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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MAKE IT LEGAL FLORIDA,

Plaintiff,

v. Case No.: 2019-CA-2019 CA 003015

LAUREL M. LEE, in her official capacity as Secretary of State of the State of Florida, and TAMMY JONES, in her official capacity as the Supervisor of Elections of Levy County, Florida and as representative of a similarly-situated defendant-class of all County Supervisors of Elections in the State of Florida,

Defendants.
_____/

VERIFIED EMERGENCY CLASS ACTION COMPLAINT FOR WRIT OF MANDAMUS, AND DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW Plaintiff, MAKE IT LEGAL FLORIDA, and by and through undersigned counsel, sues Defendants, LAUREL M. LEE, in her official capacity as Secretary of State of the State of Florida ("Secretary"), and TAMMY JONES, in her official capacity as Supervisor of Elections of Levy County, Florida ("Supervisor," and together with the Secretary, "Defendants") and as representative of a defendant-class of all 67 County Supervisors of Elections in the State of Florida pursuant to Fla. R. Civ. P. 1.220, seeking relief by original proceeding in *mandamus* pursuant to Fla. R. Civ. P. 1.630, and through declaratory and injunctive relief pursuant to Chapter 86, Fla. Stat. and Fla. R. Civ. P. 1.610, from and concerning the provisions

of Fla. Stat. § 100.371 ***as amended*** by the Legislature ("Amended Law") in enacting House Bill 5 effective July 7, 2019 ("H.B. 5"), as well as from certain provisions of Fla. Admin. Code R. 1S-2.0091 ("Rule") implementing Section 100.371.

I. INTRODUCTION[1]

1. This case concerns the protection of fundamental constitutional rights and protections of Plaintiff and Florida citizens from imminent harms which, unless redressed as requested herein, will result in permanent and irreversible injury, including *inter alia*, as to the rights to amend Florida's constitution by initiative petition and engage in core political speech and association in connection therewith.

2. In July 2019, the Florida Legislature restricted and impinged these rights through its enactment of H.B. 5. The amendments to Fla. Stat. § 100.371 effectuated by H.B. 5 are plainly not contemplated by the Florida Constitution. Nor are they necessary to or narrowly tailored in support of any compelling State interest. In fact, the changes lack even a rational, reasonable, or coherent justification or relation to any purported State interest. Instead, the amendments have the intent and effect of impermissibly burdening and impinging the petition rights of Plaintiff and Florida voters by art. IV, Sec. 3 & 5, Fla. Const. As a result, the Amended Law is ***facially invalid***, as an unconstitutional alteration of the initiative petition process.

[1] All emphases are added, and citations altered or omitted, unless otherwise noted.

3. In addition, the enforcement of the Amended Law (and its implementing Rule) by the Secretary—and its forthcoming and future enforcement by the Secretary and Supervisors, most notably in connection with the approaching 2020 general election)—will necessarily impose unconstitutional burdens and cause uniquely irreparable constitutional harms to Petition Circulators and Sponsors (such as Plaintiff) and Florida's citizens, including with respect to the constitutional right to participate in the initiative process and support and vote upon proposed constitutional amendments, the coextensive freedoms to engage in core political speech and association through participation in the initiative and amendment processes as a Sponsor, Circulator, and/or supporter, and also the substantive due process protections against arbitrary and irrational legislative action, such as H.B. 5, that infringes upon constitutional initiative petition rights.

4. Specifically, H.B. 5 imposed new restrictions on paid Petition Circulators, including that "[a] person may not collect signatures or initiative petitions for compensation ***unless the person is registered as a petition circulator with the Secretary of State***." Coextensively, the amendments of H.B. 5 imposed upon the Secretary a duty to implement, maintain, and update an effectual database and portal for Petition Circulators to satisfy their registration requirement.

5. However, the Secretary failed to discharge these duties; instead, the Secretary established a notoriously faulty registration portal that has caused, and

continues to cause, substantial delays and hindrances to Petition Circulators in registering and circulating petitions, such as that for which Plaintiff is a Sponsor. In isolation, the failures of the Secretary with respect to implementation, maintenance, and updating of a registration database may appear trivial; however, in practical application, this have caused and continue to cause dire and unlawful consequences.

6. That is because, in order to achieve placement on the ballot for electors' to vote upon in the 2020 general election, petitions must be supported by signatures of 766,200 Florida voters. In order to count towards that total, signatures not only must be submitted to the Supervisors of Elections by February 1, 2020; rather, such signatures must be: (i) validated and verified by the Supervisors, Fla. Stat. § 100.371(11); (ii) reported by the Supervisors to the Secretary, *id.* at (6) & (11); and (iii) deemed sufficient by the Secretary, *id.* at (1) & (12)—***all by February 1st***.

7. Critically, however, Supervisors "shall promptly verify the signatures ***within 30 days after receipt of the petition forms***," pursuant to Fla. Stat. § 100.371(11) and Rule 1S-2.0091(2)(a). Thus, these rules combine to effectively ***establish a stealth deadline of January 2, 2020*** (*i.e.*, 30 days prior to February 1, 2020), to gather and submit all of the requisite signatures. Unfortunately, as a direct result of the Secretary's failures that cost precious and irreplaceable time of Petition Circulators to collect such signatures, this stealth deadline virtually ***cannot be met***. Accordingly, the Amended Law (and its implanting Rule) is ***invalid as-applied***.

8. In addition, the Secretary's shortcomings in effectuating the provisions of the Amended Law (and its implementing Rule) had caused, and certainly will continue to cause, irreparable injury to Plaintiff, including unconstitutional burden and infringement upon Plaintiff's constitutional initiative rights, and its related rights to engage in political speech and association, and to substantive due process, pursuant to art. I, Sec. 4, 5 & 9, Fla. Const.

9. Plaintiff has no adequate remedy at law for the injuries that it has sustained, continues to sustain, and certainly will sustain as a result of harms described herein. The relief set forth below is the only relief capable of redressing and preventing further harms, while being as narrowly-tailored as possible.

10. To redress Plaintiff's harms and curtail the distinct risk of further and future harms, while also ensuring that ***every petition and signature is constitutionally and appropriately counted***, Plaintiff respectfully seeks, *inter alia*, the following relief:

(A) The provisions of Fla. Stat. § 100.371 as amended by H.B. 5, and the implementation and enforcement of such provisions (including by way of Rule 1S-2.0091), and all deadlines, obligations, burdens, restrictions, and requirements imposed thereby with respect to the initiative petition process, be declared unconstitutional and invalid, both facially and/or as-applied;

(B) Defendants be enjoined, by preliminary and/or permanent injunction, from implementing or enforcing the provisions of Section 100.371 as amended by H.B. 5, and/or Rule 1S-2.0091 which are deemed to be, or have the effect of being, unconstitutional and invalid;

(C) The Secretary be required by *mandamus* to perform her clear and indisputable ministerial duties to implement, maintain, and update an effectual database for registration of, and information concerning, paid Petition Circulators and their petition forms, as required by Fla. Stat. § 100.371(6);

(D) The Supervisor be required, by *mandamus* and/or preliminary or permanent injunction, to perform her clear and indisputable ministerial duties:

(i) To accept, and consider as timely *ab initio*, all petitions and signatures submitted to the Supervisor by February 1, 2020, as set forth in art. XI, Sec. 5(b), Fla. Const., Fla. Stat. § 100.371(1), and Rule 1S-2.0091(5), subject to Supervisors' subsequent validation and verification by,

(ii) To promptly validate and verify all petitions and signatures, as required by Section 100.371(11) and Rule 1S-2.0091(2) & (4), submitted to the Supervisor by February 1, 2020, within 30 days of receipt thereof (or by any such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt), and

(iii) To promptly submit to the Secretary the number, distribution, and all other necessary information concerning petitions and signatures submitted to the Supervisor by February 1, 2020, and subsequently validated and verified by the Supervisor within 30 days of receipt thereof (or by any such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt), as required by Fla. Stat. § 100.371 and Rule 1S-2.0091(4)(a); and

(E) The Secretary be required, by *mandamus* and/or preliminary or permanent injunction, to perform her clear and indisputable ministerial duties:

(i) To determine from the information received by the Supervisor concerning petitions and signatures submitted to the Supervisor by February 1, 2020, and subsequently validated and verified by the Supervisor within 30 days of receipt thereof (or by such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt), the total number and distribution of such verified valid signatures, as required by Fla. Stat. § 100.371(12), and

(ii) Upon making a determination of sufficient numerical and distributional signatures in support of a petition, to issue a certificate of ballot position and assign a designating number for such proposed amendment, for

submission to and vote of the electors in the 2020 general election, pursuant to art. XI, Sec. 5(b), Fla. Const. and Section 100.371(12).

II. EMERGENCY NATURE OF THIS ACTION

11. The matter presented is a true emergency. In particular, the requested relief must be granted and Ordered by February 1, 2020 so that Plaintiff may comply with that deadline for final submission of initiative petitions and signatures pursuant to Art. XI, Sec. 5(b), Fla. Const. While Plaintiff requests relief that would render valid *ab initio* all petitions and signatures submitted to Defendants by February 1, 2020—even though subsequently validated and/or verified by Defendants ***after*** the February 1st deadline—Plaintiff remains mindful of and intent to comply with this constitutional deadline to submit petitions and signatures to Defendants. Accordingly, Plaintiff requests a hearing to address the issues presented and relief requested herein at the Court's earliest possible availability and opportunity.

III. PARTIES

12. Plaintiff, MAKE IT LEGAL FLORIDA, has at all relevant times been registered as a Political Committee with the Florida Secretary of State. Plaintiff Make It Legal Florida has, at all relevant times, been authorized and acting as the Sponsor of a proposed constitutional amendment by initiative, pursuant to Fla. Stat. §§ 100.371 and 106.011(16). Plaintiff Make It Legal Florida is subject to the

jurisdiction of this Court, with its registered agent, Emmett Mitchell IV, located at 115 East Park Avenue, Suite 1, Tallahassee, Florida 32301.

13. Defendant, LAUREL M. LEE, is the Secretary of State of the State of Florida, and is sued herein in her official capacity as Secretary. Defendant Lee, as Secretary of State, is assigned certain clear and indisputable ministerial duties, including *inter alia*, to validate and verify signatures obtained by Petition Circulators and submitted by Sponsors in support of petitions, determine that a proposed amendment is supported by the requisite number and distribution of signatures, and certify proposed amendments for inclusion on ballots. Defendant Lee, as Secretary of State, is subject to the Court's jurisdiction. *See Roberts v. Brown*, 43 So. 3d 673, 678 (2010); *Floridians Against Casino Takeover v. Let's Help Fla.*, 363 So. 2d 337, 338 (Fla. 1978).

14. Defendant, TAMMY JONES, is the Supervisor of Elections for Levy County, Florida, and is sued herein in her official capacity as Supervisor. Defendant Jones, as Supervisor of Elections, is assigned certain clear and indisputable ministerial duties, including *inter alia*, to provide to and receive from Petition Circulators their petition forms, verify and validate signatures obtained by Petition Circulators and submitted by Sponsors in support of initiative petitions, and report such information to the Secretary of State. Defendant Jones, as Supervisor of Elections, is subject to the jurisdiction of this Court. *See Krivanek v. Take Back*

Tampa Political Comm., 625 So. 2d 840, 841 (Fla. 1993); *State ex rel. Clendinen v. Dekle*, 173 So. 2d 452, 453 (Fla. 1965).

IV. JURISDICTION AND VENUE

15. This Court has original jurisdiction, and is authorized to address and decide each of the constitutional issues raised herein, as well as to order each form of requested relief, pursuant to art. V, Sec. 5(b), Fla. Const. *See Burnett v. Starwood Hotels & Resorts Mgmt. Co.*, 251 So. 3d 223, 226 (Fla. 3d DCA 2018) ("circuit courts shall have original jurisdiction" that includes "the power to issue writs of mandamus"); *Roberts v. Brown*, 43 So. 3d 673, 679 (Fla. 2010) ("circuit courts [are] courts of general jurisdiction under the Florida Constitution and have the general authority to consider declaratory actions and issue injunctions").

16. This Court also has jurisdiction to issue its writ of mandamus to compel constitutional and state officers and agents, including the Defendant Secretary and Supervisors, to perform ministerial acts. *See Krivanek v. Take Back Tampa Political Comm.*, 625 So. 2d 840, 841 (Fla. 1993); *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561 (Fla. 1980); *Wincor v, Turner*, 215 So.2d 3 (Fla. 1968). This Court also has jurisdiction to issue writs of mandamus to enforce constitutional rights. *Firestone*, 386 So. 2d 561; *State ex rel. Brown v. Dewell*, 167 So. 687 (Fla. 1936). Plaintiff has no other adequate remedy at law. *Firestone*, 386 So. 2d 561; *Costello v. Carlisle*, 413 So.2d 834 (Fla. 1st DCA 1982). This Court's

jurisdiction and authority concerning mandamus relief is concurrent with the Supreme Court under art. V, Sec. 3(b)(8), Fla. Const. *See Harvard v. Singletary*, 733 So. 2d 1020, 1021 (Fla. 1999).

17. Venue is proper in Leon County and this judicial circuit pursuant to the Florida common law home venue privilege, to the extent Defendants constitute constitutional, statutory, or administrative officers of the State or its agencies maintaining official, principal headquarters in Leon County. *See, e.g.*, *Sink v. E. Coast Pub. Adjusters, Inc.*, 40 So. 3d 910, 912 (Fla. 3d DCA 2010) (collecting cases); *Straughn v. G. J. M., Inc.*, 344 So. 2d 318, 318 (Fla. 1st DCA 1977). Venue further lies in this Circuit to the extent the Secretary of State is named a party. *See Cardenas v. Smathers*, 351 So. 2d 21, 23 n.4 (Fla. 1977) ("Petitioner having joined the Secretary of State as a party to this action, venue properly lies in Leon County.").

V. FACTUAL BACKGROUND

A. The Fundamental Importance Of Voting Rights

18. This is an action to protect against infringement on the right of Florida electors to propose constitutional amendments by initiative petition, the right to engage in political speech and association relating to petition circulation, and substantive due process rights in connection therewith, as well as to that electors' signatures in support of petitions are appropriately and constitutionally counted.

19. Among the most well-established and unassailable pillars of American democracy is that the right to vote is paramount:

> Undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections. A consistent line of decisions by this Court in cases involving attempts to deny or restrict the right of suffrage has made this indelibly clear. It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote, and to have their votes counted. . . . It is as equally unquestionable that the right to have one's vote counted is as open to protection . . . as the right to put a ballot in a box. . . . "Obviously included within the right to choose, secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted. . . . 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. Other rights, even the most basic, are illusory if the right to vote is undermined. . . . Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society.

Reynolds v. Sims, 377 U.S. 533, 554-55, 560-62, 567 (1964).

20. The vital significance of constitutional voting rights is likewise inviolate under Florida law. *See, e.g.*, *Gore v. Harris*, 773 So. 2d 524, 527 (Fla. 2000) ("Both the search for the truth and the right to vote are of paramount importance, but they are circumscribed by a higher, overarching concern—the general welfare of our democracy."); *Palm Beach Cty. Canvassing Bd. v. Harris*, 772 So. 2d 1273, 1291 (Fla. 2000) (noting "a clear legislative policy of the importance of an elector's right to vote and of having each vote counted").

21. In Florida, this includes the right of Florida's electorate to propose amendments to the Florida Constitution by way of initiative petition, the significance of which right is also recognized as canonical under Florida Law:

> Simply because the initiative-petition method of amending the Florida Constitution is a state-created constitutional right does not mean that the Legislature possesses unbounded authority to limit the constitutional right. In fact, the Legislature has only limited authority in this area. *See State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566 (Fla. 1980) ("The initiative petition method to amend the constitution is a fundamental right and any rule or statute which regulates this initiative process must not unduly burden the petitioners' initiative access."); *see also Smith v. Coalition to Reduce Class Size*, 827 So. 2d 959 (Fla. 2002); *Meyer v. Grant*, 486 U.S. 414, 420 (1988) ("Having decided to confer the right, the State was obligated to do so in a manner consistent with the Constitution."). It remains a basic legal principle that "no department, not even the legislative, has unlimited power under our system of government." *Sylvester v. Tindall*, 154 Fla. 663, 677 (Fla. 1944).

Browning v. Fla. Hometown Democracy, Inc., 29 So. 3d 1053, 1063-64 (Fla. 2010).

B. Background Of Initiative Petition Rights And Related Legislation In Florida

22. The right to propose constitutional amendments by initiative petition is expressly conferred upon and reserved to the people of Florida, as follows:

> The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such

> districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

art. XI, Sec. 3, Fla. Const.

23. The initiative petition process has historically played a meaningful role in the amendment of the Florida Constitution. Indeed, the fact that approximately thirty (30) total amendments have been made to Florida's Constitution by way of the initiative petition process, illustrates the momentous value of initiative petition rights reserved to Florida's electors.

24. From time-to-time, Florida's Legislature has passed laws, which have in-turn received gubernatorial approval and signature, to implement and address the rights conferred by art. XI, Sec. 3, Fla. Const. *See, e.g.*, Fla. Stat. § 101.161 (addressing "Voting Methods and Procedures: Referenda; Ballots"); Fla. Stat. § 97.012 (establishing "Secretary of State as Chief Election Officer," and enumerating Secretary's Duties as to "Qualification and Registration of Electors").

25. In 2019, the Legislature passed H.B. 5 (Ch. 2019-64, Laws of Fla.), which amended Florida law—most notably, including Fla. Stat. § 100.371 (addressing "Initiatives; procedure for placement on ballot," and governing paid Petition Circulators).

26. Historically, signatures collected from registered Florida voters, in support of a petition seeking to place a constitutional amendment on the ballot pursuant to art. XI, Sec. 3, Fla. Const., have been collected by persons hired by

Sponsors of proposed amendments. Prior to adoption of H.B. 5 and its amendments to Section 100.371, the activities of paid Petition Circulators were primarily governed by Fla. Stat. § 97.012 and Rule 1S-2.009, with the former primarily governing election fraud, and the latter imposing mostly clerical requirements on Petition Circulators, such as to place their name and address on each petition form.

C. H.B. 5 is Adopted and Becomes Effective July 7, 2019

27. The most notable and pertinent changes effectuated by H.B. 5 were the restrictions imposed on paid Petition Circulators, requiring them to register with the Secretary of State as a precondition to their authority and ability to circulate petitions and thus collect valid signatures in support thereof, specifically as follows:

> (3) "A person may not collect signatures or initiative petitions for compensation ***unless the person is registered as a petition circulator with the Secretary of State***."
>
> (4) that "[a]n ***application for registration must be submitted in the format required by the Secretary of State*** . . . ."

Fla. Stat. § 100.371, as amended.

28. Coextensive with these new registration requirements imposed on Petition Circulators, the amendments of H.B. 5 also imposed upon the Secretary of State new duties as to the registration of Petition Circulators, including as follows:

> The [Secretary] . . . shall make petition forms available to registered petition circulators, . . . shall maintain a specified database of all registered petition circulators and the petition forms assigned to each . . . [and] must update information on petition forms daily and make the information publicly available.

Fla. Stat. § 100.371(6), as amended.

29. Prior to the enactment of H.B. 5, paid Petition Circulators were not required to pre-register with the Secretary of State or provide certain information to the Secretary in order to circulate petitions and collect signatures in support of Sponsors' proposed amendments. Indeed, previously, the only requirement of paid Petition Circulators, as expressed in Fla. Admin. Code R. 1S-2.009 (promulgated and effective as of September 7, 2011), was that circulators place their name and address on each petition collected and submitted by them.

30. Notably the version of Rule 1S-2.0091 presently in force and effect was promulgated and became effective as of September 7, 2011. Following the adoption of H.B. 5, on July 9, 2019, the Florida Department of State published a "Notice of Development of Rulemaking" concerning 1S-2.0091, noting that "[t]he purpose of rulemaking is to conform the rules to statutory changes in HB 5 (Chapter 2019-64, Laws of Florida) which amends sections 97.021 and 100.371, Florida Statutes." More specifically, the Notice sets forth the following "PURPOSE AND EFFECT":

> The purpose of rulemaking is to conform the rules to statutory changes in HB 5 (Chapter 2019-64, Laws of Florida) which amends sections 97.021 and 100.371, Florida Statutes. ***The bill, among other things, requires paid petition circulators to register with the Secretary of State; requires petition forms to be made available to constitutional amendment initiative petition sponsors; requires the Secretary to maintain a paid petition circulator database; requires supervisors of elections to provide specified information to the division of elections;*** provides requirements for gathering petition forms; provides for the imposition of fines for failure to deliver petition forms within a

> specified time period and provides for defenses; allows the Secretary of State to refer petition form violations to the Attorney General for enforcement; ***requires the division of elections to adopt rules;*** and provides that the date the elector signs a petition form is presumed to be the date the sponsor collected the form. ***The changes to the rules are to incorporate these various changes in the law.***

31. Then, on July 10, 2019, the Department of State published a "Notice of Meeting/Workshop Hearing" concerning 1S-2.0091, setting a hearing date of August 30, 2019 to "discuss amendments to Rules 1S-2.009 & 1S-2.0091 to conform the rules to statutory changes in HB 5 (Chapter 2019-64, Laws of Florida) relating to the constitutional amendment initiative petition process." However, as of the date of this Complaint, Rule 1S-2.0091 has not been amended or otherwise updated to reflect any changes implemented to the initiative petition process and/or Fla. Stat. § 100.371 by way of H.B. 5, and the Department of State has published no further notices or information concerning Rule 1S-2.0091 or any amendments thereto.

D. H.B. 5 Lacks any Cohesive Justification or Purpose, and Purports to Address a Problem that Did Not Exist

32. The only apparent indication of the Legislature's intent and justification in imposing restrictions upon initiative petition procedures pursuant to H.B. 5, is set forth in the Legislative Bill History, to the effect of "ensur[ing] the integrity of the petition form gathering process." 2019 Legis. Bill Hist. FL H.B. 5.

33. To that same effect, limited statements of legislators regarding H.B. 5 since its enactment, indicate a purported purpose to prevent fraud in the collection

of signatures in support of initiative petitions.[2] However, to the extent prevention of voter fraud is, in fact, the true purpose and justification behind H.B. 5, such rationale is readily undermined by the fact there is already a specific Florida Statute, § 97.012(15), which was first enacted in 1975, and has been (and remains) in existence and effect ever since, specifically authorizing the Secretary of State to:

> Conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, candidate petition, or issue petition activities and report his or her findings to the statewide prosecutor or the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, if warranted. The Department of State may prescribe by rule requirements for filing an elections-fraud complaint and for investigating any such complaint.

34. Over the two years prior to the enactment of H.B. 5, there have been only a handful of complaints filed with the Secretary alleging irregularities in the collection of petitions. These complaints were filed pursuant to Fla. Stat. § 97.102.

35. Thus, prior to the adoption of H.B. 5, there had existed for 44 years a statutory process for persons who believed there were irregularities in the petitions circulation and signature gathering process. Those persons who believed irregularities existed, simply had to file an Elections Complaint with the Florida

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[2] For example, Florida Senator David Simmons (Altamonte Springs) claimed that a "very real" risk of voter fraud purportedly justified the adoption of H.B. 5, and the burdens and restrictions it imposes on the initiation petition process. *See* John Kennedy, *Florida Legislature Takes Swipe At Citizen Ballot Measures*, SARASOTA HERALD-TRIBUNE, https://www.heraldtribune.com/news/20190503/florida-legislature-takes-swipe-at-citizen-ballot-measures (May 3, 2019).

Department of State, Office of the General Counsel in Tallahassee, for preliminary investigation of the allegations. By all accounts, Fla. Stat. § 97.102(15) presented an effective mechanism to deal with any potential irregularities relating to the gathering of petitions, in a clear and concise manner, ever since its enactment in 1975.

36. Despite the pre-existence of Section 97.102(15), the Legislature enacted H.B. 5, subsequently signed into law by the Governor, to impose new and additional constrains on paid Petition Circulators, including by way of mandatory registration requirements and proscription of methods by which Petition Circulators may be compensated by Sponsors of an initiative,[3] among other restrictions.

37. Notably, however, other Florida agencies and officials have offered various conflicting, arbitrary, and futile justifications for H.B. 5. For example, Governor Ron DeSantis, who approved and signed H.B. 5, has made no mention in his discussions of the amendments as to any purported "fraud" concerns, or need or intent to limit or avoid same. Rather, DeSantis' comments suggest a purpose of H.B. 5 to curtail a perceived over-exercise of voters' rights to amend Florida law by initiative petition, including both through support of 'too many' amendments and also issues that are 'too policy-based' in the eyes of elected officials.[4]

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[3] Traditionally, Petition Circulators were paid based upon the number of petitions collected and verified. As amended by H.B. 5, however, Florida law now restricts Petition Circulators to payment in the form of a salary.

[4] *See* Lawrence Mower, *DeSantis Cracks Down On Citizen Petitions To Get On Ballot In Florida Next Year*, MIAMIHERALD, *https://www.miamiherald.com/*

38. Yet another, distinct rational for the amendments was offered by Florida's Chamber of Commerce, which issued a public statement following the enactment of H.B. 5, suggesting a justification of insulating in-state interests from policy agendas of non-citizens. *See* CBSMIAMI, *Florida Governor Ron DeSantis Signs Controversial Petition Bill*, https://miami.cbslocal.com/2019/06/07/florida-governor-ron-desantis-signs-controversial-petition-bill/ (Jun. 7, 2019) ("Thank you to the Florida Legislature for protecting Florida's Constitution from out-of-state special interests and returning the process back to Florida citizens."),

39. Individually, and at best, none of the rationales or justifications expressed in support of H.B. 5 pass constitutional muster, particularly given the lack of any evil to remedy or need to otherwise implement burdensome restrictions, much less the significant degree of burdens caused to various fundamental rights and core constitutional freedoms and protections. Considered together, and at worst, these inconsistent justifications support a grave conclusion that the amendments represent a contrived and calculated measure of lawmakers to restrain and abridge the ability

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news/politics-government/state-politics/article231328888.html (Jun. 7, 2019) ("Last year, we had so many amendments that I think we need reform. . . . Whether this is enough, I don't know. . . . We've let too much policy go into the Constitution."); Blaise Gainey, *DeSantis Praises New Law Making Citizen's Initiative Process Harder*, WFSU NEWS, *https://news.wfsu.org/post/desantis-praises-new-law-making-citizens-initiative-process-harder* (Oct. 29, 2019) ("The more policy that you put into the constitution the harder it is to be able to actually do what the people want you to do. It makes it harder to fix problems because you have handcuffs on.").

of Florida's electorate to affect constitutional changes. Whatever the true purpose or justification, the amendments of H.B. 5 are evidently overburdensome and serve no compelling interest, or even any important, rational, or reasonable one.

E. The Secretary's Failure to Implement and Maintain an Effectual Database for Registration of Paid Petition Circulators

40. The Secretary, pursuant to H.B. 5, is required to establish and maintain a process for paid Petition Circulators to pre-register with the Secretary of State prior to engaging in signed petition collecting activities. Specifically, H.B. 5 requires the Secretary of State to, *inter alia*, "***maintain a database of all registered Petition Circulators and the petition forms assigned to each***," and further provides that the Secretary "***must update information on petition forms daily and make the information publicly available***." *See* Fla. Stat. § 100.371(6).

41. Notably, however, this was an unfunded legislative mandate, despite the obvious necessity for the Secretary to hire additional personnel to oversee the registration of paid Petition Circulators, including creation and updating of an online registration database and portal. Indeed, the Legislature imposed these obligations on the Secretary without allocating or providing for any funding in implementing the new requirements of H.B. 5. For example, the Secretary could not hire an outside vendor to create a registration database and portal, due to lack of budgeted funds.

42. Following the passage of H.B. 5 and enactment of amendments to Section 100.371, the portal and database created by the Secretary notoriously experienced numerous issues,[5] as acknowledged by Florida officials,[6] including:

a. Totally failing to implement, maintain, and update a reliable computerized registration portal to process registrations of persons desiring to become paid Petition Circulators, or make other required digital filings mandated by H.B. 5 by Petition Circulators with the Secretary of State.

b. The registration portal was operational for the first 7-10 days, in September of 2019, and Petition Circulators were able to same day register.

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[5] *See, e.g.*, Jeffrey Schweers, *Paid Petition-Gatherers Says Florida Registration Website Plagued With Problems*, TALLAHASSEE DEMOCRAT, https://www.tallahassee.com/story/news/local/state/2019/07/12/paid-petition-gatherers-says-state-registration-website-plagued-problems/1718483001/ (Jul. 12, 2019); Bruce Ritchie, *Florida Website Glitches Threaten Energy Ballot Initiative, Backers Say*, POLITICO, https://www.politico.com/states/florida/story/2019/10/22/florida-website-glitches-threaten-energy-ballot-initiative-backers-say-1225744 (Oct. 22, 2019).

[6] *See, e.g.*, Samantha J. Gross & Mary Ellen Klas, *'The Damage Is Done': Florida Officials Vow To Fix Problems With Crackdown On Petition Gatherers*, TAMPA BAY TIMES, https://www.tampabay.com/florida-politics/buzz/2019/08/30/the-damage-is-done-florida-officials-vow-to-fix-problems-with-crackdown-on-petition-gatherers/ (Aug. 30, 2019); NEWS4JAX, *Technical Woes Creating More Hurdles For Florida Ballot Initiatives – State Attributes Outage In Part To Tight Window To Develop New Website*, https://www.news4jax.com/news/2019/10/25/technical-woes-creating-more-hurdles-for-florida-ballot-initiatives/ (Oct. 25, 2019).

c. Beginning on or about September 20, 2019, when the Petition Circulators of Plaintiff Make it Legal Florida were attempting to register with the Secretary using online portal the portal system completely failed until November 14, 2019. During this time period approximately 90% of the attempted registrations resulted in being redirected to an error page. Commencing around October 1, 2019 the site would only allow approximately 10 out of 200 persons attempting to register as Petition Circulators to submit their registrations through the portal, of those limited number of registrations to be processed, it took up to 14 days to receive approvals back from the Secretary. During this time period only 2% of the Petition Circulators, who finally received approvals, waited to become employed as Petition Circulators, the remaining 98% moved on to different jobs.

d. Beginning approximately October 18, 2019 the Secretary began to accept applications via email, these applications were in a paper format, had to be manually reviewed by employees, and slowed up the registration process substantially. The manual applications were not reviewed over the weekend by the employees of the Secretary, whereas if the portal and database was operational, persons could register through the portal and check the status of their applications

through the portal. A substantial portion of these paper applications were sent back by email due to being illegible, or containing minor spelling errors. These problems were exacerbated by the number of constitutional amendments seeking to be placed on the ballot, coupled with the finite resources of the Secretary to review the paperwork for all constitutional amendments wanting to be placed on the ballot.

e. When registered Petition Circulators ran out of petitions the Secretary could not promptly send to the registered Petition Circulators preprinted petition forms as required to due according to H.B. 5. This caused delays of up to 15 days in the collection of singed petitions. In a substantial number of instances, the petitions sent to the Petition Circulators barcode identifying the specific amendment the petition was for, was cut off the page due to a formatting error.

f. Furthermore, the Secretary could not assign tracking or agency numbers to any applications or registrations so that the Petition Circulator could inquire on the status of their application. These applications and registrations were simply lost as the Secretary's office, despite her best efforts.

g. As of the date of this Complaint, the portal still experiences multiple time outs, multiple click-ins and error messages.

F. The Profound Impacts and Harms Caused by the Impairment of paid Petition Circulators' Ability to Register with the Secretary of State, as Required in Order to Circulate and Collect Signatures in Support of Initiative Petitions of Sponsors Such as Plaintiff

43. The practical effect of the Secretary's errors and failures has been to substantially inhibit the registration of paid Petition Circulators, thereby precluding and delaying their ability to circulate and collect signatures in support of initiative petitions, unless and until able to register with the Secretary of State—if fortunate and able at all.

44. Thus, the Secretary's inability and/or failure to perform clear, non-delegable ministerial duties, as required to be performed by H.B. 5, has prevented and will prevent Plaintiff and electors from considering, circulating, Sponsoring, and/or supporting initiative petitions—and perhaps even from voting at all on proposed amendments in the 2020 general election, to the extent the initiative failed to receive sufficient signatures as a result of the obstructions and delays caused by the Secretary's failures—in violation of Plaintiff's freedoms of speech and association, and substantive due process rights, under art. I, Sec. 4, 5 & 9, Fla. Const.

45. The registration issues with the Secretary of State's registration portal persist to this day. Thus, it is beyond challenge or dispute that ***irrevocable damage has been done and is ongoing***.

46. The hampering, delay, and frustration of Petition Circulators' efforts is uniquely critical, given that constitutional amendments proposed by initiative

petitions may only be placed on the ballot for the general election, to be voted upon by Florida's electors, to the extent a petition is supported by the verified signatures of eight percent (8%) of the total number of Florida voters in the preceding presidential election (*i.e.*, approximately 766,200), as filed with, and deemed valid and verified by the Supervisors of Elections, and then reported to and deemed sufficient by the Secretary of State, by February 1, 2020. *See* art. XI, Sec. 3, Fla. Const.; Fla. Stat. § 100.371; Rules 1S-2.009 & 1S-2.0091.

47. The inability of countless of paid Petition Circulators to present petitions for consideration by electors and gather signatures thereof in support of petitions, for significant periods of time (if not entirely) in the weeks and months leading up to the February 1, 2020 deadline, has caused and will continue to cause irreparable injury and harm to Plaintiff.

48. The actions of the Secretary have presented an enormous (if not insurmountable) barrier to the ability of Sponsors, such as Plaintiff Make It Legal Florida, to collect the requisite number of signatures for petitions and have them reviewed, validated, and verified by the Supervisors, and then reviewed and deemed sufficient by the Secretary—***all by the February 1, 2020 deadline***.[7]

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[7] And more accurately, as a practical matter, by the stealth deadline of January 2, 2020, explained hereinabove in ¶7, *supra*.

49. It is thus substantially likely, if not certain, that initiative petitions will fail (*i.e.*, they will not make the ballot for vote by electors in the 2020 general election), despite the fact such initiatives would or could have succeeded if not doomed by the impairments caused to Petition Circulators' ability to register and timely begin circulating and collecting signatures in support of petitions.

VI. APPLICABLE LAW

A. Mandamus Relief

50. "Mandamus is a recognized remedy to require a public official, who is clothed with the authority, to discharge his duty." *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008); *Browning v. Young*, 993 So. 2d 64, 65 (Fla. 1st DCA 2008) (mandamus is a civil remedy to compel a public official to discharge a ministerial duty); *Fair v. Davis*, 283 So. 2d 377, 378 (Fla. 1st DCA 1973) ("mandamus is a remedy by which administrative officials or agencies may be coerced to perform ministerial duties which they have a clear legal duty to perform").

51. Mandamus is a proper remedy where the Florida Secretary of State has failed to comply with a legislative mandate to perform a ministerial act. *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561 (Fla. 1980).

B. Declaratory and Injunctive Relief

52. Declaratory and injunctive relief are properly granted to declare invalid and enjoin enforcement of a statute, rule, or regulation (or any provisions thereof),

where enforcement would substantially infringe upon constitutional rights and protections, such as the freedoms of speech and association, and/or due process. *See Clean-up '84 v. Heinrich*, 590 F. Supp. 928 (M.D. Fla. Jul. 19, 1984).

C. The Laws At-Issue

53. Art, XI, Sec. 3, Fla. Const., establishes the right of Florida electors to affect constitutional change through the initiative petition process.[8] Article. XI, Section 5, Fla. Const. contains additional provisions bearing upon the initiative petition rights, providing in pertinent part, as follows:

> (a) A proposed amendment to or revision of this constitution, or any part of it, ***shall be submitted to the electors at the next general election*** held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.
>
> ***(b) A proposed amendment or revision of this constitution, or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.***

54. Fla. Stat. § 100.371 imposes certain clear, ministerial duties upon the Defendant Secretary and Supervisor regarding these initiative petition rights—including as to the implementation, maintenance, and updating of a registration

[8] The text of this constitutional provision is quoted in-full hereinabove at ¶22, *supra*.

database for paid Petition Circulators, as well as the receipt, validation, verification, and counting of signatures obtained and submitted in support of petitions, providing in pertinent part, as follows:

> (1) Constitutional amendments proposed by initiative ***shall be placed on the ballot for the general election, provided the initiative petition has been filed with the Secretary of State no later than February 1 of the year the general election is held.*** A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors under this code.
>
> * * *
>
> (3) ***A person may not collect signatures or initiative petitions for compensation unless the person is registered as a petition circulator with the Secretary of State.***
>
> (4) ***An application for registration must be submitted in the format required by the Secretary of State*** and must include the following:
>
> (a) The information required to be on the petition form under s. 101.161, including the ballot summary and title as approved by the Secretary of State.
>
> (b) The applicant's name, permanent address, temporary address, if applicable, and date of birth.
>
> (c) An address in this state at which the applicant will accept service of process related to disputes concerning the petition process, if the applicant is not a resident of this state.
>
> (d) A statement that the applicant consents to the jurisdiction of the courts of this state in resolving disputes concerning the petition process.

(e) Any information required by the Secretary of State to verify the applicant's identity or address.

(5) All petitions collected by a petition circulator must contain, in a format required by the Secretary of State, a completed Petition Circulator's Affidavit which includes:

(a) The circulator's name and permanent address;

(b) The following statement, which must be signed by the circulator:

By my signature below, as petition circulator, I verify that the petition was signed in my presence. Under penalties of perjury, I declare that I have read the foregoing Petition Circulator's Affidavit and the facts stated in it are true.

(6) The division or the supervisor of elections shall make petition forms available to registered petition circulators. All such forms must contain information identifying the petition circulator to which the forms are provided. ***The division shall maintain a database of all registered petition circulators and the petition forms assigned to each.*** Each supervisor of elections shall provide to the division information on petition forms assigned to and received from petition circulators. The information must be provided in a format and at times as required by the division by rule. ***The division must update information on petition forms daily and make the information publicly available.***

(7) (a) A sponsor that collects petition forms or uses a petition circulator to collect petition forms serves as a fiduciary to the elector signing the petition form, ensuring that any petition form entrusted to the petition circulator shall be promptly delivered to the supervisor of elections within 30 days after the elector signs the form. If a petition form collected by any petition circulator is not promptly delivered to the supervisor of elections, the sponsor is liable for the following fines:

1. A fine in the amount of $50 for each petition form received by the supervisor of elections more than 30

days after the elector signed the petition form or the next business day, if the office is closed. A fine in the amount of $250 for each petition form received if the sponsor or petition circulator acted willfully.

2. A fine in the amount of $500 for each petition form collected by a petition circulator which is not submitted to the supervisor of elections. A fine in the amount of $1,000 for any petition form not submitted if the sponsor or petition circulator acted willfully.

(b) A showing by the sponsor that the failure to deliver the petition form within the required timeframe is based upon force majeure or impossibility of performance is an affirmative defense to a violation of this subsection. The fines described in this subsection may be waived upon a showing that the failure to deliver the petition form promptly is based upon force majeure or impossibility of performance.

* * *

(11) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all other requirements of law are met. ***The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained.*** If a signature on a petition is from a registered voter in another county, the supervisor shall notify the petition sponsor of the misfiled petition. ***The supervisor shall promptly verify the signatures within 30 days after receipt of the petition forms*** and payment of the fee required by s. 99.097. ***The supervisor shall promptly record, in the manner prescribed by the Secretary of State, the date each form is received by the supervisor, and the date the signature on the form is verified as valid.*** The supervisor may verify that the signature on a form is valid only if:

(a) The form contains the original signature of the purported elector.

(b) The purported elector has accurately recorded on the form the date on which he or she signed the form.

(c) The form sets forth the purported elector's name, address, city, county, and voter registration number or date of birth.

(d) The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

* * *

(12) ***The Secretary of State shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161.***

* * *

(14) ***The Department of State may adopt rules in accordance with s. 120.54 to carry out the provisions of subsections (1)-(14).***

55. In addition, the rules and regulations implementing the requirements and provisions of Section 100.371 and imposing certain obligations upon the Supervisors of Elections, Rule 1S-2.0091 ("Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification"), provides as follows:

(1) Submission. Signed initiative petition forms proposing amendments to the Florida Constitution shall be submitted by the sponsoring political committee to the Supervisor of Elections for the county of residence listed by the person signing the form. If

the Supervisor of Elections determines that the signer of the petition is a registered voter in another county, the Supervisor of Elections shall notify the petition sponsor that the petition has been misfiled. It is the responsibility of the sponsoring political committee thereafter to ensure that the misfiled petition form is properly filed with the Supervisor of Elections for the county in which the signee is a registered voter. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(2) Signature Verification.

(a) In accordance with the signature verification fee provisions in section 99.097(4), F.S., the Supervisor of Elections for the county in which the signee is a registered voter shall verify the signatures on each initiative petition form within 30 days after receipt of the form to ensure that each person signing the petition form:

1. Was, at the time of signing and verification of the petition, a registered voter in the state,

2. Except as provided in paragraph (4)(b), below, had not signed the petition form more than two years prior to the date the Supervisor verified the petition, and

3. Had not ever previously signed a petition form containing the identical initiative which had been verified as valid.

(b) The Supervisor shall not verify as valid a signature on an initiative petition form unless all of the following information is contained on the petition form:

1. The voter's name,

2. The voter's address (including city and county),

3. The voter's date of birth or voter registration number,

4. The voter's original signature, and

5. The date the voter signed the petition, as recorded by the voter.

(3) Random Sampling Not Permitted. Supervisors of Elections may not use random sampling as a method for verifying signatures on constitutional amendment initiative petitions.

(4) (a) Recordation of Verification. The appropriate supervisor of elections for each respective voter whose signature is verified as valid shall record the date the form was received, the date of the signature, the date the signature was verified, and the assigned serial number for the applicable initiative petition. Upon completion of the verifications as set forth in subsection (2), the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the total number of signatures verified as valid and the distribution by congressional district. In conjunction with each certificate submitted, each Supervisor shall submit a copy of one petition showing the text of the constitutional amendment to which the verified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the filing deadline, followed by the original certificates sent by mail.

(b) Notwithstanding the provisions of subparagraph (2)(a)2., above, a signature on a petition by a registered voter who signed the petition on or before May 19, 2011, is valid for four years. The Supervisor of Elections shall separately certify to the Division of Elections any signatures on a petition that were signed on or before May 19, 2011 by clearly annotating that the certification represents signatures on or before May 19, 2011.

(5) Filing Deadline. In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the constitutionally requisite number of verified signatures must

be verified and reported to the Division no later than 5:00 p.m. on February 1 of the year in which the general election is held.

(6) Limitation on Use of Verified Signatures. Verified signatures used successfully to place a proposed amendment by initiative on the ballot that subsequently fails to be approved by the electors at the general election shall not be used again in support of any future initiative petition. An identical initiative petition means an initiative petition that is circulated on an initiative petition form which contains the same serial number assigned to it pursuant to Rule 1S-2.009, F.A.C.

(7) Nothing in this rule prohibits a voter from signing a successive initiative petition form containing the text of a former petition if the successive petition form has a different serial number assigned to it pursuant to Rule 1S-2.009, F.A.C.

D. Courts in Florida and Nationwide Have Invalidated as Unconstitutional Restrictions Burdening Initiative Petition Rights

56. The Florida Supreme Court has expressly invalidated statutory restrictions imposed on initiative petition rights. Indeed, in *Browning v. Fla. Hometown Democracy, Inc.*, the Florida Supreme Court declared unconstitutional an amendment to precisely the same statute and regulation at-issue here (*i.e.*, Fla. Stat. § 100.371 and Rule 1S-2.0091), and rejected legislative justifications substantially similar to those asserted here in support of H.B. 5 (namely, preservation of ballot integrity and prevention of voter fraud), and held that a signature-revocation provision unconstitutionally infringed upon a Petition Sponsor's freedoms of speech and association under the Florida Constitution, concluding:

> Since these provisions are not . . . explicitly or implicitly contemplated by article XI, we must address . . . whether these provisions—despite

> their lack of implicit or explicit support in article XI—are necessary for ballot integrity. As a general matter, we agree that preserving ballot integrity and preventing fraud in the initiative-circulation process may constitute significant state interests. Nevertheless, the Legislature may not simply incant these aims to shield its actions from judicial inquiry.
>
> Here, we conclude that these legislative and administrative restrictions impermissibly burden the initiative-circulation process by (1) substantially reducing the size of the audience that the sponsor can reach and rendering it less likely that the sponsor can garner the necessary number of signatures, while (2) not passing muster under the requisite level of constitutional scrutiny, which requires the State to establish that its restrictions are necessary for ballot integrity. *See Smith v. Coal. to Reduce Class Size*, 827 So. 2d 959, 962-64 (2002); *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566-67 (Fla. 1980). These signature-revocation provisions substantially burden the constitutional rights of initiative proponents and initiative signatories . . . .

29 So. 3d 1053, 1070-71 (Fla. 2010).

57. The U.S. Supreme Court has likewise consistently declared invalid and unconstitutional overly-burdensome restrictions upon initiative petitions rights, and the core freedoms of political speech and association implicated thereby. In *Meyer v. Grant*, the Court invalidated a statute restricting circulator compensation. 486 U.S. 414 (1988). In so doing, the Court emphasized that "[w]e fully agree with the Court of Appeals' conclusion that this case involves a limitation on political expression subject to exacting scrutiny," and that "[t]he statute is subject to exacting scrutiny, since the circulation of an initiative petition . . . necessarily constitutes 'core political speech.'" 486 U.S. at 420, 422, 428 (citing *Buckley v. Valeo*, 424 U.S. 1, 45 (1976)). In support of the principle that petition circulation constitutes "core political

speech," and its conclusion that the restriction thereupon was invalid and constitutional under an "exacting scrutiny," the Court reasoned as follows:

> The circulation of an initiative petition of necessity involves both the expression of a desire for political change and a discussion of the merits of the proposed change. Although a petition circulator may not have to persuade potential signatories that a particular proposal should prevail to capture their signatures, he or she will at least have to persuade them that the matter is one deserving of the public scrutiny and debate that would attend its consideration by the whole electorate. This will in almost every case involve an explanation of the nature of the proposal and why its advocates support it. ***Thus, the circulation of a petition involves the type of interactive communication concerning political change that is appropriately described as "core political speech."***
>
> ***The refusal to permit appellees to pay petition circulators restricts political expression in two ways: First, it limits the number of voices who will convey appellees' message and the hours they can speak and, therefore, limits the size of the audience they can reach. Second, it makes it less likely that appellees will garner the number of signatures necessary to place the matter on the ballot, thus limiting their ability to make the matter the focus of statewide discussion.*** The Colorado Supreme Court has itself recognized that the prohibition against the use of paid circulators has the inevitable effect of reducing the total quantum of speech on a public issue. When called upon to consider the constitutionality of the statute at issue here in another context in *Urevich v. Woodard*, 667 P.2d 760, 763 (1983), that court described the burden the statute imposes on First Amendment expression:
>
>> "As mentioned previously, statutes that limit the power of the people to initiate legislation are to be closely scrutinized and narrowly construed. That the statute in question acts as a limitation on ACORN's ability to circulate petitions cannot be doubted. We can take judicial notice of the fact that it is often more difficult to get people to work without compensation than it is to get them to work for pay. As the dissent in *State v. Conifer Enterprises, Inc.*, 82 Wash. 2d 94, 104, 508 P.2d 149, 155 (1973) (Rosellini, J., dissenting), observed:

> "'The securing of sufficient signatures to place an initiative measure on the ballot is no small undertaking. Unless the proponents of a measure can find a large number of volunteers, they must hire persons to solicit signatures or abandon the project. I think we can take judicial notice of the fact that the solicitation of signatures on petitions is work. It is time-consuming and it is tiresome—so much so that it seems that few but the young have the strength, the ardor and the stamina to engage in it, unless, of course, there is some remuneration.'"

Meyer, 486 U.S. at 421-24.

58. Thereafter, in *Buckley v. Am. Constitutional Law Found.*, the U.S. Supreme Court affirmed the invalidation of certain restrictions imposed upon initiative petition rights under Colorado's constitution including, critically, registration and disclosure requirements of paid petition circulators. 525 U.S. 182, 186 (1999). Specifically, the Court approved "invalidat[ion of] the requirement that ballot-initiative proponents file a final report when the initiative petition is submitted insofar as that requirement compels disclosure of each paid circulator by name and address, and the total amount paid to each circulator" and "reject[ion of] compelled disclosure in monthly reports of the name and address of each paid circulator, and the amount of money paid and owed to each circulator during the month in question." *Id.* As in *Meyer*, the Court explained that the "exacting scrutiny" standard, as established in *Buckley v. Valeo*, 424 U.S. 1 (1975), was applicable and rendered unconstitutional and invalid the registration and disclosure requirements of paid petition circulators because, notwithstanding that "[d]isclosure of the names of

initiative sponsors, and the amounts they have spent to gather support for their initiatives, responds to Colorado's substantial interest in controlling domination of the initiative process by affluent special interest groups[, ***t]he added benefit of revealing the names of paid circulators and amounts paid to each circulator, the lower courts fairly determined . . . has not been demonstrated***." *Id.* at 186, 202-03; *see also id.* at 186-87, 197 (additionally deeming unconstitutional a requirement that initiative petition circulators be registered voters of a state in order to circulate petitions and collect signatures of voters therein).

59. Of note, courts have subsequently explicated that the *Meyer* decision "reject[ed] [] the proposition that something more than a threshold signature requirement is necessary to assure popular support is plainly applicable in the candidate context." *See Lux v. Judd*, 651 F.3d 396, 403 n.5 (4th Cir. 2011) (citing *Krislov v. Rednour*, 226 F.3d 851, 861 (7th Cir. 2000)); *see also Biddulph v. Mortham*, 89 F.3d 1491, 1498 & n.6 (11th Cir. 1996) (acknowledging that, in *Meyer*, "the Court indicated that a state, though generally free to regulate its own initiative process, is limited in the extent to which it can permissibly burden the communication of ideas about the political change at issue in an initiative proposal that occurs during petition circulation," and noting "the power to ban initiatives entirely (and therefore, by analogy, to regulate them) does not include 'the power to limit discussion of political issues raised in initiative petitions'"); *Delgado v. Smith*,

861 F.2d 1489, 1496 (11th Cir. 1988) ("The state cannot impede or diminish this process so long as it reserves the right of initiative to the people").

60. Indeed, relying on *Meyer* and *Buckley*, the Fourth Circuit in *Lux* reversed the dismissal of a complaint challenging constitutionality of residency requirements imposed on paid petition circulators, reasoning as follows:

> Guaranteeing sufficient in-district popular support was the lone state interest we identified in connection with the residency requirement. . . . [T]he Supreme Court has twice considered—and on each occasion rejected as a rationale—the importance of ensuring a threshold level of grassroots support as a basis for restrictions on petition circulation.

Id. at 403 (citing *Buckley*, 525 U.S. at 204-05, and *Meyer*, 486 U.S. at 426-27).

61. Furthermore, the exacting scrutiny standard set forth in *Meyer* and *Buckley* has been repeatedly held applicable to Florida laws and regulations bearing upon initiative petition circulators. *See, e.g.*, *League of Women Voters of Fla. v. Browning*, 575 F. Supp. 2d 1298, 1320 (S.D. Fla. 2008) ("'Election regulations that impose a severe burden on associational rights are subject to strict scrutiny,' and courts should "uphold them only if they are 'narrowly tailored to serve a compelling state interest.'") (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 451 (2008), and *Clingman v. Beaver*, 544 U.S. 581, 586 (2005)).

62. And finally, Florida Courts and Eleventh Circuit courts interpreting Florida law, have deemed participation in the initiative petition process a "fundamental right." *See Smith v. Coal. to Reduce Class Size*, 827 So. 2d 959, 962

(Fla. 2002) (states which reserve initiative rights to citizens under their constitutions possess only "limited authority to adopt regulations that affect the initiative process"); *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566 (Fla. 1980) ("'The initiative petition method to amend the constitution is a fundamental right and any rule or statute which regulates this initiative process must not unduly burden the petitioners' initiative access."); *Fla. Hometown Democracy, Inc. v. Browning*, No. 4:08-cv-373-SPM/WCS, 2008 U.S. Dist. LEXIS 111292, at *11 (N.D. Fla. Aug. 29, 2008) ("While substantive due process does not ordinarily protect state-created rights, there is an exception. 'Where an individual's state-created rights are infringed by 'legislative act,' the substantive component of the Due Process Clause generally protects him from arbitrary and irrational action by the Government.'") (citing *Lewis v. Brown*, 409 F.3d 1271, 1273 (11th Cir. 2005)).

63. Thus, under precisely the same principles and authority set forth in *Meyer*, *Buckley*, and *Browning*, strict scrutiny plainly applies in analyzing the constitutionality of the restrictions by H.B. 5, rendering the amendments here similarly invalid as unconstitutionally burdening Plaintiff's fundamental rights and core freedoms of political speech and association, as well as its substantive due process protections against arbitrary and irrational legislative action, such as H.B. 5.

VII. CLASS ACTION ALLEGATIONS

64. Pursuant to Fla. R. Civ. P. 1.220(b)(l), (2) and/or (3), Plaintiff brings this action against Defendant Jones, in her official capacity as Supervisor of Elections of Levy County, Florida, and furthermore as representative of a similarly-situated defendant-class of Supervisors of Elections, comprised of the Supervisor of Elections for each of Florida's 67 counties (including Defendant Jones), in their official capacities as Supervisors of Elections (the "Class" or "Class Members").

65. Defendant Jones, in her official capacity as Supervisor of Elections, if charged with precisely the same duties and non-discretionary obligations to enforce and uphold Florida's elections law, as each and all of the Class Members, in their official capacities as Supervisors of Elections. Indeed, each Supervisor is empowered to enforce the provisions of the Florida Election Code, including the statute at-issue here, Section 100.371 as amended by H.B. 5.

66. The identities of those comprising the Class are thus not only ascertainable and identifiable, but moreover are readily known and public knowledge.

67. Because the size of the proposed Class is precisely 67, the number of Class Members is so numerous that separate joinder of each member is impractical. Accordingly, numerosity is met. *See Terry L. Braun, P.A. v. Campbell*, 827 So. 2d 261, (Fla. 5th DCA 2002) ("We note that classes as small as 25 have fulfilled the

numerosity requirement.") (quoting *Estate of Bobinger v. Deltona Corp.*, 563 So. 2d 739, 743 (Fla. 2d DCA 1990)); *see also Evans v. U.S. Pipe & Foundry Co.*, 696 F.2d 925, 930 (11th Cir. 1983) ("While there is no fixed numerosity rule, 'generally less than 21 is inadequate, more than 40 is adequate, with numbers between varying according to other factors.'") (quoting *Cox v. American Cast Iron Pipe Co.*, 784 F.2d 1546, 1552 (11th Cir. 1986)).

68. This Action poses questions of both law and fact common—and moreover, identical—among all Class Members. Commonality is thus satisfied. *See Miami-Dade Expressway Auth. v. Tropical Trailer Leasing, LLC*, 250 So. 3d 751, 756 (Fla. 3d 2018) ("'The threshold of the commonality requirement is not high.' . . . [C]ommonality is satisfied if the common interest of putative class members is in the object or result of the action [] or in the general question implicated in the action.") (quoting *Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91 (Fla. 2011)).

69. Based on the facts and circumstances alleged herein, Plaintiff's claims against Defendant Jones, in her official capacity as a Supervisor, are typical of—and moreover, identical to—Plaintiff's claims against each and all Class Members, in their official capacities as Supervisors. Typicality, too, is satisfied here. *See Sosa*, 73 So. 3d at 114 ("The key inquiry for a trial court when it determines whether a proposed class satisfies the typicality requirement is whether the class representative possesses the same legal interest and has endured the same legal injury as the class

members. The test for typicality is not demanding and focuses generally on the similarities between the class representative and the putative class members. Mere factual differences between the class representative's claims and the claims of the class members will not defeat typicality.").

70. Based on the facts and circumstances set forth above, Defendant Jones can and will fairly and adequately protect and represent the interests of all Class Members, as representative of the proposed Class. Thus, adequacy is likewise satisfied. *See City of Tampa v. Addison*, 979 So. 2d 246, 255 (2d DCA 2007) (affirming certification of defendant-class, and noting that adequacy was satisfied as to the proposed representative of the defendant-class where it had no interests antagonistic to the other defendant-class members and there was no reason to believe the Tampa City Attorney's office, which would represent the class of defendants, lacked the necessary resources to defend plaintiffs' constitutional challenge).

71. Plaintiff seeks certification of the Class under Fla. R. Civ. P. 1.220(b)(3), because common questions of fact and law exist as to all Class Members, and such questions predominate over any questions solely affecting any individual Class Members, if any at all. Accordingly,

72. Plaintiff also seeks certification of the Class under Fla. R. Civ. P. 1.220(b)(1), because prosecution of separate claims or defenses by or against individual Class members would create a risk of either: (a) inconsistent or varying

adjudications concerning individual Class Members which would establish incompatible standards of conduct for the party opposing the class; and/or (b) adjudications concerning individual Class Members would, as a practical matter, be dispositive of the interests of other Class Members who are not named parties to the adjudications, or substantially impair or impede the ability of other Class Members who are not named parties to the adjudications to protect their interests. Thus, the Class is properly certified here under Rule 1.220(b)(1). *See OCE Printing Sys. USA, Inc. v. Mailers Data Servs., Inc.*, 760 So. 2d 1037, 1044 (Fla. 2d DCA 2000) (affirming certification of class for injunctive relief under (b)(1), and noting "Rule 1.220(b)(1) does not require a finding that such inconsistent adjudications have occurred. Rather, the rule requires a finding that if the proposed class members decided to prosecute separate claims, the risk would arise.").

73. Plaintiff also seeks certification of the Class under Fla. R. Civ. P. 1.220(b)(2), as a result of the actions and/or omissions alleged herein, which actions and/or omissions are generally applicable to all Class Members, thereby making final declaratory and injunctive relief concerning the Class, as a whole, appropriate. Thus, the Class is properly certified here under Rule 1.220(b)(2). *See Miami-Dade Expressway Auth. v. Tropical Trailer Leasing, L.L.C.*, 250 So. 3d 751, 757 (Fla. 3d DCA 2018) (affirming certification of a class under (b)(2), emphasizing that class

members "acted in a similar manner towards all class members with its challenged [] practice").

74. Plaintiff also seeks certification of the Class under Fla. R. Civ. P. 1.220(b)(3), as common questions of fact and law exist as to all Class Members and such questions predominate over any questions solely affecting any individual Class Member. Thus, predominance is met here, and the Class is properly certified under Rule 1.220(b)(3). *See Disc. Sleep of Ocala, LLC v. City of Ocala*, 245 So. 3d 842, 856 (Fla. 5th DCA 2018); *Dep't of Rev. v. Kuhnlein*, 646 So. 2d 717, 721 (Fla. 1994) ("Any constitutional claim affecting a class of persons can be the proper subject of a class action, provided other procedural requirements are met, as they were here.").

75. Class treatment of this action is superior to other available methods for fair and efficient adjudication of this controversy. There will be no manageability problems with prosecuting the case as a class action.

76. Critically, courts routinely and consistently deem appropriate the certification of a class consisting of all officers of states and their agencies in enforcing class-wide injunctive relief enjoining all such class members in the same manner. Indeed, a Florida federal district court certified a class consisting of all 67 Florida Supervisors of Elections, reasoning as follows:

> [T]his Court certifies as a class all Supervisors of Elections in the State of Florida, and certifies David Leahy, as Supervisor of Elections for Dade County, Florida, as the class representative. The Defendant class is comprised of all county Supervisors of Elections, who are the local

> officials responsible for overseeing elections in each county. Fla. Stat. § 98.161. Each Supervisor is empowered to enforce the provisions of the Florida Election Code, including the statute at issue here, section 102.031. We are satisfied that the requirements of Rule 23, Fed. R. Civ. P., have been met fully: (1) the Defendant class of Supervisors of Elections for each of the 67 counties in Florida is so numerous that joinder of all members is impracticable; (2) the Plaintiffs have raised only one major question of law--whether the prohibition against soliciting by the media of an opinion from voters within 150 feet of polling places violates the First Amendment--and it is common to the entire Defendant class; (3) the defenses raised by Supervisor Leahy are surely typical of the defenses of the entire Defendant class; and (4) Supervisor Leahy, empowered with the same election law enforcement and oversight functions as every other county Supervisor, can fairly and adequately protect the interests of the Defendant class of Supervisors. Moreover, Plaintiffs' action is properly maintainable as a class action under Rule 23(b)(1)(A) inasmuch as there are 67 county Supervisors throughout the State and the prosecution of separate actions against individual members of the Defendant class would create a substantial risk of inconsistent or varied adjudications with respect to individual members of the class and would establish incompatible standards of conduct for Plaintiffs in each county.

CBS, Inc. v. Smith, 681 F. Supp. 794, 801-02 (S.D. Fla. 1988); *see also, e.g.*, *Clean-Up '84 v. Heinrich*, 582 F. Supp. 125, 126-27 (M.D. Fla. 1984) (certifying defendant-class of all 67 Florida sheriffs, and enjoining enforcement of statute unconstitutionally burdening petition circulators); *Fla. Businessmen for Free Enter. v. Florida*, 499 F. Supp. 346, 349 (N.D. Fla. 1980), *aff'd*, 673 F.2d 1213 (11th Cir. 1982) (certifying defendant-classes of 67 Florida sheriffs and state attorneys to enjoin enforcement of Florida law); *Nat'l Broad. Co. v. Cleland*, 697 F. Supp. 1204,

1216 (N.D. Ga. 1988) (certifying defendant-class of all Georgia county election superintendents, and declaring unconstitutional a statute restricting exit-polling).[9]

COUNT I – MANDAMUS RELIEF
(Against Secretary Defendant)

77. Plaintiff re-alleges and re-incorporate Paragraphs 1 through 76 of this Complaint, as though fully set forth herein.

78. The Secretary has a clear legal duty to implement and maintain a database for paid Petition Circulators to register with the Secretary of State.

79. The clear legal duty of the Defendant Secretary, to implement and maintain a database for paid Petition Circulators to register with the Secretary of State, is ministerial in nature.

80. Plaintiff has a clear legal right, as Sponsor of initiative petitions, for the paid Petition Circulator it employees to register with the Secretary of State in order to circulate Plaintiff's petitions and collect signatures in support thereof.

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[9] While certification of the defendant-class in each of the these cases was based on Federal Rule 23, rather than Florida Rule 1.220, it is well-established under Florida law that "[b]ecause Florida's class action rule is based upon Federal Rule of Civil Procedure 23, Florida courts may look to federal cases as persuasive authority in their interpretation of rule 1.220." *Seven Hills, Inc. v. Bentley*, 848 So. 2d 345, 352-53 (Fla. 1st DCA 2003)); *see also InPhyNet Contracting Servs. v. Matthews*, 196 So. 3d 449, 457 (Fla. 4th DCA 2016) ("Florida courts may generally look to federal cases as persuasive authority in their interpretation of rule 1.220.").

81. The Secretary has failed to discharge its clear, ministerial legal duty to implement and maintain a database for paid Petition Circulators, such as those employed by Plaintiff, to register with the Secretary of State.

82. Plaintiff has no adequate remedy at law.

COUNT II – DECLARATORY RELIEF
(Against All Defendants and Class)

Fla. Stat. § 86.011, *et al.*

83. Plaintiff re-alleges and re-incorporates Paragraphs 1 through 76 of this Complaint, as though fully set forth herein.

84. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes, brought by Plaintiff against the Defendant Secretary and Supervisor (and including the Class).

85. Specifically, Plaintiff seeks a declaration that Fla. Stat. § 100.371 and its implementing administrative Rule 1S-2.0091 represent an unconstitutional alteration of the initiative process, in violation of Plaintiff's fundamental rights and freedoms relating to the initiative process, as well as core political speech and association under art. XI, Sec. 3 & 5, Fla. Const., and substantive due process protections against arbitrary and irrational legislative action, such as that of H.B. 5. *See Browning v. Fla. Hometown Democracy, Inc.*, 29 So. 3d 1053, 1062 (Fla. 2010).

86. Accordingly, Plaintiff requests a declaration from the Court that the following be declared unconstitutional, facially and/or as-applied, for the reasons set forth herein:

a. Fla. Stat. § 100.371, as amended by H.B. 5; and

b. Fla. Admin. Code R. 1S-2.0091.

87. The Court has jurisdiction over the declaratory relief requested, and Plaintiff is in doubt as to its rights under the aforementioned laws, as well as its rights and protections under art. I, Sec. 3, 5 & 8, Fla. Const., particularly when read in *pari materia*.

88. The existence of other remedies does not preclude a judgment for declaratory relief.

89. Plaintiff requests that this matter be advanced on the Court's calendar, and that a hearing be set at the Court's earliest possible availability and opportunity.

90. Plaintiff has retained the Andrews Law Firm, 822 North Monroe Street, Tallahassee, Florida 32303, and agreed to pay a fee for its professional services.

91. Plaintiff is entitled to supplemental relief pursuant to Fla. Stat. § 86.061.

COUNT III – INJUNCTIVE RELIEF
(Against All Defendants and Class)

92. Plaintiff re-alleges and re-incorporates Paragraphs 1 through 76 of this Complaint, as though fully set forth herein.

93. This is an action for preliminary injunctive relief against the Defendant Secretary and Supervisor (including the Class) to enjoin Defendants from enforcing the requirement for petitions and corresponding signatures be submitted to and received by, and validated and verified by, the Florida Secretary of State by February 1, 2020 at 5 p.m., and instead, require Defendants to accept petitions and corresponding signatures until February 1, 2020 at 5 p.m. EST, subject to subsequent validation and verification by the Supervisor and Secretary.

94. Plaintiff will suffer irreparable harm, through violations of its constitutional and statutory rights—including, but not limited to, its freedoms of speech and association, and substantive due process rights, under the Florida Constitution as described hereinabove—if Defendants are not enjoined as set forth in the preceding Paragraph.

95. Plaintiff has a reasonable fear that it will suffer irreparable harm through further violation of its constitutional rights—including, but not limited to, its freedoms of speech and association, and substantive due process rights, under the Florida Constitution as described hereinabove—if Defendants are not enjoined as set forth above.

96. Plaintiff has a substantial likelihood of success on the merits, including specifically, in connection with its harms suffered and corresponding claims for (i) abridgement of Plaintiff's constitutional freedom to engage in core political

speech through proposal of constitutional amendments as a Sponsor of initiative petitions and through the circulation efforts of its paid Petition Circulators, as guaranteed by art. 1, Sec. 4, Fla. Const.; (ii) abridgement of Plaintiff's constitutional freedom to assemble and petition for redress of grievances through proposal of constitutional amendments as a Sponsor of initiative petitions and through the circulation efforts of its paid Petition Circulators, as guaranteed by art. 1, Sec. 5, Fla. Const.; and/or (iii) violation of Plaintiff's substantive due process protections against arbitrary and irrational legislative action, such as that of H.B. 5, which infringes upon its constitutional right to engage in proposal of amendments as a Sponsor of initiative petitions under art. XI, Sec. 9, Fla. Const., including through utilization of Petition Circulators to collect signatures in support of its initiatives, as authorized under Fla. Stat. § 100.371 (both historically, and also currently still as-amended).

97. As explained herein, Plaintiff has no other adequate remedy at law.

98. The requested injunctive relief serves, and would not be contrary to, the public interest generally.

99. Plaintiff had a clear legal right to the relief sought.

100. If an injunction is granted, Defendants (and Class Members) will suffer no hardship.

101. Plaintiff do not need to post, and should not be required to post, a bond to acquire an injunction.

102. Plaintiff has retained the Andrews Law Firm, 822 North Monroe Street, Tallahassee, Florida 32303, and agreed to pay a fee for its professional services.

WHEREFORE, Plaintiff MAKE IT LEGAL FLORIDA respectfully requests that this Court enter an Order granting the following requested relief:

A. Declaratory Relief, deeming the provisions of Fla. Stat. § 100.371, as amended by H.B. 5, and the implementation and enforcement of such provisions (including under or in conjunction with Rule 1S-2.0091), as well as all deadlines, obligations, burdens, restrictions, and requirements imposed thereby with respect to the initiative petition process, unconstitutional and invalid, both facially and/or as-applied, and respectively declaring the parties' rights and obligations under Section 100.371 and Rule 1S-2.0091 in light of such invalidation of H.B. 5;

B. Preliminary and/or Permanent Injunctive Relief, consistent with Fla. R. Civ. P. 1.610, enjoining Defendants from implementing or enforcing the provisions of Section 100.371 as amended by H.B. 5, and/or Rule 1S-2.0091, which are deemed to be, or have the effect of being, unconstitutional and invalid;

C. *Mandamus* Relief, consistent with Fla. R. Civ. P. 1.630, and/or preliminary or permanent injunctive relief consistent with Fla. R. Civ. P. 1.610, requiring the Defendant Secretary of State to perform her clear, ministerial duties to implement, maintain, and update an effectual database for registration of, and information concerning, paid Petition Circulators and their petition forms;

D. *Mandamus* Relief, consistent with Fla. R. Civ. P. 1.630, and/or preliminary or permanent injunctive relief consistent with Fla. R. Civ. P. 1.610, requiring the Supervisor to perform her clear and indisputable ministerial duties:

(i) To accept, consider, and deem timely *ab initio* all petitions and signatures submitted to the Supervisor by February 1, 2020, subject to Supervisors' subsequent validation and verification,

(ii) Promptly validate and verify all petitions and signatures submitted to the Supervisor by February 1, 2020, within 30 days of receipt thereof (or by such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt), and

(iii) Promptly submit to the Secretary the number, distribution, and other requisite information regarding petitions and signatures submitted to a Supervisor by February 1, 2020, and subsequently validated and verified by the Supervisor within 30 days of receipt thereof (or by such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt),

E. *Mandamus* Relief, consistent with Fla. R. Civ. P. 1.630, and/or preliminary and/or permanent injunctive relief consistent with Fla. R. Civ. P. 1.610, requiring the Secretary to perform her clear, ministerial duties to:

(i) Determine from the information received by the Supervisor concerning petitions and signatures submitted to the Supervisor by February 1, 2020, and subsequently validated and verified by the Supervisor within 30 days of receipt thereof (or by such later deadline as the Court deems appropriate and proper, not to exceed 60 days from receipt), the total number and distribution of such verified valid signatures, as required by Section 100.371(12), and

(ii) To the extent the Secretary makes a determination of sufficiently numerical and distributional signatures, issue a certificate of ballot position and assign a designating number for such proposed amendment, for submission to and vote by the electors of the 2020 general election;

F. To the extent any of the foregoing *mandamus* relief requested is not granted, an Order to show cause or alternative writ of *mandamus*, consistent with Fla. R. Civ. P. 1.630;

G. An Order certifying a similarly-situated defendant-Class of Supervisors of Elections, comprised of the Supervisor of Elections for each of Florida's 67 counties, in their official capacities as Supervisors of Elections, and appointing as representative of the Class Defendant Tammy Jones, in her official capacity as Supervisor of Elections;

H. Setting an emergency hearing date at the Court's earliest possible availability and opportunity; and

I. Granting any such other relief as the Court deems just, proper, or appropriate.

DATED this 30th day of December, 2019.

Respectfully submitted,

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VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing *Verified Emergency Class Action Complaint for Writ of Mandamus, and Declaratory and Injunctive Relief*, and that the facts alleged therein are true and correct to the best of my knowledge and belief.

DATED: December 30, 2019.

/s/ Steven R. Andrews
STEVEN R. ANDREWS (FBN 0263680)
Counsel for Plaintiff

Notarization not required
pursuant to Fla. Stat. § 92.525