democrats more often than for Republicans. The plaintiffs' other evidence adds little.

There are also other explanations for these SB7066 provisions, as well as evidence inconsistent with the inference of racial motivation.

First, a substantial motivation for the SB7066 definition of "all terms of sentence" was the belief that this is what Amendment 4 provides. This was not a pretext to hide racial motivation. Indeed, as it turns out, the view was correct. The Florida Supreme Court has told us so.

Second, while it is less clear that SB7066's treatment of judicial liens was based on an honest belief that this is what Amendment 4 requires, it is also less clear that this was an effort to favor Republicans over Democrats or that the only reason for believing this provision would have that effect was race.

Third, while the SB7066 registration form is indefensible, there is no reason to believe this was related to race. A more likely explanation is inattention or shoddy craftsmanship or perhaps lack of concern for felons of all races.

Fourth, there is no reason to believe the failure to provide resources was based on race. A more likely explanation is budgetary.

More importantly, there are other provisions in SB7066 that promote, rather than restrict, reenfranchisement. SB7066 provides that to be reenfranchised, a felon need not pay financial obligations that are not included in the four corners of the sentencing document or that accrue later.[154] SB7066 allows courts to modify sentences to eliminate LFOs if specific conditions are met.[155] And of less significance—it provides a remedy that, if not entirely illusory, will rarely matter—SB7066 authorizes courts to allow defendants to satisfy LFOs through community service.[156] These provisions would not have made it into SB7066 if the only motivation had been to suppress votes or to favor Republicans over Democrats.

On balance, I find that SB7066 was not motivated by race.

A note is in order, too, about the limited effect of this finding.

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[154] Fla. Stat. § 98.0751(2)(a), (2)(a)(5)(c).

[155] *Id.* § 98.0751(2)(a)(d), (e).

[156] *Id.*

A contrary finding for the SB7066 definition of "all terms of sentence" would make no difference, for two reasons. First, for this provision, the State would prevail on its same-decision defense; the Florida Supreme Court's decision now makes clear the State would read "all terms of sentence" to include financial obligations, with or without SB7066. Second, striking this part of SB7066 as racially discriminatory would make no difference—the Florida Supreme Court's decision would still be controlling.

A contrary finding for SB7066's treatment of judicial liens would make a difference—judicial liens would be excepted from the LFO requirement. But the difference might not be much. LFOs are usually converted to civil liens when an individual is unable to pay. This order will end discrimination against those unable to pay—and thus will render the SB7066 treatment of judicial liens much less important.

A contrary finding for the SB7066 registration form would make no difference. As set out below, the form violates the National Voter Registration Act and will be enjoined for that reason.

And finally, even with a contrary finding for SB7066's failure to provide resources to administer the pay-to-vote system, the remedy would not be an order to provide more resources. This order's remedy on other claims will mitigate, but by no means cure, the pay-to-vote system's administrative train wreck. The remedy

that would be imposed based on a finding of racial discrimination would do nothing more.

The bottom line: the plaintiffs have not shown that race was a motivating factor in the enactment of SB7066.

XII. Gender Discrimination

The McCoy plaintiffs assert the pay-to-vote requirement discriminates against women in violation of the Fourteenth Amendment's Equal Protection Clause and violates the Nineteenth Amendment, which provides that a citizen's right to vote "shall not be denied or abridged . . . on account of sex."

To prevail under the Fourteenth Amendment, the plaintiffs must show intentional gender discrimination—that is, the plaintiffs must show that gender was a motivating factor in the adoption of the pay-to-vote system. This is the same standard that applies to race discrimination, as addressed above.

The plaintiffs assert the Nineteenth Amendment should be read more liberally, but the better view is that the standards are the same. The Nineteenth Amendment was an effort to put women on the same level as men with respect to voting, just as the Fifteenth Amendment was an effort to put African American men on the same level as white men. Indeed, the Nineteenth Amendment copied critical language from the Fifteenth, which provides that a citizen's right to vote "shall not be denied or abridged . . . on account of race, color, or previous

condition of servitude." As is settled, a claim under the Fifteenth Amendment requires the same showing of intentional discrimination as the Fourteenth Amendment's Equal Protection Clause. *See, e.g.*, *Burton v. City of Belle Glade*, 178 F.3d 1175, 1187 n.8 (11th Cir. 1999) (stating "vote dilution, vote denial, and traditional race discrimination claims arising under the Fourteenth and Fifteenth Amendments all require proof of intentional discrimination"). In sum, there is no reason to read the Nineteenth Amendment differently from the Fifteenth.

On the facts, the plaintiffs' theory is that women with felony convictions, especially those who have served prison sentences, are less likely than men to obtain employment and, when employed at all, are likely to be paid substantially less than men.[157] The problem is even worse for African American women. This pattern is not limited to felons; it is true in the economy at large.

As a result, a woman with LFOs is less likely than a man with the same LFOs to be able to pay them. This means the pay-to-vote requirement is more likely to render a given woman ineligible to vote than an identically situated man.

This does not, however, establish intentional discrimination. Instead, this is in effect, an assertion that the pay-to-vote requirement has a disparate impact on women. For gender discrimination, as for race discrimination, *see supra* Section IX, disparate impact is relevant to, but without more does not establish, intentional

[157] *See* Pls.' Ex. 895, ECF No. 318-2; Pls' Ex. 896, ECF No. 318-1.

discrimination. Here there is nothing more—no direct or circumstantial evidence of gender bias, and no reason to believe gender had anything to do with the adoption of Amendment 4, the enactment of SB7066, or the State's implementation of this system.

Moreover, the pay-to-vote requirement renders many more men than women ineligible to vote. This is so because men are disproportionately represented among felons. As a result, even though the impact on a given woman with LFOs is likely to be greater than the impact on a given man with the same LFOs, the pay-to-vote requirement overall has a disparate impact on men, not women. Even if disparate impact was sufficient to establish a constitutional violation, the plaintiffs would not prevail on their gender claim.

XIII. Excessive Fines

The Eighth Amendment prohibits imposition of "excessive fines." The provision applies to the states. *See Timbs v. Indiana*, 139 S. Ct. 682 (2019). The McCoy plaintiffs assert LFOs, when used as a basis to deny eligibility to vote, violate this provision.

At first blush, the assertion seems farfetched. Any fine at issue was imposed at the time of sentencing, usually long ago. The fine was within the statutory limit unless something went badly wrong, and there is no evidence of that. If there was a basis to assert the fine was an excessive punishment for the offense of

conviction—there probably was not—the assertion presumably would have been made at the time of sentencing or on direct appeal or at the latest in a collateral proceeding. It is almost surely too late to bring a federal challenge, and a challenge would properly be made in a separate proceeding addressing the criminal judgment, not as part of a voting case.

On closer examination, there is more to the claim. A fine that was unobjectionable when entered, as the plaintiffs' fines presumably were, would not have been deemed constitutionally excessive standing alone. What makes the fine excessive, in the plaintiffs' view, is the effect it did not have when entered but acquired only when the State adopted the pay-to-vote system. It is one thing to impose a fine that requires payment of money. It is quite another to impose a fine that, in effect, disqualifies the offender from voting.

On balance, this order holds that a state does not violate the Excessive Fines Clause by refusing to reenfranchise a felon who chooses not to pay a fine that the felon has the financial ability to pay. This order need not and does not address the question whether the Excessive Fines Clause prohibits a state from refusing to reenfranchise a felon based on a fine the felon is unable to pay. As set out above, doing that is unconstitutional anyway, on other grounds.

XIV. Due Process

The Raysor, Gruver, and McCoy plaintiffs assert that even if the State can properly condition restoration of the right to vote on payment of LFOs, the manner in which the State has done so violates the Due Process Clause. The argument has two parts: the plaintiffs assert the governing standards are impermissibly vague and that the State has provided no constitutionally adequate procedure for determining whether an individual meets the standards.

The arguments carry considerable force. As set out above, determining the amount that must be paid to make a person eligible to vote is sometimes easy, sometimes hard, sometimes impossible.[158] In 18 months since Amendment 4 was adopted, the State has done almost nothing to address the problem—nothing, that is, except to jettison the most logical method for determining whether the required amount has been paid and substituting a bizarre method that no prospective voter would anticipate and that doesn't solve the problem. [159] The flaws in Florida's approach are especially egregious because a person who claims a right to vote and turns out to be wrong may face criminal prosecution. [160]

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[158] *See supra* Section IX.C(4).

[159] *Id.*

[160] *Id.*

The Due Process Clause "requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender v. Lawson*, 461 U.S. 351, 357 (1983); *see also Johnson v. United States*, 135 S. Ct. 2551 (2015). Florida law makes it a crime to submit a false affirmation in connection with voting, Fla. Stat. § 104.011, or to fraudulently vote, *see id*. § 104.041. These provisions are clear enough on their face. But in the absence of eligibility standards "that ordinary people can understand"—standards that can be applied to known or knowable facts—the clarity of the statutory words is meaningless. *See Giacco v. Pennsylvania.*, 382 U.S. 399, 402-03 (1966) ("It is established that a law fails to meet the requirements of the Due Process Clause if it is so vague and standardless that it leaves the public uncertain as to the conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case.").

The State says its system comports with procedural due process because a person who registers to vote has a right to a hearing before being removed from the roll. The Supervisor of Elections in the county at issue conducts the hearing and renders a decision. A person who is dissatisfied with the result is entitled to de novo judicial review.

If the process was available to all who wish to register, and if the Supervisors had the resources to conduct the required hearings for all comers, the process would easily satisfy due process. *See*, *e.g.*, *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (setting out a framework for determining what process is due in a given circumstance); *J.R. v. Hansen*, 736 F.3d 959, 966 (11th Cir. 2015) (same). But this process is available only to a person who is able to register in the first place. A person cannot invoke this process at all if the person is unable or unwilling to register because the person is uncertain of eligibility and unwilling to risk prosecution.

The State says such a person can request an advisory opinion from the Division of Elections and that this will satisfy due process.[161] Indeed, the State says that a person who requests an advisory opinion on eligibility to vote and acts in accordance with the opinion is immune from prosecution under the criminal statutes at issue.[162] It is not at all clear that the Florida statutes on which the State relies for these assertions actually so provide, but this order accepts the State's construction of its statutes.

If implemented in a timely manner with adequate, intelligible notice, the advisory-opinion procedure and attendant immunity will satisfy due process and

[161] *See* Fla. Stat. § 106.23(2); Trial Tr., ECF No. 408 at 91-94, 100-03, 197-98.

[162] Trial Tr., ECF No. 408 at 91-94, 100-03.

remedy the vagueness attending application of the criminal statutes. This order requires adequate, intelligible notice and timely responses to requests for advisory opinions. Even in the absence of a ruling for the plaintiffs on the vagueness and procedural-due-process claims, the same requirements would be included in the remedy for the constitutional violation addressed in section IX above.

XV. The Organizations' Claims

An organization that engages in voter-registration activities may assert its own constitutional rights relating to that process. *See, e.g.*, *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1341-42 (11th Cir. 2014); *Fla. State Conference of NAACP v. Browning*, 522 F.3d 1153, 1164-66 (11th Cir. 2008). The League of Women Voters conducts voter-registration efforts but has curtailed them because of the pay-to-vote system, its breadth (including its application to those unable to pay), the lack of clear standards for determining eligibility to vote, and the additional confusion created by the State's flailing implementation of the pay-to-vote system. The League has curtailed its activities in part because it does not wish to subject voters to a risk of prosecution and does not wish to risk the League's reputation by signing up individuals who may ultimately be deemed ineligible.[163]

[163] *See* Trial Tr., ECF No. 396 at 173-80.

One example of the injury the League has suffered is this: the League created an entire continuing education program on the pay-to-vote sysem, but the program became outdated when the State changed from the actual-balance method to the every-payment method for determining whether a felon's LFOs have been paid.[164] The State's uncertain, shifting implementation of the program has interfered with the League's associational rights and has caused the League to divert substantial resources from other endeavors. The League has registered fewer voters than it would have in the absence of the State's constitutional violations.

The Florida State Conference of the NAACP and the NAACP Orange County Branch have standing to assert the rights of their members, some of whom have been directly impacted by the State's constitutional violations. For example, Mr. Bryant, a member of the Orange County Branch, was constitutionally entitled to vote but did not do so in the March 2020 primary, not wishing to risk prosecution.[165] In addition, the State Conference, if not the Orange County Branch, has diverted resources and suffered injuries similar to the League's.[166] The organization has reached out to and registered fewer voters than it otherwise would have.

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[164] *See id.* at 175-76, 191-92.

[165] Trial Tr., ECF No. 397 at 73.

[166] *See, e.g.*, Trial Tr., ECF No. 397 at 19, 32-37.

These rulings ultimately make no difference in the remedy that this order would put in place anyway, based only on the claims of the individual plaintiffs and the certified class and subclass. That remedy is sufficient to redress the organizations' claims.

XVI. The National Voter Registration Act

The Gruver and Raysor plaintiffs assert the State has violated the National Voter Registration Act in two respects: by using an improper voter registration form and by allowing different counties to apply different standards in determining eligibility to vote.

The State asserts all the individual plaintiffs but one, Mr. Bryant, lack standing to challenge the registration form because they registered to vote using a different form, not the one they now challenge. And the State asserts the Raysor plaintiffs did not wait the statutorily required period after giving the notice that must precede an NVRA claim. The State also contests the claim on the merits.

The State's procedural objections do not bar the claim.

Mr. Bryant used the challenged registration form.[167] In addition, the organizational plaintiffs have members who have used or will use the form if it is not enjoined. Indeed, Mr. Bryant is himself a member of the NAACP Orange

[167] Trial Tr., ECF No. 397 at 69-71.

County Branch. Mr. Bryant and the organizational plaintiffs have standing to challenge the form. The other individual plaintiffs lack standing to challenge the form, but this is inconsequential. And in any event, all the plaintiffs have standing to challenge the inconsistent application of the pay-to-vote system from one county to another.

The NVRA creates a private right of action but requires advance notice and an opportunity to cure during a specified period. *See* 52 U.S.C. § 20510(b)(1). The original Gruver plaintiffs, including the organizational plaintiffs, gave notice to the proper official, the Florida Secretary of State. *See* Fla. Stat. § 97.012(9) (naming the Secretary the chief election officer). [168] The State did not cure the alleged violations within the specified period, so litigation could go forward. The State has not contested the claims of Mr. Bryant and the organizations based on the notice-and-cure provision.

The Raysor plaintiffs also gave notice but did so later, and they filed their NVRA claim before expiration of the cure period, as measured from the date of their notice. This makes no difference. The State had already been provided the required opportunity to cure and had chosen not to do so. Properly construed, the statute does not require multiple notices of the same alleged violation and multiple opportunites to cure. The Gruver plaintiffs' notice thus was sufficient to allow the

[168] *See* Pls.' Ex. 841, ECF No. 360-2.

Raysor plaintiffs' claims to go forward. *See, e.g.*, *Calloway v. Partners Nat'l Health Plans*, 986 F.2d 446, 449-50 (11th Cir. 1993) (allowing one employee to rely on another employee's timely notice of a Title VII claim based on the "single-filing rule"); *Ass'n of Community Orgs. For Reform Now v. Miller*, 129 F.3d 833, 838 (6th Cir. 1997) (allowing one party to rely on another party's NVRA notice). C*ontra Scott v. Schedler*, 771 F.3d 831 (5th Cir. 2014).

On the merits, the plaintiffs are correct that the registration form mandated by SB7066 violates the NVRA. So do the later forms the State has floated as possible replacements. The chronology helps explain this.

The old form—the form in effect before SB7066—had a single relevant statement: "I affirm that I am not a convicted felon, or if I am, my rights relating to voting have been restored." *See* Fla. Stat. § 97.052(2)(t) (2018). This provided all the information that needed to be on the form.

SB7066 made a hash of this. Gone was the old, easily understood statement. In its place were three checkboxes; the registrant had to choose one. *See* Fla. Stat. § 97.052(2)(t) (2019). The first box was for nonfelons: "I affirm I have never been convicted of a felony." The second and third boxes were for felons. The second: "If I have been convicted of a felony, I affirm my voting rights have been restored by the Board of Executive Clemency." The third: "If I have been convicted of a felony, I affirm my voting rights have been restored pursuant to s. 4, Art. VI of the

State Constitution upon the completion of all terms of my sentence, including parole or probation."

The new form is objectionable at several levels. There is no reason to require a registrant who is eligible to vote to disclose a nondisqualifying felony to the local Supervisor of Elections. In any event, few if any registrants are likely to know that Amendment 4 is now "s. 4, Art. VI" of the State Constitution.[169] Worse, an individual with an out-of-state felony conviction who would be eligible to vote in the state of conviction is eligible to vote in Florida.[170] But such an individual has no box to check on the registration form.[171]

Perhaps more importantly, there is no reason—other than perhaps to discourage felons from registering—for the multiple boxes. As the Director of the Division of Elections has acknowledged, the State makes no use of the additional information; a registration on the new form is processed precisely the same way as

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[169] Prelim. Inj. Hr'g Tr., ECF No. 204 at 202-03.

[170] Trial Tr., ECF No. 408 at 81-82; *see also Schlenther v. Dep't of State, Div. of Licensing*, 743 So. 2d 536, 537 (Fla. 2d DCA 1998) ("Once another state restores the civil rights of one of its citizens whose rights had been lost because of a conviction in that state, they are restored and the State of Florida has no authority to suspend or restore them at that point.").

[171] Prelim. Inj., Hr'g Tr., ECF No. 205 at 50.

a registration on the old form.[172] The new form thus runs afoul of the NVRA's mandate that a voter registration form require only such identifying and other information "as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process." 52 U.S.C. § 20508(b)(1); *see also id.* §§ 20504(c)(2)(B) & 20505(a)(2).

Amendments to the statute prescribing the registration form were proposed but not adopted during the Legislature's 2020 session.[173] On the first day of trial, in an attempt to deal with this issue, the State proposed a rule with a new form that adds a checkbox for out-of-state felons.[174] But the form still would require information that would have no effect on the processing of registrations; the form thus would still violate the NVRA.

During the trial, the State floated yet another possible form, this one with yet another new checkbox: "If I have been convicted of a felony, I affirm that I have completed all terms of my sentence except any financial obligations I am

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[172] *See* Trial Tr., ECF No. 408 at 134; *see also* Brown Dep. Designations, ECF No. at 389-5 at 115; Trial Tr., ECF No. 393 at 25.

[173] *See* Trial Tr., ECF No. 413 at 75-76.

[174] *See* Defs.' Ex. 169, ECF No. 343-3; *see also* Pls.' Ex. 919, ECF No. 384-1.

genuinely unable to pay."[175] This is commendable to some extent; it is at least an effort—the first—to deal with the preliminary injunction and affirmance in *Jones*, which occurred months earlier. But the new box is deficient on its face; it could be honestly checked by an individual with a conviction for murder or a sexual offense who is ineligible to vote.[176]

The State has tendered no legitimate reason to dispense with the old registration form and no new registration form that complies with the NVRA.

In addition to their complaint about the registration form, the plaintiffs say the State's failure to provide guidance to the county Supervisors of Elections will cause different eligibility standards to be applied in different counties. The plaintiffs say this will violate the NVRA requirement for voter rolls that are "uniform" and "nondiscriminatory." 52 U.S.C. § 20507(b)(1).

This is a substantial complaint, but it need not be addressed at this time. The remedy that this order puts in place anyway, based on the other violations, substantially reduces the risk that different eligibility standards will be applied in different counties, rendering this risk speculative.

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[175] Defs.' Ex. 170, ECF No. 343-4; *see also* Trial Tr., ECF No. 408 at 137-40.

[176] Trial Tr., ECF No. 408 at 139-41.

In sum, the organizational plaintiffs and Mr. Bryant are entitled to prevail on their NVRA claim based on the noncompliant registration form.

XVII. Bush v. Gore

The plaintiffs say the different eligibility standards in different counties will violate not only the NVRA but also the equal-protection principle established by *Bush v. Gore*, 531 U.S. 98 (2000). Here, as under the NVRA, this is a substantial claim. But here, for the same reasons as for the NVRA, the claim need not be addressed at this time.

XVIII. Severability

The State makes the rather remarkable assertion that if it cannot prevent people who are unable to pay LFOs from voting, then all of Amendment 4 must fall—that even felons who have served all their time, are off supervision, and have paid all amounts they owe cannot vote. This is a breathtaking attack on the will of the Florida voters who adopted Amendment 4.

The State says this is a severability issue, and perhaps it is. But LFOs are not mentioned in Amendment 4 at all. At least on one view, there is nothing to sever. Even on that view, however, the same issues are part of the remedy analysis. Either way, the critical issue is the proper remedy for the unconstitutional application of Amendment 4 to a subset of affected individuals. The remedy must be properly matched to the violation.

The State relies on *Ray v. Mortham*, 742 So. 2d 1276 (Fla. 1999). There the Florida Supreme Court addressed a voter-initiated amendment to the Florida Constitution imposing term limits. The amendment had specific language listing the offices to which it applied. Some were state offices, some federal. The attempt to impose limits on eligibility for federal offices violated the United States Constitution, so the question was whether the explicit but unconstitutional language in the amendment addressing federal offices should be severed from the explicit and constitutional language addressing state offices. This was a classic severability issue—whether, after striking invalid language, the amendment's other language remained valid. The court held the provisions severable—thus upholding the will of the voters who adopted the amendment, to the extent consistent with the United States Constitution.

On the other hand, in the federal cases holding state actions unconstitutional as applied to those unable to pay, severability was not discussed at all. *See, e.g.*, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996); *Bearden v. Georgia*, 461 U.S. 600 (1983). In those cases, just as here, a state provided a benefit it was not constitutionally obligated to provide at all, but providing the benefit to those who could pay while denying the benefit to those unable to pay was unconstitutional. The proper remedy was to make the benefit available to those unable to pay. This was so because, under the circumstances, ending the discrimination by making the benefit available

to those unable to pay was the proper exercise of equitable discretion. This was not framed as a severability issue, but the result would have been the same if it had been.

In any event, the question of whether this is properly framed as a severability issue or only as a remedy issue makes no difference; the substantive analysis is the same either way. The critical issue is whether, if the unconstitutional applications of the amendment are enjoined, it is still reasonable to apply the remainder of the amendment, and whether, if the voters had known the amendment would be applied only in this manner, they still would have approved it.

The answer is yes. I find as a fact that voters would have approved Amendment 4 by more than the required 60% had they known it would be applied in the manner required by this order. I would make this same finding regardless of which side has the burden of proof.

The voters' primary motivation plainly was to restore the vote to deserving felons at the appropriate time—to show a measure of forgiveness and to welcome even felons back into the electorate. The sentiment is hardly surprising. Forgiveness is a sentiment that appeals to most voters and has long been a mainstay of the state's most popular religions. And taxation without representation led a group of patriots to throw lots of tea into a harbor when there were barely

united colonies, let alone a United States. Before Amendment 4, no state disenfranchised as large a portion of the electorate as Florida.

That did not mean, however, that voters were in a mood to immediately reenfranchise everyone. The proponents of the amendment learned from focus groups and polling that some voters were not as favorably disposed toward the worst offenders or toward those who were still in jail or on supervision. There was even a fleeting reference to restitution. The amendment was drafted to exclude those convicted of murder or sexual offenses and to require completion of all terms of sentence including probation and parole. In that form the amendment went before the voters and garnered 64.55% of the vote.

The State says the focus groups and polling show that payment of LFOs, including by those unable to pay, was critical to passage of the amendment. They even presented expert testimony to support the assertion.[177] I do not credit the testimony. Indeed, one in search of a textbook dismantling of unfounded expert testimony would look long and hard to find a better example than the cross-examination of this expert.[178] The State's assertion that voters understood "completion of all terms of sentence" to mean payment of fines, fees, costs, and

[177] *See* Trial Tr., ECF No. 402 at 103-111, 123-29; *see also* Defs.' Ex. 66, ECF No. 346-1. The expert was Dr. Michael Barber.

[178] *See id.* at 129-98. I credit the testimony of the plaintiffs' expert who responded to Dr. Barber. The plaintiffs' expert was Dr. Todd Donovan.

restitution by those unable to pay and that this was critical to passage of the amendment is fanciful.

The focus groups and polling were conducted years before Amendment 4 was on the ballot. None were conducted, at least as shown by this record, in a scientifically reliable manner. None are reliable indicators of the change in the margin that would have been caused by a change in Amendment 4's wording or coverage.

More importantly, none of the focus groups and polling dealt separately with financial obligations. There were only fleeting references to these, and only in tandem with completion of all terms in prison or on supervision. The focus groups and polling did not address inability to pay at all. They provided no information on how a requirement to pay fines, fees, or costs, or even restitution, would have affected the vote, let alone how a requirement for payment by those unable to pay would have affected the vote.

The materials available to voters in advance of the election, whether in sample ballots or public-service materials of from proponents or in the media, included very few references to financial obligations, and fewer still to anything other than restitution.[179] Amendment 4 itself, as well as the summary on the ballot,

[179] *See* Pls.' Ex. 886, ECF No. 360-43 at 11-27; Trial Tr., ECF No. 413 at 112-43; Pls.' Ex. 893, ECF No. 286-13 at 27-44.

included no explicit reference to financial obligations, let alone to ability or inability to pay.[180] Amendment 4 was part of a long ballot with many proposed amendments; it is unlikely that many voters considered financial obligations at all, let alone inability to pay.

There is also another fundamental flaw in the State's analysis. For the requirement to pay the LFOs at issue to be critical to a voter's decision, the voter would need at least some understanding of LFOs—of who owes them and why and why they have not been paid. But very few voters had this information.

Surely very few Florida voters knew that every Florida felony conviction results in an order to pay hundreds of dollars in fees and costs intended to fund the government, even when the judge does not choose to impose a fine as part of the punishment and there is no victim to whom restitution is owed. Surely very few Florida voters knew that fees and costs were imposed regardless of ability to pay, that the overwhelming majority of felons who would otherwise be eligible to vote under Amendment 4 owed amounts they were unable to pay, and that the State had no ability to determine who owed how much. Had voters known all this, they might, as the State posits, have decided to scrap the whole thing. But the chance of that is remote. It is far more likely, and I find, that voters would have adhered to

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[180] *See* Defs.' Ex. 15, ECF No. 148-15 at 9.

the more generous spirit that led to the passage of the amendment, even if it meant that those who had done all they could do but were unable to pay some remaining amount became eligible to vote.

Striking the entirety of Amendment 4 would be a dramatic departure from what the voters intended and from what they would have done had they known of the federal constitutional limits on the amendment's application.

XIX. Remedy

The remedy for a constitutional violation is committed to the court's sound discretion. The remedy should be clear, as easily administered as feasible, and no more intrusive than necessary on a defendant's lawful prerogatives. *See Lemon v. Kurtzman*, 411 U.S. 192, 200 (1973) ("Moreover, in constitutional adjudication as elsewhere, equitable remedies are a special blend of what is necessary, what is fair, and what is workable.") (footnote omitted).

This order grants declaratory and injunctive relief commensurate with the violations addressed above.

The injunction takes the State up on its suggestion that individuals who are unsure of their eligibility status can simply request an advisory opinion from the Division of Elections. The injunction prescribes a form that may be used for requesting an advisory opinion and requires the Secretary of State and Supervisors of Elections to make the form available both in hard copy and online.

The injunction provides, in effect, that an advisory opinion cannot rely on unconstitutional grounds for asserting ineligibility. The injunction sets no deadline for the Division to provide an advisory opinion—there is no deadline under state law—but the injunction allows an individual to go forward with registration and voting after 21 days, unless and until the Division provides an advisory opinion showing ineligibility.

The injunction takes the State up on its suggestion that a person who acts in accordance with an advisory opinion may not be prosecuted for doing so. The injunction goes further and allows a person to rely on the Division's failure to provide an advisory opinion within 21 days. The injunction of course does not reach nonparties and thus does not bind the various state attorneys, but the injunction prohibits these defendants from contributing to such a prosecution.

The injunction prescribes a method for determining inability to pay. In effect, the injunction provides a rebuttable presumption based on facts that are objectively determinable without undue difficulty and that, in the overwhelming majority of cases, correlate with genuine inability to pay. The injunction does not limit the reliable information on which the State may base an assertion that an individual is able to pay—but when the presumption applies, the injunction does require reliable information to rebut it. This goes further than the preliminary

injunction, which left to the State wide discretion to devise a system for addressing inability to pay. With ample time to address the issue, that State did nothing.

A class member may proceed based on the presumption and in reliance on this order without requesting an advisory opinion. An advisory opinion is an option, not a requirement.

Under the injunction, to show that an LFO is disqualifying, an advisory opinion must set out the amount of the LFO. It is not enough just to provide an estimate or to say the amount is at least some given amount. The reason is this. If the person is unable to pay, the LFO is not disqualifying, so the requirement to set out the amount of the LFO makes no difference. If the person *is* able to pay, the State must tell the person the amount that must be paid—no more (because requiring the person to pay more as a condition of voting would plainly be unconstitutional) and no less (because the point is to allow the person to make the required payment).

In short, the remedy will allow prospective voters to determine whether they have LFOs, at least to the extent that is possible at all; will allow them to vote if they are otherwise eligible but have LFOs they are unable to pay; will reduce though not eliminate the risk of unfounded prosecutions; and will allow much easier and more timely administration than the system the State now has in place.

This last point is important. Recall that under its current system, the Division of Elections determines, for every person who submits a registration, whether the person has one or more felony convictions. For each conviction, the Division must find the judgment, determine whether it was for murder or a sexual offense, determine whether the person is in prison or on supervision, calculate the total amount of LFOs, and find every payment that has been made not only on an LFO but for any other purpose related to the conviction. The State surely has an interest in administering as efficiently as possible the procedures designed to prevent ineligible individuals from voting—the procedures that check for convictions of murder and sexual offenses and for individuals who are in prison or on supervision, not just for individuals with LFOs. Because the Division lacks sufficient staff to perform these duties in a reasonable time—as set out above, the Division is on track to complete the process by 2026 even without the added LFO procedures—every minute saved on LFOs is a minute that becomes available to review for murders, sexual offenses, prison, and supervision. Every minute available for those purposes increases the chance that ineligible individuals will be removed from the rolls—a goal that those on all sides should embrace.

The time saved by the remedy put in place by this order will be substantial. Most felony sentences do not include a fine or restitution. So in most cases, the Division will need to do nothing more on LFOs than review the judgment to

confirm there is no fine or restitution. In the remaining cases—the cases with a fine or restitution—the overwhelming majority of felons will be unable to pay. Based on this order, the Division will be able to quickly determine that the person has made an adequate showing of inability to pay, and the Division will rarely have a basis to challenge that showing. This will end the required work on LFOs.

This remedy is far better than the current system in another respect as well. The State proposes to push onto the Supervisors of Elections much of the work related to LFOs. Thus, for example, the State says the plaintiffs' procedural-due-process claim is unfounded because a voter is entitled to a hearing before the Supervisor of Elections on issues that include whether LFOs have been paid and whether the voter is unable to pay them. This would place an impossible burden on the Supervisors—a burden that the remedy provided by this order eliminates in all but the rarest of cases.

The remedy is by no means perfect. The pay-to-vote system will still make voter-registration efforts more difficult than they would be without the LFO requirement and will still deter at least some eligible citizens from registering and voting. Administering the pay-to-vote system will still be difficult, take too long, and consume too many Division of Elections resources. The remaining problems would be remedied if the entire pay-to-vote requirement, as applied to those who

are able to pay as well as those who are not, was ruled unconstitutional. The plaintiffs have fallen just short of such a ruling.

XX. Conclusion

This order is intended to resolve all claims among all parties and to grant all the relief to which the plaintiffs are entitled. The order includes an injunction, directs the clerk to enter a Federal Rule of Civil Procedure 58 judgment, and reserves jurisdiction to enforce the injunction and judgment. For the reasons set out in *Jones v. Governor of Florida*, 950 F.3d 795 (11th Cir. 2020), and in this order,

IT IS ORDERED:

1. These five cases are consolidated for all purposes. All filings must be made in the consolidated electronic case file, No. 4:19cv300.

2. It is declared that the Florida pay-to-vote system is unconstutional in part:

(a) The system is unconstitutional as applied to individuals who are otherwise eligible to vote but are genuinely unable to pay the required amount.

(b) The requirement to pay, as a condition of voting, amounts that are unknown and cannot be determined with diligence is unconstitutional.

(c) The requirement to pay fees and costs as a condition of voting is unconstitutional because they are, in substance, taxes.

(d) The requirement to pay a determinable amount of fines and restitution as a condition of voting is not unconstitutional as applied to those who are able to pay.

3. The defendants must not take any step to enforce any requirement declared unconstitutional in paragraph 2 above.

4. The Secretary must make available in hard copy and online a form for requesting an advisory opinion from the Division of Elections substantially in the form of Attachment 1 to this order, subject to formatting and nonsubstantive modifications including, for example, addition of an address to which the request should be sent. This order refers to this as "the required form."

5. Each defendant Supervisor of Elections must make available at each office and must post online a notice of the right to request such an advisory opinion from the Division of Elections. The Supervisor must make the required form available in hard copy and online, either directly or by link to a state website.

6. If (a) within 21 days after receipt of a request for an advisory opinion using the required form that includes a request for a statement of the amount of any fine or restitution that must be paid to make the requesting person eligible to vote, (b) the Division of Elections does not provide an advisory opinion that includes the requested statement of the amount that must be paid together with an explanation of how the amount was calculated, then (c) the defendants must not take any step

to prevent, obstruct, or deter the requesting person from registering to vote and voting, (d) except on grounds unrelated to unpaid financial obligations, (e) unless and until the Division of Elections provides an advisory opinion that includes the requested statement of the amount that must be paid together with an explanation of how the amount was calculated.

7. If (a) within 21 days after receipt of a request for an advisory opinion using the required form that asserts inability to pay, (b) the Division of Elections does not provide an advisory opinion that asserts the requesting person is able to pay and provides a factual basis for the assertion, then (c) the defendants must not take any step to prevent, obstruct, or deter the requesting person from registering to vote and voting, (d) except on grounds unrelated to unpaid financial obligations.

8. If (a) within 21 days after receipt of a request for an advisory opinion using the required form, (b) the Division of Elections does not provide an advisory opinion showing the person is ineligible to vote, then (c) the defendants must not take any step to cause or assist a prosecution of the requesting person for registering to vote and voting, (d) based on anything the requesting person does before the Division of Elections provides an advisory opinion that shows the person is ineligible to vote, (e) except on grounds unrelated to financial obligations the State asserts the person must pay as a condition of voting.

9. For purposes of paragraphs 7 and 8, an assertion by the Division of Elections that a person is able to pay will have no effect—and paragraphs 6 and 7 will be applied as if the Division of Elections had made no such assertion—if (a) the requesting person had an appointed attorney or was granted indigent status in the last proceeding that resulted in a felony conviction, or (b) the person submitted with the request for an advisory opinion a financial affidavit that, if submitted in connection with a felony proceeding in a Florida circuit court, would be sufficient to establish indigent status under Florida Statutes § 27.52, or (c) all financial obligations that would otherwise disqualify the person from voting have been converted to civil liens, unless (d) the Division of Elections has credible and reliable information that the requesting person is currently able to pay the financial obligations at issue.

10. This order does not require any person to request an advisory opinion. The defendants must not take any step to prevent, obstruct, or deter a named plaintiff or member of the subclass from registering to vote or voting, except on grounds unrelated to unpaid financial obligations, if (a) the person had an appointed attorney or was granted indigent status in the last proceeding that resulted in a felony conviction, or (b) the person submits a financial affidavit that, if submitted in connection with a felony proceeding in a Florida circuit court, would be sufficient to establish indigent status under Florida Statutes § 27.52, or

(c) all financial obligations that would otherwise disqualify the person from voting have been converted to civil liens, unless (d) the Division of Elections or Supervisor of Elections in the person's home county has credible and reliable information that the requesting person is currently able to pay the financial obligations at issue.

11. The Secretary must make available in hard copy and online a statement of rules governing eligibility to vote after a felony conviction substantially in the form of Attachment 2 to this order.

12. Each defendant Supervisor of Elections must post at its offices and online a statement of rules governing eligibility to vote after a felony conviction substantially in the form of Attachment 2 to this order.

13. It is declared that financial obligations do not render these individuals ineligible to vote: Jeff Gruver, Emory Marquis Mitchell, Betty Riddle, Karen Leicht, Kristopher Wrench, Raquel L. Wright, Steven Phalen, Jermaine Miller, Clifford Tyson, Latoya A. Moreland, Curtis D. Bryant, Bonnie Raysor, Diane Sherrill, Lee Hoffman, Rosemary Osborne McCoy, and Sheila Singleton.

14. The defendants must not take any action based on financial obligations to prevent, obstruct, or deter the individuals listed in paragraph 13 from registering to vote or voting.

15. It is declared that fees and costs do not render Keith Ivey ineligible to vote.

16. The defendants must not take any action based on fees or costs to prevent, obstruct, or deter Keith Ivey from registering to vote or voting. This does not preclude action based on any unpaid fines.

17. It is declared that Florida Statutes § 97.052(2)(t) (2019) violates the National Voter Registration Act. The defendants must not use a form based on that statute.

18. The claims of the plaintiffs Kelvin Leon Jones and Luis Mendez are dismissed without prejudice. Their exclusion from the class and subclass is withdrawn, so they are now members if they meet the class and subclass definitions.

19. The declaratory and injunctive relief provided by this order runs in favor on the remaining named plaintiffs, including individuals and organizations, and the members of the certified class and subclass.

20. The declaratory and injunctive relief provided by this order and by the judgment that will be entered based on this order bind the defendants and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with any of them—who receive actual notice of the injunctive relief by personal service or otherwise.

21. The court retains jurisdiction to enforce the declaratory and injunctive relief and the judgment that will be entered based on this order.

22. It is determined under Local Rule 54.1 that the plaintiffs in Nos. 4:19cv301, 4:19cv302, and 4:19cv304 are entitled to recover attorney's fees. Under Local Rule 54.2, these plaintiffs are entitled to recover costs. Rules 54.1 and 54.2 will govern further proceedings to determine the amount of the fee and cost awards, except that the deadline for the plaintiffs' filings under Rule 54.1(E) and for a bill of costs under Rule 54.2 is 30 days after (a) the deadline for filing a notice of appeal from the judgment on the merits, if no appeal is filed, or (b) if an appeal is filed, the date of issuance of the mandate of the United States Court of Appeals for the Eleventh Circuit affirming the judgment or dismissing the appeal. No motion to determine the fee amount and no bill of costs may be filed prior to the resolution of any appeal (or, if no notice of appeal is filed, prior to the expiration of the deadline for filing a notice of appeal).

23. The clerk must enter judgment in the consolidated case in favor of the plaintiffs in Nos. 4:19cv301, 4:19cv302, and 4:19cv304, as set out in this order, and dismissing without prejudice the claims in Nos. 4:19cv272 and 4:19cv300. The judgment must include the names of all parties and the class and subclass

definitions and must explicitly retain jurisdiction to enforce the injunction and judgment.

SO ORDERED on May 24, 2020.

s/Robert L. Hinkle
United States District Judge

420-1

REQUEST FOR AN ADVISORY OPINION

To the State of Florida Division of Elections:

I may have been convicted of one or more felonies. I request an advisory opinion on whether I owe a fine or restitution that makes me ineligible to vote.

[CHECK ALL THAY APPLY]

___ I request a statement of the amount of any fine or restitution that must be paid to make me eligible to vote and an explanation of how the amount was calculated.

___ I believe I am unable to pay the required amount.

___ I am submitting a financial declaration. (This is not required but may assist the Division of Elections in processing the request for an advisory opinion.)

[PROVIDE AT LEAST ONE OF THE FOLLOWING]

My street address is:

My email address is:

[PROVIDE THE FOLLOWING ONLY IF YOU CHOOSE]

My telephone number is:

420-2

STANDARDS GOVERNING ELIGIBILITY TO VOTE AFTER A FELONY CONVICTION

A felony conviction in Florida for murder or a sexual offense makes a person ineligible to vote in Florida.

Any other felony conviction in Florida makes a person ineligible to vote in Florida only if:

(1) the person is in prison or jail on the offense;

(2) the person is on parole, probation, or another form of supervision on the offense; or

(3) the person owes a fine or restitution included in the judgment on the offense—but a fine or restitution does not make the person ineligible if the person is unable to pay it. Unpaid fees or costs do not make a person ineligible to vote.

A felony conviction in another state makes a person ineligible to vote in Florida only if the conviction would make the person ineligible to vote in the state where the person was convicted.

A person who is unsure about whether the person owes a fine or restitution that makes the person ineligible to vote may request an advisory opinion from the Florida Division of Elections on a form available from a Supervisor of Elections or the Division or online at <_____>. If the Division does not provide an advisory opinion within 21 days, there will be limits on the State's ability to assert that a fine or restitution makes the requesting person ineligible to vote.

Even if a person would be ineligible to vote under the standards set out above, the person is eligible if the person's right to vote has been restored by the Florida Executive Clemency Board.

An offense on which a person was not adjudicated guilty does not make a person ineligible to vote. A misdemeanor conviction does not make a person ineligible to vote.

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

JUDGMENT

This is a Federal Rule of Civil Procedure 58 final judgment after a bench trial. It is adjudged that the plaintiffs Bonnie Raysor, Diane Sherrill, Lee Hoffman, Jeff Gruver, Emory Marquis Mitchell, Betty Riddle, Karen Leicht, Keith Ivey, Kristopher Wrench, Raquel L. Wright, Steven Phalen, Jermaine Miller, Clifford Tyson, Latoya A. Moreland, Curtis D. Bryant, the League of Women Voters of Florida, the Florida State Conference of the NAACP, the Orange County Branch of the NAACP, Rosemary Osborne McCoy, and Sheila Singleton recover as set out in this judgment against the defendants the Governor of Florida, the Florida Secretary of State, and the Supervisors of Elections of Alachua, Broward, Duval,

Hillsborough, Indian River, Leon, Manatee, Miami-Dade, Orange, and Sarasota Counties, all in their official capacities.

The recovery is on behalf not only of the plaintiffs listed above but also a class and subclass. The class consists of all persons who would be eligible to vote in Florida but for unpaid financial obligations. The subclass consists of all persons who would be eligible to vote in Florida but for unpaid financial obligations that the person asserts the person is genuinely unable to pay. The named plaintiffs Bonnie Raysor, Diane Sherrill, and Lee Hoffman are the class representatives. The other named individual plaintiffs listed above are excluded from the class and subclass; their recovery is in their own name.

The claims of the plaintiffs Luis Mendez and Kelvin Leon Jones are dismissed without prejudice.

The court reserves jurisdiction to enforce this judgment, including the declaratory and injunctive relief included in this judgment, and to award costs and attorney's fees.

IT IS ADJUDGED:

1. Declaratory and injunctive relief is provided as follows.

2. It is declared that the Florida pay-to-vote system—the system under which a felon whose right to vote would otherwise be restored based on Florida

Constitution article VI, section 4 but is not restored because of unpaid financial obligations—is unconstitutional in part:

(a) The system is unconstitutional as applied to individuals who are otherwise eligible to vote but are genuinely unable to pay the required amount.

(b) The requirement to pay, as a condition of voting, amounts that are unknown and cannot be determined with diligence is unconstitutional.

(c) The requirement to pay fees and costs as a condition of voting is unconstitutional because they are, in substance, taxes.

(d) The requirement to pay a determinable amount of fines and restitution as a condition of voting is not unconstitutional as applied to those who are able to pay.

3. The defendants must not take any step to enforce any requirement declared unconstitutional in paragraph 2 above.

4. The Secretary must make available in hard copy and online a form for requesting an advisory opinion from the Division of Elections substantially in the form of Attachment 1 to this judgment, subject to formatting and nonsubstantive modifications including, for example, addition of an address to which the request should be sent. This judgment refers to this as "the required form."

5. Each defendant Supervisor of Elections must make available at each office and must post online a notice of the right to request such an advisory opinion

from the Division of Elections. The Supervisor must make the required form available in hard copy and online, either directly or by link to a state website.

6. If (a) within 21 days after receipt of a request for an advisory opinion using the required form that includes a request for a statement of the amount of any fine or restitution that must be paid to make the requesting person eligible to vote, (b) the Division of Elections does not provide an advisory opinion that includes the requested statement of the amount that must be paid together with an explanation of how the amount was calculated, then (c) the defendants must not take any step to prevent, obstruct, or deter the requesting person from registering to vote and voting, (d) except on grounds unrelated to unpaid financial obligations, (e) unless and until the Division of Elections provides an advisory opinion that includes the requested statement of the amount that must be paid together with an explanation of how the amount was calculated.

7. If (a) within 21 days after receipt of a request for an advisory opinion using the required form that asserts inability to pay, (b) the Division of Elections does not provide an advisory opinion that asserts the requesting person is able to pay and provides a factual basis for the assertion, then (c) the defendants must not take any step to prevent, obstruct, or deter the requesting person from registering to vote and voting, (d) except on grounds unrelated to unpaid financial obligations.

8. If (a) within 21 days after receipt of a request for an advisory opinion using the required form, (b) the Division of Elections does not provide an advisory opinion showing the person is ineligible to vote, then (c) the defendants must not take any step to cause or assist a prosecution of the requesting person for registering to vote and voting, (d) based on anything the requesting person does before the Division of Elections provides an advisory opinion that shows the person is ineligible to vote, (e) except on grounds unrelated to financial obligations the State asserts the person must pay as a condition of voting.

9. For purposes of paragraphs 7 and 8, an assertion by the Division of Elections that a person is able to pay will have no effect—and paragraphs 7 and 8 will be applied as if the Division of Elections had made no such assertion[1]—if (a) the requesting person had an appointed attorney or was granted indigent status in the last proceeding that resulted in a felony conviction, or (b) the person submitted with the request for an advisory opinion a financial affidavit that, if submitted in connection with a felony proceeding in a Florida circuit court, would be sufficient to establish indigent status under Florida Statutes § 27.52, or (c) all financial obligations that would otherwise disqualify the person from voting have been

[1] The injunction in the Opinion on the Merits has a scrivener's error. It refers to paragraphs 6 and 7 in the clause between the dashes. The proper reference is to paragraphs 7 and 8, as correctly set out in the first line of the paragraph. This judgment corrects the scrivener's error. The court has approved the correction.

converted to civil liens, unless (d) the Division of Elections has credible and reliable information that the requesting person is currently able to pay the financial obligations at issue.

10. This judgment does not require any person to request an advisory opinion. The defendants must not take any step to prevent, obstruct, or deter a named plaintiff or member of the subclass from registering to vote or voting, except on grounds unrelated to unpaid financial obligations, if (a) the person had an appointed attorney or was granted indigent status in the last proceeding that resulted in a felony conviction, or (b) the person submits a financial affidavit that, if submitted in connection with a felony proceeding in a Florida circuit court, would be sufficient to establish indigent status under Florida Statutes § 27.52, or (c) all financial obligations that would otherwise disqualify the person from voting have been converted to civil liens, unless (d) the Division of Elections or Supervisor of Elections in the person's home county has credible and reliable information that the requesting person is currently able to pay the financial obligations at issue.

11. The Secretary must make available in hard copy and online a statement of rules governing eligibility to vote after a felony conviction substantially in the form of Attachment 2 to this judgment.

12. Each defendant Supervisor of Elections must post at its offices and online a statement of standards governing eligibility to vote after a felony conviction substantially in the form of Attachment 2 to this judgment.

13. It is declared that financial obligations do not render these individuals ineligible to vote: Jeff Gruver, Emory Marquis Mitchell, Betty Riddle, Karen Leicht, Kristopher Wrench, Raquel L. Wright, Steven Phalen, Jermaine Miller, Clifford Tyson, Latoya A. Moreland, Curtis D. Bryant, Bonnie Raysor, Diane Sherrill, Lee Hoffman, Rosemary Osborne McCoy, and Sheila Singleton.

14. The defendants must not take any action based on financial obligations to prevent, obstruct, or deter the individuals listed in paragraph 13 from registering to vote or voting.

15. It is declared that fees and costs do not render Keith Ivey ineligible to vote.

16. The defendants must not take any action based on fees or costs to prevent, obstruct, or deter Keith Ivey from registering to vote or voting. This does not preclude action based on any unpaid fines.

17. It is declared that Florida Statutes § 97.052(2)(t) (2019) violates the National Voter Registration Act. The defendants must not use a form based on that statute.

18. The declaratory and injunctive relief provided by this judgment bind the defendants and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with any of them—who receive actual notice of the injunctive relief by personal service or otherwise.

JESSICA J. LYUBLANOVITS
CLERK OF COURT

May 26, 2020
DATE

s/ Cindy Markley
Deputy Clerk: Cindy Markley

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KELVIN LEON JONES, *et al.*,

Plaintiffs,

v.

CONSOLIDATED
Case No. 4:19-cv-300-RH/MJF

RON DeSANTIS, *et al.*,

Defendants.
_____/

THE GOVERNOR & SECRETARY OF STATE'S NOTICE OF APPEAL

Notice is hereby given that Governor Ron DeSantis and Secretary of State Laurel M. Lee, defendants in the above-named case, appeal to the United States Court of Appeals for the Eleventh Circuit from the final order and judgment entered in this action on May 24, 2020 (ECF 420) and May 26, 2020 (ECF 421), and from all previous rulings, opinions, and orders entered in this case. More specifically, the Governor and Secretary file this Notice of Appeal only in Case No. 4:19-cv-300 because all "five cases [concerning challenges to Amendment 4 and SB7066] are consolidated for all purposes," and this Court has directed that "[a]ll filing must be made in the consolidated electronic case file, No. 419cv300." ECF 420 at 118, ¶ 1.[1]

[1] This Court in an earlier order had consolidated the five cases for "case management purposes only," ECF 93 at 3, ¶ 1, and said that "[a] paper—other than a complaint (or counterclaim, cross-claim, or third-party complaint), answer, motion to intervene, judgment, notice of appeal, or amended version of any of them—that is

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filed in the common docket will be deemed filed in every case." *Id.* at 4, ¶ 2. The Governor and Secretary read this Court's subsequent final order as amending the earlier order and thus file their notice of appeal only in Case No. 4:19-cv-300.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record via email on May, 29 2020.

/s/ Mohammad O. Jazil
Attorney

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

KELVIN LEON JONES et al.,

Plaintiffs,

v.

CONSOLIDATED
CASE NO. 4:19cv300-RH/MJF

RON DeSANTIS et al.,

Defendants.

_____/

ORDER DENYING A STAY

The plaintiffs obtained declaratory and injunctive relief after an eight-day bench trial. The defendant Governor and Secretary of State of Florida have filed a notice of appeal. Apparently acknowledging that the plaintiffs are entitled to prevail on one of their claims under the law of the circuit, the Governor and Secretary have moved for a stay pending a ruling on their petition for immediate en banc review. This order denies the motion to stay.

I. The Underlying Dispute

It is useful to begin with a brief description of the underlying dispute. This description is taken directly from the 125-page opinion that resolved the case on

the merits, ECF No. 420, cited as *Jones v. DeSantis*, No. 4:19cv300-RH/MJF, 2020 WL 2618062 (N.D. Fla. May 24, 2020). This order refers to that opinion as "*Jones II*."

The State of Florida has adopted a system under which nearly a million otherwise-eligible citizens will be allowed to vote only if they pay an amount of money. Most of the citizens lack the financial resources to make the required payment. Many do not know, and some will not be able to find out, how much they must pay. For most, the required payment will consist only of charges the State imposed to fund government operations—taxes in substance though not in name.

The State is on pace to complete its initial screening of the citizens by 2026, or perhaps later, and only then will have an initial opinion about which citizens must pay, and how much they must pay, to be allowed to vote. In the meantime, year after year, federal and state elections will pass. The uncertainty will cause some citizens who are eligible to vote, even on the State's own view of the law, not to vote, lest they risk criminal prosecution.

This pay-to-vote system would be universally decried as unconstitutional but for one thing: each citizen at issue was convicted, at some point in the past, of a felony offense. A state may disenfranchise felons and impose conditions on their reenfranchisement. But the conditions must pass constitutional scrutiny. Whatever

might be said of a rationally constructed system, this one falls short in substantial respects.

The United States Court of Appeals for the Eleventh Circuit has already ruled, in affirming a preliminary injunction in this very case, that the State cannot condition voting on payment of an amount a person is genuinely unable to pay. *See Jones v. Governor of Fla.*, 950 F.3d 795 (11th Cir. 2020) ("*Jones I*"). After a full trial on the merits, the plaintiffs' evidence grew stronger. *Jones II* held that the State *can* condition voting on payment of fines and restitution that a person is able to pay but *cannot* condition voting on payment of amounts a person is unable to pay or on payment of taxes, even those labeled fees or costs. *Jones II* put in place administrative procedures that comport with the Constitution and are less burdensome, on both the State and the citizens, than those the State was using to administer the unconstitutional pay-to-vote system.

II. The Motion to Stay

The motion to stay is curious. By its terms, the motion asks not for a stay pending appeal but for a stay only pending a ruling on the State's extraordinary request to bypass consideration of the appeal by a panel and instead for immediate en banc review: "The Governor and Secretary of State seek a stay of the final order and judgment *pending resolution of their request for an expedited, en banc appeal*

before the U.S. Court of Appeals for the Eleventh Circuit." Mot. to Stay, ECF No. 423, at 1 (emphasis added).

The limited stay request is perhaps an acknowledgement that the Governor and Secretary (sometimes collectively referred to as "the State") cannot meet the standards for a stay pending appeal if the law of the circuit, as set out in *Jones I*, is followed. That view is plainly correct. It is also possible, though, that the State did not mean to concede the point. This order addresses both the motion the State actually made—for a stay pending a ruling on the request for immediate en banc review—and the broader issue of a stay pending appeal.

III. The Standard for a Stay Pending Appeal

A four-part test governs a stay pending appeal: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *see also Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1317 (11th Cir. 2019) (applying the same test); *Venus Lines Agency v. CVG Industria Venezolana De Aluminio*, 210 F.3d 1309, 1313 (11th Cir. 2000) (same).

IV. Likelihood of Success on the Merits

The pay-to-vote system runs afoul of the Constitution in three respects that bear on the stay issue. The motion to stay focuses on the first, inability to pay, but *Jones I* settles that issue on liability, and the motion to stay as filed in this court—unlike the State's filings in the Eleventh Circuit—offers no criticism of the *Jones II* remedy. The motion to stay wholly ignores the second issue, the State's staggering inability to administer its system; the *Jones II* remedy uses a structure suggested at trial by the State itself. The motion to stay includes only a brief discussion of the third issue, the Twenty-Fourth Amendment's ban on any "poll tax *or other tax*," and the State misrepresents the caselaw on that issue; in any event, staying the *Jones II* remedy on that issue would sow confusion but otherwise make no practical difference.

A. Inability to Pay

A state cannot allow one citizen to vote but not an otherwise-identically-situated second citizen when the only difference is wealth—when the first citizen has money and so can pay a debt but the second citizen does not have money and cannot pay the same debt. This is so even when the debt arose from a criminal sentence; in that instance, the refusal to let the second citizen vote is increased punishment for the underlying offense—increased punishment solely for being impecunious:

> Here, these plaintiffs are punished more harshly than those who committed precisely the same crime—by having their right to vote taken from them likely for their entire lives. And this punishment is linked not to their culpability, but rather to the exogenous fact of their wealth. Indeed, the wealthy identical felon, with identical culpability, has his punishment cease. But the felon with no reasoned prospect of being able to pay has his punishment continue solely due to the impossibility of meeting the State's requirement, despite any bona fide efforts to do so. Whatever interest the State may have in punishment, this interest is surely limited to a punishment that is applied in proportion to culpability.

Jones I, 950 F.3d at 812.

Jones I is controlling on this issue. And as set out in *Jones II*, the record compiled at trial makes the result even more clear. *See Jones II*, 2020 WL 2618062 at *13-27. The motion to stay makes no attempt at all to come to grips with the evidence and with the irrationality of the State's system.

Instead, the State doubles down on its assertion that the required showing of intent in a wealth case parallels the required showing in a race case—the showing required by cases dating to *Washington v. Davis*, 426 U.S. 229 (1976). But the Supreme Court has explicitly rejected this very assertion. *See M.L.B. v. S.L.J.*, 519 U.S. 102, 126–27 (1996). Any intellectually honest reading of *M.L.B.* settles this issue. It is not surprising, then, that *Jones I* squarely and correctly refuted the State's assertion: "the Supreme Court has squarely held that *Davis*'s intent requirement is not applicable in wealth discrimination cases." *Jones I*, 950 F.3d at 828 (citing *M.L.B.*, 519 U.S. 102, 126–27 (1996)). The State says this part of *Jones*

I should be reconsidered en banc, but the en banc court, no less than the panel, will be bound by *M.L.B.* and the other Supreme Court cases accurately cited in *Jones I*.

No matter how many times the State asserts the contrary, a statute that punishes some individuals more harshly than others based only on wealth, or that irrationally conditions eligibility to vote on wealth, is unconstitutional. An additional finding of unconstitutional intent is not required. *Jones I* correctly so held, as it was required to do under a substantial line of Supreme Court decisions, including not just *M.L.B.* but also *Bearden v. Georgia*, 461 U.S. 660 (1983), and other cases. The motion to stay does not even mention those cases.

In any event, this issue is much ado about nothing. Even on a claim of racial discrimination, a plaintiff need not show racial *animus*; a plaintiff need only show racial *motivation*. This is the holding of *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 265-66 (1977). And race need not be the *sole* motivation but only *a* motivation. *Id*. When the Florida Legislature adopted SB7066 conditioning voting on payment of money, the Legislature well knew that it was making poor people ineligible to vote, even when otherwise-identically-situated people with money would be eligible. A legislative motive was to achieve precisely that result.

The State insists that this effect—that poor people would be unable to vote while those with money could pay their obligations and vote—was unintended.

The assertion makes no sense. Whatever else might be said of SB7066, its obvious financial effect was not an accident. The Legislature achieved precisely what it intended: a system favoring those with money over those without.

Why else did SB7066 provide that amounts converted to civil liens were still disqualifying? Why else did SB7066 allow financial obligations to be paid through community service—but only after delays and at such unrealistic conversion rates that the option was almost entirely illusory? A motive was to prefer those with money over those without. Lest there be any doubt, I now expressly so find. The Legislature would not have adopted SB7066 but for the actual motive to favor individuals with money over those without.

The State is unlikely to prevail on its assertion that *Jones I*'s reading of *M.L.B.* should be reconsidered en banc.

B. Staggering Inability to Administer the Pay-to-Vote System

Jones II analyzed in depth the State's staggering inability to administer the system it has put in place. The State is on pace to complete its initial review of the already-pending felon voter registrations in early 2026. Additional registrations may push the completion date of just the initial review into the 2030s. In the meantime, many individuals will be unable to determine whether they must pay some amount to be eligible to vote and, if so, how much they must pay. Some

individuals who are eligible to vote, even on the State's own view of the law, will choose not to vote because they are unwilling to risk criminal prosecution.

The motion to stay does not even mention these issues. The State is unlikely to prevail on any assertion that the *Jones II* findings of fact are clearly erroneous or on any assertion that its inability to administer its system is constitutionally acceptable. And even more clearly, the State is unlikely to prevail on any assertion that this issue, which turns on the evidence in a record than spans well in excess of 10,000 pages, should be taken en banc without even an initial review by a panel.

In any event, the injunctive relief provided on this issue will cause the State no harm, let alone any irreparable harm, as addressed below.

C. Poll Tax or Other Tax

The Twenty-Fourth Amendment prohibits a state from denying or abridging the right to vote based on failure to pay any "poll tax or other tax." The motion to stay does not attempt to explain how a "fee" assessed for no purpose other than to fund the government is not a tax. But the State says felons can be required to pay a tax to vote—that the Twenty-Fourth Amendment does not apply to them. The State makes no attempt to square this with the position it has passionately asserted on other issues: that constitutional provisions and statutes should be construed based on their plain language.

Nor does the State's position make sense. If the Fourteenth Amendment applies to felon reenfranchisement—as every court that has addressed the issue, including the Supreme Court and the Eleventh Circuit en banc, has said it does—why not also the Twenty-Fourth?

The State says *Jones II* is on the wrong side of a 5–1 split among federal courts on this issue. That is simply not so. *Jones II* holds that restitution and fines are not taxes, thus agreeing with the other courts that have addressed the issue. But *Jones II* also holds that fees imposed only to fund the government—and that are imposed identically on defendants who are and are not adjudicated guilty—are taxes. The circuit decisions cited by the State do not address fees of this kind. *See Johnson v. Bredesen*, 624 F.3d 742 (6th Cir. 2010) (holding restitution and child support are not taxes under the Twenty-Fourth Amendment); *Harvey v. Brewer*, 605 F.3d 1067 (9th Cir. 2010) (holding fines and restitution are not taxes under the Twenty-Fourth Amendment); *Howard v. Gilmore*, No. 99-2285, 2000 WL 203984, at *2 (4th Cir. Feb. 23, 2000) (upholding a requirement to pay a $10 fee to begin the rights-restoration process).

What matters, of course, is not what other courts have said in other circumstances. What matters is what the Twenty-Fourth Amendment says. And whether it means what it says. The State has made no effort to explain the inconsistency in its approach to constitutional adjudication—its assertion that

Florida's Amendment 4 means what it says but the Twenty-Fourth Amendment does not.

Still, one could come out either way on likelihood of success on this issue. The State cannot, however, meet the other requirements for a stay on this issue, as addressed below.

V. Irreparable Harm to the State

The State seeks to stay an injunction with several parts. Most will cause no irreparable harm to the State. None should be stayed.

A. Determining the Amount Owed

The injunction requires the Secretary of State and Supervisors of Elections to make a form available that felons may use to request an advisory opinion from the Division of Elections on the amount the felon must pay to be eligible to vote. The State should not be heard to complain about this. Requesting an advisory opinion—a procedure created by a Florida statute—was the State's own suggestion, put forward in response to the plaintiffs' argument that the inability to determine the amount owed was a due-process problem.

Making a form available so that individuals can more easily do what the State suggested they do will cause no irreparable harm. In the motion to expedite in the Eleventh Circuit, the State says the injunction requires the Division to provide an advisory opinion within 21 days. That is not so. The injunction does not require

the Division to provide an advisory opinion at all. But if the Division does not provide a requested advisory opinion within 21 days, the State cannot preclude the requesting individual from registering and voting based on unpaid amounts, until the Division provides the requested information. This hardly seems unreasonable. Surely when the State suggested this process as a solution, it did not mean it could delay a response indefinitely.

B. Inability to Pay

The injunction requires the State to allow individuals to register and to vote if, based on the Eleventh Circuit's decision in *Jones I*, they are constitutionally entitled to vote. This part of the injunction should not be stayed.

1. Registration

Registration causes no irreparable harm because it merely starts the process. Unless the registrant actually votes, the only harm is administrative, and in one respect it is a net benefit, not a harm. The sooner a person registers, the sooner the State may start the vetting process. And as addressed below, delaying registration will cause substantial—indeed irreparable—harm to the plaintiff organizations and to the individual plaintiffs and class members, making a stay of this part of the injunction improper on that basis as well.

2. Voting

The analysis is different for *voting*. If the injunction remains in place, the Eleventh Circuit does not weigh in, and an election goes forward, some individuals will vote even though the State says they are ineligible. This will be the case for individuals who owe amounts they are unable to pay—individuals who, under *Jones I*, are constitutionally entitled to vote.

This does not support a stay, though, because, as set out above, the State has not made the required "strong showing" that it is likely to succeed on its challenge to *Jones I*. Moreover, as set out below, a stay will cause substantial—indeed irreparable—harm to the plaintiffs, and a stay will not serve the public interest.

3. Advisory Opinion

Jones II puts in place a process for determining inability to pay—a rebuttable presumption. The motion to stay takes no issue with that process, which is both reasonable and workable. But in the motion to expedite in the Eleventh Circuit, the State criticizes the remedy, both misreading it and mischaracterizing it as a wholesale rewriting of the State's elections laws.

The State had more than six months after entry of the preliminary injunction, and more than three months after the Eleventh Circuit's definitive ruling in *Jones I*, to come up with its own process for determining inability to pay. The State chose to do nothing.

The State's decision to ignore a definitive Eleventh Circuit ruling was unusual. States sometimes took positions like this in the 1950s and '60s. States have rarely done so since. The parties have every right to litigate this issue to the end of the line. To that end, I have endeavored at every turn to preserve each side's appellate rights. But after choosing to ignore *Jones I*, the State ought not be heard to complain about the court's chosen remedy, which, as set out in *Jones II*, will be more easily administered, especially by the Supervisors of Elections, than the default process that was already in place. It perhaps bears noting that the Supervisors of Elections, who have an important role in this process, have not complained about the remedy. The injunction was crafted taking full account of the Supervisors' position at trial.

The State says, in its motion to expedite, that the injunction requires the Division of Elections to respond to a request for an advisory opinion within 21 days. That is not so. The Division need not respond to a request for an advisory opinion at all. But if, within 21 days, the Division does not assert ability to pay, the State cannot bar the person from registering and voting or refer the person for prosecution, except on grounds unrelated to financial obligations. This prohibition ends if, at any later point, the Division has "credible and reliable information that the requesting person is currently able to pay the financial obligations at issue." *Jones II*, 2020 WL 2618062 at *45. The requirement for "credible and reliable"

information again tracks the State's own position, as asserted time and again at trial. *See* Fla. Stat. § 98.0751(3)(a).

C. Twenty-Fourth Amendment

Under the part of the injunction based on the Twenty-Fourth Amendment, the State cannot prohibit an otherwise-eligible felon from registering and voting based on the failure to pay fees or costs that are, in substance, taxes.

As set out above, registration causes no irreparable harm because it merely starts the process.

If there were any individuals whose eligibility to vote depended on this Twenty-Fourth Amendment ruling, the injunction requiring the State to allow the individuals to vote would pose a risk of harm. But the State has not shown that there exists even a single individual who has failed to pay fees or costs that the person is able to pay. So long as the inability-to-pay ruling in *Jones I* holds, the ruling on fees and costs will have no practical impact, at least as shown by this record.

At first blush, it may seem curious that nobody who is able to pay fees and costs would fail to pay them. But the State has powerful collection tools, including the ability to suspend a driver's license; these provide a compelling incentive to pay when one is able to do so. As discussed in *Jones II*, this is one of many facts that make the pay-to-vote system irrational—that put the lie to the State's assertion

that the system is justified by the State's interest in collecting amounts that are collectible. Given the emphasis in *Jones I* on the "mine-run" case, *see Jones*, 950 F.3d at 811, 814-17, one would have expected the State to introduce evidence of at least one person capable of paying who failed to pay, if indeed any such person exists. The burden of proof was not on the State, but it did call witnesses. The State failed to prove the existence of even one person who willfully failed to pay.

Requiring compliance with this component of the injunction will harm the State only if the *Jones I* inability-to-pay component of the injunction is stayed.

D. Criminal Prosecution

The injunction prohibits the defendants for referring an individual for prosecution for acting in reliance on an advisory opinion. This again accords with the State's own position at trial; in response to the plaintiffs' due-process arguments, the State said that under Florida law, a person who relies on an advisory opinion cannot be prosecuted. That may or may not be correct, but the State again should not be heard to complain about an injunction that merely requires the State to do what the State says it is already required to do.

E. Notice of the Governing Standards

The injunction requires the State to make available a plain-language description of the standards that govern a felon's eligibility to vote. This will cause no irreparable harm. Indeed, one might have expected the State to do this on its

own. If a stay is granted on other parts of the injunction—it should not be—the plain-language description will need to be altered to be accurate during the life of the stay, but this is not a basis to dispense entirely with an accurate plain-language description.

F. The Indefensible Registration Form

The injunction requires the State to discontinue use of a plainly improper voter-registration form. The State has made no real effort to defend the form, and the State says it has always allowed use of an older, proper form. The State says it does nothing at all different when a person uses the older, proper form instead of the new, indefensible form; which form is used makes absolutely no difference. Discontinuing use of the indefensible form that makes no difference will cause no harm, irreparable or otherwise.

VI. Substantial Harm to the Plaintiffs

A person who is denied the ability to vote in violation of the United States Constitution suffers not just substantial harm but irreparable harm. Period.

Staying the injunction will cause irreparable harm to the plaintiffs. This will be so for the August 18, 2020 election as well as for the November 3, 2020 election. The August election includes not only party primaries but also important nonpartisan elections. The State's suggestion that denying an individual's constitutional right to vote in August will not cause substantial harm is incorrect.

Florida requires voters to register 29 days before an election. *See* Fla. Stat. § 97.055(1)(a). The deadline to register for the August 18 election is July 20. A stay is certain to prevent some eligible voters from voting—even some who are eligible on the State's own view of the law but who are uncertain of that and do not wish to risk criminal prosecution.

VII. Public Interest

There are public-interest considerations on both sides of the equation. The State is correct that, other things being equal, it is better to have fewer changes in voting procedures. So a constitutional ruling should be enforced once and for all, when possible, not on-again-off-again. Here, though, that interest cuts against a stay. The Eleventh Circuit decision in *Jones I* has been in place for nearly four months. A stay will end compliance not just with this court's decision in *Jones II* but with the Eleventh Circuit's ruling in *Jones I*.

In any event, the interest in continuity does not justify denying the vote to those constitutionally entitled to vote. Other things being equal, it is better to follow the Constitution. When, as here, a constitutional issue has been settled by the Eleventh Circuit, a stay is rarely justified.

Jones I was a measured, thoughtful, comprehensive decision of the Eleventh Circuit. The Supreme Court exists for a reason; sometimes circuit courts get it wrong. And en banc petitions exist for a reason; sometimes a panel gets it wrong.

But this panel got it right. This is a particularly inauspicious time for the State of Florida to cling to an outdated system that was overwhelmingly rejected by the State's electorate.

Immediately after entry of the preliminary injunction, the Governor seemed to agree, issuing, and later adopting in court, this statement: "Today's ruling affirms the Governor's consistent position that convicted felons should be held responsible for paying applicable restitution, fees and fines while also recognizing *the need to provide an avenue for individuals unable to pay back their debts as a result of true financial hardship*." Hr'g of Dec. 3, 2019 Tr., ECF No. 239 at 5-8 (emphasis added). The order now on appeal provides an avenue, just as the Governor said was proper. The public interest will be served by putting the ruling in place now rather than later.

VIII. Conclusion

The motion to stay is, in effect, a motion to stay implementation of the Eleventh Circuit's decision in *Jones I*. Fidelity to the standards governing stays pending appeal requires denial of the motion.

IT IS ORDERED:

The motion to stay, ECF No. 423, is denied.

SO ORDERED on June 14, 2020.

s/Robert L. Hinkle
United States District Judge

B

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on June 19, 2020. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: June 19, 2020

s/ Charles J. Cooper
Charles J. Cooper
Counsel for Defendants-Appellants