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PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

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

FLORIDA RISING TOGETHER, FAITH IN
FLORIDA, PODER LATINX, UNIDOSUS,
EQUAL GROUND EDUCATION FUND,
and HISPANIC FEDERATION,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
the Secretary of State of Florida, and
MARTY BISHOP, in his official capacity as
the Supervisor of Elections for Jefferson
County, Florida, PENNY OGG, in her
official capacity as Supervisor of Elections
for Highlands County, Florida, CHRIS
CHAMBLESS, in his official capacity as
Supervisor of Elections for Clay County,
Florida, MARY JANE ARRINGTON, in her
official capacity as Supervisor of Elections
for Osceola County, Florida, and CRAIG
LATIMER, in his official capacity as the
Supervisor of Elections for Hillsborough
County, Florida, on behalf of themselves and
all those similarly situated,

Defendants.

Case No. _____

**COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

INTRODUCTION

1. The U.S. Supreme Court has declared that the right to vote is a “precious” and “fundamental” right, *Harper v. State Board of Elections*, 383 U.S. 663, 670 (1966), “of the most fundamental significance under our constitutional structure,” *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (internal citations and quotes omitted). Voting is “the beating heart of democracy.” *League of Women Voters v. Detzner*, 314 F. Supp. 3d 1205, 1215 (N.D. Fla. 2018).

2. Florida has a long history of imposing racially discriminatory voting requirements. In recent decades, many courts have recognized this history in striking down Florida voting laws because they discriminated against Black and Hispanic residents.

3. Unfortunately, the Florida legislature’s efforts to discriminate continue to this day. The state has engaged in repeated efforts over the last decade to discourage or prevent Black and Hispanic residents from voting. These efforts include the enactment of HB 1335 in 2011, which targeted early voting, third-party voter registration efforts, and other mechanisms that mobilized Black and Hispanic residents to vote, and SB 7066 in 2019, which imposed onerous, wealth-based restrictions on ex-offenders in an effort to blunt the effect of a state constitutional referendum re-enfranchising them.

4. SB 90, the target of this lawsuit, continues the legislature's discriminatory tradition. Enacted earlier this month, SB 90 contains a series of measures that prohibit or restrict strategies and mechanisms that Black and Hispanic voters used to great effect in the 2020 elections. The diverse components of SB 90 are linked because they target these voting practices, including unprecedented use of mail ballots, unprecedented use of secure drop boxes, and significant organized efforts to support voters who encounter long lines or other obstacles to in-person voting.

5. The Florida legislature enacted SB 90 against a backdrop of record turnout among Black and Hispanic voters in the 2020 general election. Notwithstanding the efforts of the Florida legislature to make it more difficult to vote, through a massive investment of time and resources by organizations such as Plaintiffs Hispanic Federation and UnidosUS, a record 1.38 million Black voters and 1.8 million Hispanic voters participated in the 2020 General Elections. Efforts to facilitate return of ballots (by promoting use of mail ballots and secure drop boxes and assisting voters with return of ballots) and to provide assistance to voters on election day directly enabled this record turnout.

6. Starting in early 2021, the Florida legislature rushed to enact SB 90, a bill containing a series of provisions targeting precisely those strategies and mechanisms successfully deployed by Plaintiffs and other similar organizations in

the 2020 election to mobilize Black and Hispanic voters. While SB 90 imposes burdens on all voters, it places disproportionate burdens on African-American voters, Hispanic voters, disabled voters, and voters who face greater challenges in exercising the right to vote, even in the best of circumstances. SB 90 imposes obstacles that will make it harder for voters, particularly Black, Hispanic, and disabled voters, to cast ballots through in person voting, mail voting, and the use of secure drop-boxes for early voting.

7. For example, SB 90 makes voting by mail more burdensome. Prior to the 2020 election, white voters were more likely than voters of color to vote by mail. But in 2020, Black and Hispanic voters voted by mail to an unprecedented degree. In the 2020 General Election, approximately 40 percent of all votes cast by Black voters were cast by mail (double the percentage in 2016), and approximately 41% of Hispanic voters used mail ballots, an increase of more than 50% from 2016 levels. The unprecedented usage of vote-by-mail by minority voters in 2020 was widely reported both at the time of the election and during the debate on SB 90, and the Florida Legislature was aware of it when the adopted the bill. During the period when white voters were more likely to vote by mail, and before minority voters voted by mail in unprecedented numbers in the 2020 election, the Florida Legislature repeatedly made it easier to vote by mail. SB 90 abruptly reverses course, requiring for the first time that voters provide a driver license number, Florida identification

card number or the last four digits of a social security number to request a mail ballot, documentation that the Florida legislature knew minority voters disproportionately lack.

8. SB 90 also curtails the availability of secure drop boxes, after a 2020 election in which Black and Hispanic voters used secure drop boxes to an unprecedented degree. Plaintiffs and other similar organizations encouraged Black and Hispanic voters to use secure drop boxes during the 2020 elections to facilitate voting and to address longstanding patterns of long lines and poor mail service in predominantly minority communities. The unprecedented use of drop boxes (along with increased voting by mail) was critical in reducing the lines and wait times for in person voting in Black and Hispanic communities. In enacting SB 90, the Florida legislature limited the use of secure drop boxes to the times and hours of early voting, and prohibited Supervisors of Elections from operating drop boxes after business hours, including on the Sunday before Election Day when many minority voters had previously cast their ballots. By making it harder for many voters to use secure drop boxes, the restrictions will increase the number of voters who will need to vote in-person, which will have an disproportionate effect the length of voting lines, particularly in Black and Hispanic communities.

9. SB 90 also places new restrictions on third-party voter registration drives, requiring civic organizations to affirmatively inform any voters they seek to

register that their registration may not arrive in time to be valid. These voter registration efforts have been critical to the expansion of Black and Hispanic voting in Florida. SB 90's mandatory disclaimer is intended to and will have a chilling effect on third-party voter registration campaigns.

10. SB 90 also prohibits churches and organizations such as the Plaintiffs from providing various forms of assistance to voters. During the 2020 election, Plaintiffs and other similar organizations provided assistance to voters (primarily Black, Hispanic, disabled, and elderly voters) who encountered long lines at in-person polling sites; Plaintiffs Hispanic Federation and Faith in Florida specifically provided assistance (including water, food, chairs, and umbrellas) to voters in Black and Hispanic communities to enable them to wait in sometimes hours-long lines. In enacting SB 90, the Florida Legislature was aware these efforts were critical to mobilizing unprecedented turnout from Black and Hispanic voters during the 2020 Election; and that precincts in heavily Black and Hispanic communities have disproportionately longer wait times for voting. SB 90 criminalizes such efforts: Under SB 90, anyone who provides assistance to a voter waiting in line faces prosecution, punishable by a fine of up to \$1000, up to a year in prison, or both.

11. The legislature offered no plausible rationale for the new restrictions imposed by SB 90. SB 90's sponsors identified no specific issues or flaws that SB 90 aimed to fix. To the contrary, it was universally acknowledged that Florida's 2020

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election ran remarkably smoothly. Indeed, Florida Governor DeSantis (who signed SB 90) touted the 2020 election as “the smoothest, most successful election of any state in the country.”¹ The Florida Supervisors of Elections, in assessing the 2020 General Election, stated that “In 2020, Florida was universally praised for our exemplary conduct of elections – from the very highest offices at the federal and state level to our most important stakeholders, voters.”²

12. The bill’s lead sponsor, Senator Dennis Baxley, confirmed that the absence of any legitimate state interest justifying SB 90’s restrictions on voting. When pressed for a justification for measures making voting more difficult, Mr. Senator Baxley stated: “Some people ask why and I say why not? Let’s try it.”³

13. Other sponsors invoked fanciful theories or hypothetical examples of fraud. But the bill sponsors provided no evidence of any actual fraud and abuse that in any actual Florida election that SB 90’s provisions would address. Florida’s 67 Supervisors of Elections, who were surveyed regarding fraud or issues in the 2020 General Elections, identified very few instances of possible fraud or irregularities

¹ Governor Ron DeSantis Highlights Proposed Legislation to Strengthen Election Integrity and Transparency Measures, February 19, 2021, <https://flgov.com/2021/02/19/governor-ron-desantis-highlights-proposed-legislation-to-strengthen-election-integrity-and-transparency-measures/>.

² FSE Statement March 17, 2021, https://www.myfloridaelections.com/portals/fsase/Documents/Public%20Policy/FSE_Statement_032221.pdf

³ Hearing on Committee on Ethics and Elections, February 16, 2021.

that warranted changes to the Florida election laws.⁴ The Legislature thus enacted a series of burdensome rules with no plausible purpose other than to prevent voters and Black and Hispanic voters in particular -- from voting.

14. Given the absence of any proffered justification for SB 90, Florida's long history of imposing racially discriminatory voting practices, and the fact that many of SB 90's provisions target practices successfully employed during the 2020 election by Black, Hispanic, and disabled voters or organizations such as Plaintiffs that mobilize or assist such voters, SB 90 was intended to and will place a discriminatory burden on minority, and especially Black and Hispanic, voters.

15. Indeed, SB 90 is the classic case of "solutions in search of a problem" that has been found to indicate impermissible race-based voter suppression. *See N.C. State Conference of NAACP v. McCrory*, 831 F.3d 204, 238 (4th Cir. 2016).

16. This Complaint challenges the following provisions of SB 90 that, individually and cumulatively, make voting more burdensome, particularly for Black, Hispanic, and disabled voters:

- **Secure Drop Box Restriction.** (SB 90 Section 28). Reducing the availability, hours and days of secure drop boxes, which are relied on

⁴ Florida Republicans Pass Voting Limits in Broad Elections Bill, New York Times, April 29, 2021, <https://www.nytimes.com/2021/04/29/us/politics/florida-voting-rights-bill.html>.

particularly by voters who work during the day and rely on drop boxes to avoid excessive lines at polling places.

- **Voter Registration Disclaimer.** (SB 90 Section 7). Requiring third-party voter registration organizations to inform the registrants they assist that their completed registrations might not arrive in time to be valid, a measure which will have a chilling effect on independent voter registration efforts.
- **Vote-By-Mail Application Restriction** (SB 90 Section 24). Requiring identification for requesting a mail ballot, which will reduce the availability and use of mail ballots at precisely the time other elements of SB 90 are reducing the availability of drop boxes, reducing the ability of third parties to return completed ballots, and creating obstacles to in person voting.
- **Line Warming Restriction** (SB 90 Section 29): Barring and imposing criminal penalties for “engaging in any activity with the intent to influence or effect of influencing a voter,” which will in effect ban persons from providing food, blankets, water, chairs, umbrellas or other assistance to voters waiting on line to vote, disproportionately impacting disabled voters unable to stand in line without assistance, as well as voters required to wait in line for extended periods of time due

to crowding at their polling places, voters who are disproportionately Black and Hispanic.

17. Each of these changes individually imposes a burden on voting. Cumulatively, they impose a significant burden, in some cases leading to the wholesale disenfranchisement of voters. By restricting access to VBM ballots and restricting the availability of drop boxes, SB 90 will force more voters to the polls, on election day and during early voting times, making already long lines in Black and Hispanic neighborhoods even longer. At the same time, SB 90 undermines voter registration efforts, and makes in person voting more onerous by prohibiting persons (including Plaintiffs' members) from offering food, water, or other assistance to voters standing in long lines. While for some this may be a mere inconvenience, for Black and Hispanic voters and members of other historically impacted communities, who already must contend with unusually long lines, these impacts could be intolerable, particularly when many of the voters who relied most heavily on the methods of voting SB 90 takes away, including elderly and disabled voters, are those least able to weather long lines without assistance. The Florida legislature identified no state interest sufficient to justify these added burdens.

18. In addition to impermissibly burdening voters and discriminating against voters on the basis of race or ethnicity, the challenged provisions of SB 90 violate numerous provisions of federal law. For example:

- The Vote-By-Mail Application Restriction and the Secure Drop Box Restriction place disproportionate burdens on voters of color, intentionally denying them an equal opportunity to participate in the political process. They thus violate Section 2 of the Voting Rights Act and the Fourteenth and Fifteenth Amendments to the United States Constitution.
- The Line Warming Restriction interferes with the ability of voters, like Plaintiffs' members, to seek assistance in voting from a person of their choosing. It thus violates Section 208 of the Voting Rights Act; 52 U.S.C. § 10310(c)(1), and also violates the First Amendment to the U.S. Constitution, by limiting protected election-related expressive activities. *Meyer v. Grant*, 486 U.S. 414, 422-23 (1988). The Line Warming Restriction also violates Title II of the Americans with Disability Act, 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, by imposing a substantial burden on voters with disabilities without making a reasonable accommodation for these voters.
- Even apart from their racially discriminatory motive and impact, the challenged provisions of SB 90 also place an unjustified burden on the ability of all Florida voters to exercise their fundamental right to vote.

Any state restriction on the right to vote “must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation.” *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 191 (2008). SB 90 imposes severe burdens on the right to vote without any legitimate justification, and thus violates the First and Fourteenth Amendments to the Constitution.

- The Voter Registration Disclaimer constitutes an infringement on free speech and compelled speech, prohibited by the First Amendment to the Constitution. Laws regulating protected speech or compelling speech are subject to strict scrutiny, but the Voter Registration Disclaimer is not narrowly tailored and does not serve any compelling state interest.

19. For all of these reasons, SB 90 violates the U.S. Constitution and federal law and endangers the right to vote of all Floridians, and in particular voters of color. The Court should enjoin the Vote-By-Mail Application Restriction, the Secure Drop Box Restriction, the Voter Registration Disclaimer, and the Line Warming Restriction.

THE PARTIES

Plaintiffs

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20. Plaintiff **FLORIDA RISING TOGETHER** (“FRT”) is a **501(c)(3)** organization with a mission to increase the voting and political power of marginalized and excluded constituencies. FRT’s principal office is in Miami, and the organization engages with voters throughout the entire state, most extensively in Orange, Hillsborough, Osceola, Pinellas, Miami-Dade, Broward, Palm Beach, Duval, Leon, Gadsden, and Seminole Counties. Founded in January 2021 as the merger and continuation of New Florida Majority and Organize Florida, FRT’s central focus is to expand democracy by ensuring that every eligible voter in the state, regardless of party affiliation, is able to exercise his or her fundamental and constitutionally protected right to vote. To achieve its goal, FRT conducts massive voter registration, voter education, voter engagement, and election protection programs.

21. During the 2020 primary and general elections, FRT’s predecessor organization, New Florida Majority, ran the largest independent voter education and mobilization campaign in Florida led by Latina and Black women. **Specifically, the organization engaged in 18 million calls, had over 1 million conversations with voters, knocked on 1.3 doors in one month alone, sent over 3 million pieces of voter education mail, placed approximately 9,000 radio ads with voting information in**

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English, Spanish, and Haitian Creole, and turned out more than 2 million voters of color, 44% of whom chose to vote by mail.⁵

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22. Due to SB 90's sweeping changes to Florida's election laws, FRT aims to rapidly expand outreach to voters to educate them on the new changes. The organization is concerned that the communities it serves will be confused about how to proceed in future elections, and may even refrain from voting altogether. As a result, FRT is already preparing to shift personnel, resources, and planning to provide information about SB 90's voting restrictions to staff and voters in several different ways.

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23. Plaintiff FAITH IN FLORIDA is a 501(c)(3) organization with a mission to build a powerful multicultural nonpartisan network of over 800 congregation community organizations in Florida that address systemic racial and economic issues, including voter education, voter registration, and voter engagement throughout the State of Florida.

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24. Faith in Florida has staff organizers and regularly conducts voting activities in 30 counties throughout the state, including Miami-Dade, Broward, Palm Beach, Leon, and Hillsborough counties, and maintains satellite offices in Miami

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⁵ Note that these figures minimally overlap with metrics for the organization's 501(c)(4) counterpart.

and Miami Gardens. The organization also conducts legislative advocacy to protect and advance voting rights throughout the state.

25. Due to SB 90, Faith in Florida will have to start its voting work earlier, more than double its voter education and voter engagement efforts, and update all of its voter education materials. For example, it will go from four months of voter education to a full year, its staff will have to triple to cover more ground in less time, and it will have to create new voter education materials, including bilingual materials, and trainings, to include training of new staff and current staff on the changes in the law.

26. Plaintiff Poder Latinx is

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27. Plaintiff UnidosUS is a nonprofit organization and the nation's largest

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Hispanic civil rights and advocacy organization. UnidosUS has offices in Florida and has 17 member-affiliate organizations based or working in Broward, Collier, DeSoto, Flagler, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Miami-Dade, Monroe, Palm Beach, Pasco, Polk, Putnam, Orange, Osceola, Sarasota, Seminole, and Volusia County. UnidosUS works to build a stronger America through a unique combination of research, advocacy, programs, and supporting the work of community-based Affiliate member organizations across the State of Florida and the nation, to simultaneously challenge the social, economic, and political barriers that affect Hispanics in the United States.

UnidosUs also conducts voter registration by community canvassing in high-traffic commercial areas or events, placement of digital ads, mailers and contacting voters directly. In addition, UnidosUS provides support and technical assistance to Affiliated non-profit members to conduct voter registration with their existing members. As a result of Defendants’ failure to ensure the access to vote-by-mail ballots and assistance to voters waiting in line with a specific focus on limited English proficient voters, UnidosUS is diverting its limited resources from other projects to translate instructions to voters regarding the changes made by the passage of SB 90 and provide Spanish-language assistance to Spanish-speaking voters within the Counties.

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2. Can we add anything about particular range or scope of efforts in 2020, particularly as related to the new restrictions? Particularly on VBM and line assistance?

28. Plaintiff EQUAL GROUND EDUCATION FUND (“Equal Ground”) is a 501(c)(3) organization with a mission to register, educate, and increase engagement among Black voters in Florida’s I-4 corridor. With its principal office in Orlando, Equal Ground conducts voter education, voter registration, and voter engagement work across the state. The organization has a robust Souls to the Polls program to transport voters to polling precincts and submit ballots to drop box locations.

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29. Equal Ground is concerned that SB 90’s new restrictions on third-party voter registration will profoundly and disproportionately burden voter registration initiatives in Black and Brown communities. As a result of the new law, the

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organization is planning to significantly alter its voting programs, including, but not limited to, voter registration, Souls to the Polls efforts, and line warming traditions to ease voters' experiences in long lines.

30. Plaintiff HISPANIC FEDERATION (“HF”) is a 501(c)(3) nonprofit, nonpartisan, community organizing, and advocacy organization with an office in central Florida. HF’s mission is to empower and advance the Hispanic community, support Hispanic families, and strengthen Hispanic institutions through work in the areas of education, health, immigration, civic engagement, economic empowerment, and the environment, including by promoting voter engagement. HF works locally, state-wide, and nationally to strengthen Hispanic nonprofits, promote public policy advocacy, and bring to scale a portfolio of innovative community programs through three essential service pillars: membership services, advocacy services, and community assistance programs.

31. HF carries out its voter engagement work through all three of its essential service pillars. This work provides assistance to the Hispanic electorate with registering to vote, applying for vote-by-mail ballots, and casting ballots on election day and during early voting. HF assists Florida voters waiting in long lines within 150 feet of poll sites and early voting locations, which encourages these voters to stay in line to vote despite long wait times and any disabilities that they may have. This assistance includes providing food, water, and seating. HF’s Florida

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Commented [21]: Can they provide any metrics for what they did during the 2020 election, i.e., number of people they helped apply to VBM, number of persons assisted (or volunteers) for in person voting?

voter engagement work is carried out in Orange, Hillsborough, Seminole, Osceola, and Miami-Dade counties.

32. In furtherance of its mission, HF fortifies a network of grassroots nonprofits through capacity-building grants that support core operational needs, and graduate-level management classes, leadership development trainings, board recruitment and placement, executive fundraising workshops and other technical assistance seminars. Hispanic Federation's nonprofit members use this support to assist Hispanic voters with registering to vote, applying for vote-by-mail ballots, and line warming activities. For example, the voter engagement work of HF's member nonprofit, Consumer Credit Counseling Services, primarily helps senior voters, many of whom no longer drive and therefore lack a Florida driver's license, and who are more likely to have difficulty waiting in long lines to vote without assistance due to a disability.

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33. HF's Florida voter engagement work is focused on advancing the interests and aspirations of Hispanics and their community-based organizations through coalition-building, policy research, public education, advocacy, voter mobilization and some regranting. HF has offered more than 100 civic engagement trainings for Hispanic agencies, including trainings in Florida, so they can become community-based centers of voter registration and outreach. HF launched a partnership program in 2012, Movimiento Hispano, which is a collaborative

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representing nearly 1,000 citizen councils, labor chapters, and community-based organizations that is able to reach and conduct voter registration, education, and turnout.

34. HF's community assistance programs provide direct voter engagement services to ensure all citizens are actively engaged in our democratic process. HF's non-partisan efforts not only increase Hispanic voter registration and participation throughout the nation, but also encourage active involvement in the issues that affect them, their families and their neighborhoods. HF carries out this work through promoting and staffing a voter information hotline, operating a team of canvassers, sending voter education text messages about the vote-by-mail process, having election protection workers on the ground during early voting and on election day, and assessing the voting habits and obstacles of the Hispanic electorate. For example, Hispanic Federation observed long lines in Hispanic precincts in Miami-Dade, Orange, and Broward counties during the 2018 election, long lines in Miami-Dade county in the 2020 election, and an increase in Hispanic vote-by-mail use in 2020 compared to 2018. HF's "*Get Out the Vote*" campaigns explain the importance of voting and encourages Hispanics to head to the polls.

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35. HF works to mobilize and educate Hispanic voters about the voting process and devotes staff and financial resources toward ensuring that the Hispanic electorate has access to information necessary to vote. In response to SB 90, HF will

dedicate a portion of its limited staff time and resources to reeducating voters on how to overcome new restrictions on requesting and casting vote-by-mail ballots, and on overhauling, and in some cases, dismantling its line-warming programing as a result of new restrictions on assisting voters. To do so, HF will have to divert funds and staff time from its other election activities toward educational activities such as sending additional rounds of text messages and revising educational materials about the vote-by-mail process to include the new restrictions, holding additional community educational forums, and providing one-on-one support voters who interact with its hotline. Hispanic seniors and Puerto Rican voters in Florida are less likely to possess a Florida driver's license, state ID card, or possess or know their social security number, which will require more of HF's voter education and outreach resources to overcome the new restrictions on requesting vote-by-mail ballots.

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Defendants

36. Defendant LAUREL M. LEE is sued in her official capacity as Florida Secretary of State. Defendant Lee is a person within the meaning of 42 U.S.C. § 1983 and acts under color of state law. Pursuant to F.S. § 97.012, the Secretary of State is the chief elections officer of the State and is responsible for the administration of state laws affecting voting, including the oversight of third party voter registration organizations. *See* F.S. § 97.0575. Defendant Lee has the authority

to oversee the administration of elections by Florida's 67 county supervisors of elections.

37. Defendant MARTY BISHOP is the Supervisor of Elections for Jefferson County and is named herein in his official capacity as Supervisor of Elections. As Supervisor of Jefferson County, Defendant Bishop is charged by law with enforcing Restrictions on Secure Drop Boxes, F.S. 101.69(2), with enforcing the identification requirements in the VBM Application Restriction, F.S. § 101.62, and with enforcing the Line Warming Restriction, F.S. § 102.031(4)(c). Pursuant to Federal Rule of Civil Procedure 23, Defendant Bishop is sued as a representative of a class of all Florida Supervisors of Election.

38. Defendant PENNY OGG is the Supervisor of Elections for Highlands County and is named herein in her official capacity as Supervisor of Elections. As Supervisor of Highlands County, Defendant Ogg is charged by law with enforcing the Restrictions on Secure Drop Boxes, F.S. 101.69(2), with enforcing the identification requirements in the VBM Application Restriction, F.S. § 101.62 and with enforcing the Line Warming Restriction, F.S. § 102.031(4)(c).. Pursuant to Federal Rule of Civil Procedure 23, Defendant Ogg is sued as a representative of a class of all Florida Supervisors of Election.

39. Defendant CHRIS CHAMBLESS is the Supervisor of Elections for Clay County and is named herein in his official capacity as Supervisor of Elections.

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As Supervisor of Clay County, Defendant Chambless is charged by law with enforcing the Restrictions on Secure Drop Boxes, F.S. 101.69(2), with enforcing the identification requirements in the VBM Application Restriction, F.S. § 101.62 and with enforcing the Line Warming Restriction, F.S. § 102.031(4)(c). Pursuant to Federal Rule of Civil Procedure 23, Defendant Chambless is sued as a representative of a class of all Florida Supervisors of Election.

40. Defendant MARY JANE ARRINGTON is the Supervisor of Elections for Osceola County and is named herein in her official capacity as Supervisor of Elections. As Supervisor of Osceola County, Defendant Arrington is charged by law with enforcing the Restrictions on Secure Drop Boxes, F.S. 101.69(2), with enforcing the identification requirements in the VB Application Restriction, F.S. § 101.62 and with enforcing the Line Warming Restriction, F.S. § 102.031(4)(c). Pursuant to Federal Rule of Civil Procedure 23, Defendant Arrington is sued as a representative of a class of all Florida Supervisors of Election.

41. Defendant CRAIG LATIMER is the Supervisor of Elections for Hillsborough County and is named herein in his official capacity as Supervisor of Elections. As Supervisor of Hillsborough County, Defendant Latimer is charged by law with enforcing the Restrictions on Secure Drop Boxes, F.S. 101.69(2), with enforcing the identification requirements in the VB Application Restriction, F.S. § 101.62 and with enforcing the Line Warming Restriction, F.S. § 102.031(4)(c)..

Pursuant to Federal Rule of Civil Procedure 23, Defendant Latimer is sued as a representative of a class of all Florida Supervisors of Election.

JURISDICTION AND VENUE

42. Plaintiffs bring this action under 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by Sections 2 and 208 of the Voting Rights Act (“VRA”), 52 U.S.C. §§ 10301, 10508; the First, Fourteenth and Fifteenth Amendments of the United States Constitution; and under Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, et. seq., and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

43. The Court has subject matter jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States. Plaintiffs bring this action to redress the deprivation, under color of state law, of rights, privileges, and immunities secured by the Constitution of the United States and federal law. Plaintiffs bring this action to secure equitable relief under federal law providing for the protection of voting rights, pursuant to 28 U.S.C. 2202.

44. This court has personal jurisdiction over Defendants, who are sued only in their official capacities as officers of the State of Florida or its political subdivisions.

45. Venue is proper in this Court under 28 U.S.C. § 1391(b). Defendant Bishop resides and does business in Jefferson County, Florida. In addition, Plaintiff ORGANIZATION has members and conducts voter engagement activities in this district that are not prohibited or restricted as a result of the enactment of SB 90, and thus, a substantial part of the events that gave rise to Plaintiffs' claims occurred in this judicial district.

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46. This Court has the authority to enter a declaratory judgment and to provide preliminary and injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

FACTUAL ALLEGATIONS

A. Florida's History of Racially Discriminatory Voting Practices

47. The passage of SB 90 is the latest chapter in Florida's long history of racially discriminatory voting restrictions that dates back over 100 years. As federal courts in Florida have repeatedly recognized, "Florida has a history of discrimination against Black citizens with respect to the franchise." *Nipper v. Chiles*, 795 F. Supp. 1525, 1535 (M.D. Fla. 1992). The devices employed over time "to disenfranchise or discriminate against Black citizens included (1) the expungement of Black voters from the voting lists in the 1880s; (2) a poll tax, enacted in 1889; (3) a multiple ballot statute, enacted in 1889; (4) the direct primary (also known as the 'white primary'), adopted in 1901, whereby Blacks were excluded from participating in nominating

the Democratic Party candidate; and (5) a requirement that officeholders post bonds, adopted in 1885.” *Id.*

48. As the court stated in *De Grandy v. Wetherell*, 794 F. Supp. 1076, 1079 (N.D. Fla. 1992): “A longstanding general history of official discrimination against minorities has influenced Florida's electoral process. . . . As recently as 1967, § 350.20, Fla. Stat. provided in part: ‘The Florida Public Service Commissioners may prescribe reasonable rules and regulations relating to the separation of white and colored passengers in passenger cars being operated in this state by any railroad company or other common carrier.’ Additionally, § 1.01(6), Fla. Stat. (1967) provided that “the words ‘Negro,’ ‘colored,’ ‘colored persons,’ ‘mulatto,’ or ‘persons of color,’ when applied to persons, include every person having one-eighth or more of African or Negro blood.”

49. Despite becoming the most urbanized southern state with the most northern immigrants by 1920, Florida remained a segregated, largely one-party plutocracy until the early 1960s, and Black citizens remained largely disfranchised until the passage of the federal Voting Rights Act in 1965.

50. Starting in 1972, multiple counties in Florida were required under Section 5 of the Voting Rights Act to seek federal clearance for changes to their election laws; these requirements remained in place until the Supreme Court’s 2012 decision in *Shelby County* ended the pre-clearance requirement. Florida’s racially

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discriminatory practices, including practices similar to those included in SB 90, required federal intervention five times during this period.⁶ For example, in 1985, the Department of Justice objected to a restriction on assisting voters casting absentee ballots as a violation of Section 208 of the Voting Rights Act,⁷ while in 1998, the Department declined to preclear a requirement to include a social security number on submitted absentee ballots because of the requirement's racially discriminatory impact.⁸ And in 2012, the United States sued the state to stop a voter purge that this court found likely discriminated against naturalized citizens. *United States v. Florida*, 870 F. Supp. 2d 1346, 1350 (N.D. Fla. 2012).

51. Even while subject to Section 5's pre-clearance requirement, the state continued to block Black residents from exercising political power by such devices as at-large elections. Since 1983, scores of legal actions have been brought against the state, county, or municipal governments of Florida, under the 14th amendment, the 15th amendment, and/or the Voting Rights Act. At least 57 such actions have resulted in findings of discrimination, including 37 under Section 2 of the Voting Rights Act and 6 under Section 5.

⁶ <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5>

⁷ Letter from Assistant Attorney General W. Bradford Reynolds to [Florida Attorney General Jim Smith](#) (Jan 15 1985), available at <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/FL-1010.pdf>

⁸ Letter from Assistant Attorney General Bill Lann Lee to Florida Attorney General Robert A. Butterworth (Aug. 14, 1998), available at <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/FL-1030.pdf>.

52. The new century did not bring any abatement in Florida's efforts to discriminate against Black residents. For example, in 2000, the State of Florida improperly removed at least 1,100 eligible voters from the voting rolls after identifying them as convicted felons. *Study Shows 1,100 Voters Wrongly Purged from Rolls*, Tampa Bay Times (Sept. 9, 2005) <https://www.tampabay.com/archive/2001/05/27/study-shows-1100-voterswrongly-purged-from-rolls>. As a result, many eligible voters were turned away at the polls. Katie Sanders, *Florida Voters Mistakenly Purged in 2000*, Tampa Bay Times (June 14, 2012), <https://www.tampabay.com/news/politics/stateroundup/floridavoters-mistakenly-purged-in-2000/1235456/>. Of the voters dropped from the rolls in this voter purge, 41% were Black. *Id.* In Miami-Dade County, for example, "more than 65 percent of the names on the purge list were Blacks, who represented only 20.4 percent of the population." *Id.* After a lawsuit, a court ordered Florida to revamp its program for identifying potential voters with felony convictions, and to restore hundreds of voters to the voting rolls. *Id.*

53. Indeed, ever since the chaos of the 2000 presidential election, Florida has been ground zero for restricting access to the polls. After Congress passed the Help America Vote Act of 2002, 42 U.S.C. § 15301 et seq, ostensibly intended to streamline statewide voter registration systems, Florida implemented rigid matching requirements for voter registration that could disenfranchise eligible voters based on

a typo or other minor mismatch error. In 2006 and 2007, Florida’s law disenfranchised tens of thousands of otherwise eligible voters, disproportionately Hispanic, Haitian Americans, and African Americans. *See NAACP v. Browning*, 1163 F.3d 1153, 1176 (11th Cir. 2008). Even though Hispanic communities comprised only 15 percent of the applicant pool and Blacks only 13 percent, 65 percent of the rejected applicants were Hispanic (39 percent) or Black (26 percent).

54. While there were some reforms in the early 2000s (such as expansions in early voting and court injunctions allowing increased opportunities for voter registration, which allowed Black and Hispanic voters to vote in high numbers), those measures quickly came under attack once it became clear that minority voters were making use of them.

55. In particular, in 2008, Black and Hispanic voters had record turnout, and Black voters used early voting at high rates: “More than half of African-American votes in Florida were cast during the early voting period” in 2008. Michael Ellement, Note, *Blocking the Ballot: Why Florida's New Voting Restrictions Demonstrate A Need for Continued Enforcement of the Voting Rights Act Preclearance Requirement*, 2 CATH. U. L. REV. 541, 556 (2013).

56. Florida lawmakers responded in 2011 with H.B. 1355, which cut early voting—and eliminated early voting the final Sunday before election day, when “Souls to the Polls” programs had expanded Black voter turnout. HB 1355 also

placed onerous restrictions on third party voter registration efforts and created additional hurdles for voters who had moved—measures that all had and were intended to have a disparate impact on voters of color. Invoking the then-active VRA preclearance requirement, the United States Department of Justice blocked the rules from taking effect in Collier, Hendry, Osceola, Polk, and Lee counties. *Florida v. United States*, 885 F. Supp. 2d 299, 303 (D.D.C. 2012) (three-judge court) (per curiam) (holding that “. . . the State has failed to satisfy its burden of proving that those changes will not have a retrogressive effect on minority voters”).

57. Social scientists concluded that H.B.1355 lead to a precipitous drop in voter registrations leading into the 2012 elections, particularly among underrepresented populations. Michael Ellement, Note, *Blocking the Ballot: Why Florida's New Voting Restrictions Demonstrate A Need for Continued Enforcement of the Voting Rights Act Preclearance Requirement*, 2 CATH. U. L. REV. 541, 556 (2013).

58. Florida's voting laws continue to show a particularized pattern of disenfranchisement of voters. See *Democratic Exec. Comm. v. Lee*, 915 F. 3d 1312, 1321 (11th Cir. 2019) (finding Florida's signature match requirement unconstitutional and upholding a District Court injunction requiring up to 48 hours for a voter to cure a signature mismatch); *Rivera Madera v. Detzner*, 325 F. Supp. 3d 1269, 1278 (N.D. Fla. 2018) (finding Florida's failure to provide Spanish

language voting materials violates the Voting Rights Act); *League of Women Voters v. Detzner*, 314 F. Supp. 3d 1205, 1216 (N.D. Fla. 2018) (finding Florida’s bar on use of university or college campus as early voting site unconstitutional).

59. And when Florida’s citizens voted overwhelmingly to end felony disenfranchisement--a relic of the Reconstruction Era that disproportionately impacts Black and Hispanic voters--the Florida legislature quickly took steps to reinstate the racially discriminatory practice. Prior to 2019, Florida’s constitution permanently disenfranchised all citizens who had been convicted of any felony offense unless the Clemency Board restored their voting rights -- making Florida one of only four states to impose a lifetime voting ban for a felony conviction. Felon disenfranchisement is “inextricably tied to the United States history of racial discrimination,” and Florida adopted this constitutional provision “in the post-Civil War era as a means to disenfranchise former slaves who had been granted the right to vote under the Reconstruction Amendments.” Dalia Figueredo, *Affording The Franchise: Amendment 4 & The Senate Bill 7066 Litigation*, 72 FLA. L. REV. 1135, 1136 (2020). By 2016, the provision disenfranchised an estimated 1.6 million Floridians. In 2018, Florida voters addressed this longstanding discrimination by approving Amendment 4, which automatically restored voting rights to as many as 1.4 million Floridians, except those convicted of murder or a felony sexual offense, who had completed the terms of their sentence.

60. The Florida legislature responded with SB 7066, prohibiting returning citizens from voting unless they pay off all legal financial obligations imposed by a court pursuant to a felony conviction, even if they cannot afford to pay. According to a 2020 report issued by The Sentencing Project, nearly 900,000 Floridians who would otherwise be eligible to vote under Amendment 4 are disenfranchised by the law. In all, more than 1.1 million Floridians are unable to vote because they have felony convictions or owe court debts, making Florida the nation’s disenfranchisement leader. Reportedly, about 15 percent of the state’s Black voting-age population is disenfranchised because of a conviction history, compared to about 6 percent for the state’s non-Black population.

Commented [28]: Do we have a cite for this?

61. Until very recently, the ability of Black voters and other qualified voters in Florida to cast ballots was also threatened by unchecked discretion held by election officials to reject VBM ballots from eligible voters deemed “noncompliant.” As this Court has held, this absolute power to throw out votes was facially unconstitutional because it unduly burdened the fundamental right of Florida citizens to vote and have their votes counted. *Democratic Exec. Comm. of Fla. v. Detzner*, 347 F. Supp. 3d 1017, 1022 (N.D. Fla. 2018) (“The precise issue in this case is whether Florida’s law that allows county election officials to reject vote-by-mail and provisional ballots for mismatched signatures—with no standards, an illusory process to cure, and no process to challenge the rejection—passes constitutional

muster. The answer is simple. It does not.”), *appeal dismissed as moot*, 950 F.3d 790 (11th Cir. 2020).

62. In sum, the Florida legislature has a long and sordid history of passing legislation that is intended to disenfranchise or severely burden Black and Hispanic voters. The Florida legislature likewise has a long history of enacting such legislation in response to the successful efforts of Black and Hispanic voters to mobilize and turn out for elections.

B. Legislative History of SB 90

63. The Florida 2020 General Election, proceeded smoothly and securely, despite the fact that it was conducted in the midst of the ongoing COVID-19 pandemic.

- According to the Florida Association of Supervisors of Elections, “In 2020, Florida was universally praised for our exemplary conduct of elections -- from the very highest offices at the federal and state level to our most important stakeholders, voters.”
- According to Governor Ron DeSantis, the November 2020 General Election in Florida was “the smoothest, most successful election of any state in the country.”

- According to Representative Blaise Ingoglia: “In the last election cycle Florida administered one of the smoothest elections. It was heralded as the standard on how elections should be run across the United States.”
- According to Secretary of State Laurel Lee, the 2020 General Election in Florida “ran as smoothly as possible and inspired confidence on the part of Florida’s voters.”
- According to Senator Denis Baxley: “I frankly am happy to be nationally heralded as a state that did so well. We had a smooth election”⁹, and “We have a very high customer satisfaction rate right now with Floridians on how the election was run.”¹⁰

64. Among other successes of the 2020 election in Florida, Black and Hispanic voters achieved record turnout due to the massive investment of time and resources by organizations such as Plaintiffs. A record 1.38 million Black voters and 1.8 million Hispanic voters participated in the 2020 General Election.

65. In response to this unprecedented Black and Hispanic turnout, and in spite of the fact that Florida’s election was well-administered, safe and secure, the Florida legislature, with the support of Florida’s governor, began work to change

⁹ House Committee on Ethics and Elections, Feb 16, 2021.

¹⁰ *Id.*

Florida’s election procedures to make it harder for Black and Hispanic persons to vote.

66. That bill that became SB 90 began as two separate bills to revise the electoral code in the wake of the 2020 elections. SB 90 was introduced in the Florida Senate on February 3, 2021, and H.B. 7041 was introduced in the Florida House of Representatives March 23, 2021.

67. Throughout the debate on SB 90 and HB 7041, legislators were expressly warned that the bills would create obstacles to voting that would in fact suppress votes:

- Senator Randolph Bracy warned his colleagues that Florida “has had the worst record of voter suppression in the country by far,” and characterized SB 90 as an effort by “a party that’s in control doing whatever they can to keep it.”¹¹
- Senator Bracy further warned that SB 90 “is clearly going to reduce vote-by-mail in Democratic counties.”¹²

¹¹ Senate Hearing, February 16, 2021.

¹² Senate Hearing, February 16, 2021.

- Senator Perry Thurston described the bill as part of Florida’s “sordid history of us trying to stop people from voting, trying to make it harder for people to vote.”¹³
- The Florida Supervisors of Elections warned lawmakers that “several of the proposed provisions in the bill will negatively impact the voter experience” and that “unnecessary election reforms . . . risks destroying the voter confidence that we have worked so hard to earn.”¹⁴

68. Several legislators specifically advised their colleagues that the bills were targeting voting practices increasingly relied upon by Black and Hispanic voters:

- Senator Bobby Powell advised the Senate Rules Committee that the restrictions on VBM voting would impact Black voter turnout.¹⁵
- Senator Lori Berman, during Senate debate on SB 90, cited analysis of Florida voting data from the Stanford-MIT Health Elections Project that concluded that Black voters were the group with the greatest

¹³ *Id.*

¹⁴ FSE Statement on PCB-PIE 21-05; March 22, 2021.

¹⁵ Senate Committee on Rules, April 14, 2021.

increase in mail voting in the 2020 elections, and warned that the bill would have a “disparate impact on black voters.”¹⁶

- Senator Victor Torres warned that as a result of SB 90: “Seniors, minority groups including those of the Hispanic community and residents who have physical disabilities will find more barriers to casting their vote and less opportunities to participate in the election process.”¹⁷
- Senator Gary Farmer told the Senate Committee on Ethics and Elections that the identification requirements in SB 90 would disproportionately impact Black and Hispanic voters because they tend to disproportionately lack the required identification.¹⁸
- Representative Christopher Benjamin pointed out that the restrictions on line warming and collecting ballots would have a disparate impact on the Black community.¹⁹

69. Numerous advocacy organizations also advised the legislature of the discriminatory impact of the bill. For example:

¹⁶ Senate Floor Debate, April 22, 2021.

¹⁷ Senate Committee on Ethics and Elections, April 26, 2021.

¹⁸ *Id.*

¹⁹ House Floor Debate, April 28, 2021.

- Ida V. Eskamani of Plaintiff Florida Rising informed the Senate Government Oversight Committee that SB 90 represented “one of the most serious attempts to restrict the rights of certain Americans to vote since the days of Jim Crow”, and described the bill as “voter suppression” directed at “Seniors and veterans,” “people with disabilities”, “folks with health ailments, and also folks that are already marginalized.”²⁰
- Counsel to LatinoJustice and Advancement Project wrote to the Florida Senate April 26, 2021, advising that the proposals to require identification for VBM applications, the restrictions on line warming, and the restrictions on returning ballots would disproportionately impact Black and Hispanic voters.
- Brad Ashwell of All Voting is Local testified that SB 90 “really can’t be seen as anything other than an attack on voting rights” and pointed out that “seniors and veterans with disabilities . . . will be disproportionately impacted by this bill.”²¹

²⁰ Senate Committee on Government Oversight and Accountability Hearing, March 10, 2021.

²¹ *Id.*

- Carrie Boyd, of SPLC Action Fund, informed the Senate Rules Committee that SB 90 “will undoubtedly make it extremely difficult for older people and people with disabilities to vote.”²²

70. In both the House and the Senate, legislators were presented with amendments that would have reduced the racially discriminatory impact of SB 90 [- each and every one of which was rejected]. For example:

- Senator Powell offered an amendment in the Senate Rules Committee that would have deleted the ban on providing line assistance, allowing the practice of “giving water or sustenance to those who are waiting in line.”²³
- Representative Omari Hardy offered an amendment allowing voters to use their name, address, and date of birth to obtain a mail ballot.²⁴
- Representative Dotie Joseph offered an amendment to allow completed ballots to be returned by anyone registered to vote at the same address as the voter.
- Representative Anna Eskamani offered an amendment that would have allowed line warming by volunteers with a nonpartisan organization or

²² Senate Rules Committee Hearing, April 14, 2021.

²³ Senate Committee on Rules, April 14, 2021.

²⁴ House Floor Debate, April 27, 2021.

civic group. Another amendment would have relaxed the restrictions on returning sealed, completed, mail ballots..

- Several amendments were offered to reduce the restrictions on secure drop boxes.

All of these amendments were defeated.

71. The Florida legislature’s decision to change Florida’s election laws, despite the fact that those laws succeeded in enabling a safe and secure 2020 election, was not made in a vacuum. Legislatures across the country, particularly legislatures with Republican majorities, began in the aftermath of the 2020 elections to immediately debate new laws that would make voting more difficult, particularly for Blacks, Hispanics, and other minorities. The backdrop for these efforts was false accusations and wild conspiracy theories spread both during and after the 2020 November election, almost all of which were aimed at disputing the validity of votes made in Black, Hispanic, and other minority communities.

Commented [29]: It would be useful, but not critical to find some Florida specific examples of the big lie; statements by DeSantis would be particularly helpful.

72. Florida was no exception. The Florida legislature began to develop SB 90 notwithstanding the fact that Donald Trump won Florida and in the absence of any credible allegations of voter fraud in the state. Indeed, the sponsors of SB 90 explicitly stated that the bill was motivated, not by issues that arose in the 2020 Florida election, but by the unsupported allegations of fraud in other parts of the country. Senator Baxley stated at one hearing that “We are doing this bill because it

becomes clear as you look across the country that there is a lot of confusion from many people on different fronts.”²⁵ Senator Baxley added “We had a lot of things happening across the country this year for whatever reasons.”²⁶ During full Senate consideration of SB 90, Senator Baxley stated that the bill was needed even in the absence of any Florida-specific issues to address “some going on around the country, different places, and we want to be proactive and prevent things from going awry, rather than waiting to have some kind of debacle to recover from.”²⁷

73. Through the debate and enactment of SB 90, bill sponsors struggled to set forth a rationale justifying sweeping changes to Florida’s election code. For example:

- Bill sponsors were not able to identify any specific evidence of abuses or voter fraud that the provisions of SB 90 or HB 7041 were designed to address.
- When asked during a hearing, Secretary of State Laurel Lee, testifying before the House Committee on Ethics and Elections, stated that she

²⁵ *Id.*,

²⁶ *Id.*

²⁷ Senate Floor Debate on SB 90, April 22, 2021.

was unaware of any examples of a VBM ballot being sent to the wrong individual who used the ballot to vote.²⁸

- When challenged to identify “anybody doing irregularities to necessitate this bill,” Senator Baxley did not offer any examples of such irregularities.²⁹
- When asked by Senator Linda Stewart “have we ever had any widespread issues with voter fraud on the vote by mail ballots,” Senator Baxley conceded that “I don’t know of widespread complaints”.³⁰

74. Senator Baxley similarly conceded that there is no problem with security of election drop boxes requiring a legislative remedy. Senator Baxley, asked to identify “a single instance of a VBM drop box being tampered with,” responded “I’m not trying to present a case that there’s a problem” and “I’ve never made the case that there’s box tampering.”³¹

75. Indeed, Senator Baxley essentially conceded that the issue SB 90 was intended to address was purely hypothetical. During one Committee hearing, Senator

²⁸ House Committee on Ethics and Elections, Feb 16, 2021.

²⁹ *Id.*

³⁰ Senate Committee on Governmental Oversight and Accountability, Hearing March 10, 2021.

³¹ Senate Committee on Rules, April 14, 2021.

Randolph Bracy held a colloquy with Senator Baxley to try to clarify Senator Baxley’s position on the need for SB 90:

Senator Bracy:

“I just want to clarify that you're saying that you agree that there is not a problem. There never has been. That is what the supervisors of elections have said and yet you believe we need to change. Make these changes to drop boxes and the voting hours because of what could happen. Even though there never had been a problem in the history of this state when it comes to drop boxes. I just want to clarify that is what you're saying.”

Senator Baxley:

“Substantively, yeah.”³²

76. Representative Blaise Ingoglia, the lead House sponsor of HB 7041, who represents portions of Hernando county, similarly admitted that he knew of no instances of voter fraud, but was in favor of SB 90 regardless of the facts. When asked if there was illegal ballot collection in Florida, Representative Ingoglia stated “I don’t know, but I’m sure it was going on.” Representative Ingoglia went on to state that “Just the fact that they weren’t caught doesn’t necessarily mean that it’s not happening.”³³

77. Over the last decade, Florida has experienced almost no voter fraud. According to the Heritage Foundation

³² Senate Hearing Committee on Rules April 14, 2021.

³³ Florida Republicans Pass Voting Limites in Broad Elections Bill, New York Times, April 30, 2021

(<https://www.heritage.org/voterfraud/search?state=FL>), since 2010, there have been only seventeen (17) criminal convictions, one (1) official finding and one (1) civil penalty for election fraud. Since 2010, almost 49 million ballots have been cast, resulting in a fraud rate of 0.00000035 %. Not a single instance of voter fraud has been documented in Florida in the 2020 election.

Commented [30]: This is based on tallying results from the SOS website on past election results.

78. In fact, the only substantiated allegation of fraud connected with the 2020 election stems from the arrest of former Republican Senator Frank Artiles, “accused of recruiting and paying a no party candidate in Miami-Dade’s Senate District 37 to siphon votes away from the Democratic candidate”³⁴—a type of fraud SB 90 does virtually nothing to address.

79. During the consideration of H.B. 7041, the House Public Integrity and Elections Committee surveyed all 67 County Supervisors of Elections to obtain their assessment of suspected voter fraud in Florida. The SOEs reported 386 *suspected* cases of voter fraud over the last four years, estimated to constitute a rate of possible fraud of 0.0001%.³⁵ In contrast, in Pinellas County alone, approximately 28,000 voters lack a driver’s license, state ID card, or social security number on file in the voter registration system. SB 90 precludes all of these voters -in the name of combatting this miniscule, unconfirmed threat of fraud--from obtaining a mail ballot.

³⁴ Florida Lawmakers Pass Restrictions on Mail Ballots, Drop Boxes, Miami Herald, April 30, 2021.

³⁵ Senate Floor Debate April 21, 2021.

C. SB 90 Was the Culmination of a Flawed and Rushed Process

80. SB 90 was enacted as a result of a rushed process that afforded little opportunity for public participation.

81. Despite the fact that the legislature met during a time of Covid restrictions, neither the House nor the Senate allowed members of the public to testify remotely. During hearings in both Chambers, time for public comment was severely limited. For example, public comment during the Senate Rules Committee consideration of SB 90 was limited to one minute per commenter, with members of the public abruptly cut off when their minute expired.³⁶ Ida Eskamani, commenting on behalf of Plaintiff Florida Rising, was among the witnesses cut off after one minute of testimony.³⁷ At the Hearing of the House Committee on State Affairs on April 19, 2021, debate on the bill was limited to 30 seconds per member, and no public testimony was permitted at all.³⁸

82. The final days of the passage of SB 90 gave way to a chaotic process that allowed little time for public testimony or for legislative consideration. For example, at 1:33am on April 27, 2021 Rep. Ingoglia introduced a “strike all” amendment to SB 90 to be considered on the House Floor, essentially replacing the

³⁶ Senate Committee on Rules Hearing, April 14, 2021.

³⁷ *Id.*

³⁸ House State Affairs Committee Hearing, April 19, 2021.

entirety of SB 90 with new and expanded text. This amendment was considered and adopted that same day. During House consideration of the bill April 27, the debate was so rushed that legislators were afforded only a few minutes to introduce, explain, debate and vote on each proposed amendment to the bill.³⁹ Representative Omari Hardy said of this rushed process:

“It’s very interesting that we should be given just five minutes to open, question, debate, and close amendments on this bill which is about the heart of our democracy in this state, one of the most important states in the United States of America. I can’t begin my discussion of this amendment without expressing how I feel about having this debate essentially canceled or truncated because we happened to have filed lots of amendments on this very objectionable piece of legislation.”⁴⁰

83. The House passed an amended version of SB 90 on April 28, and formally sent it to the Senate for consideration. On April 29, the Senate considered another “strike all” amendment offered by Senator Hutson; the amendment was passed by the Senate a few hours later.

84. When the House considered the Senate bill on April 29, 2021, it had little time to review a bill that contained significant changes. Representative Tracie Davis pointed out that there had been “less than three hours” to review “a 48 page document.” Representative Joseph Geller observed that members “barely know

³⁹ House Floor Debate, April 27, 2021.

⁴⁰ *Id.*

what's coming back" in the Senate bill, and asserted that "The Senate sends some stuff over. We barely have time to find out what it is, whether its right, whether it's a good idea." Representative Geller said that most members had no idea what was in the bill they were preparing to vote for.

85. The bill passed the House April 29 after one hour of debate, and was signed by the Governor May 6.

D. The Impact of SB 90

86. SB 90 includes numerous provisions that impact or burden the right to vote, and particularly the right to vote of historically disenfranchised voters and disabled voters. This Complaint challenges four of these provisions: (i) the Secure Drop Box Restriction; (ii) the Voter Registration Disclaimer; (iii) the VBM Application Restriction, and (iv) the Line Warming Restriction.

87. **Restrictions on Secure Drop Boxes.** SB 90 significantly restricts the use of secure drop boxes for early return of mail ballots.

88. Voting via secure drop boxes in the November 2020 General Elections was widely praised as a core element of an efficiently run election. Secretary of State Laurel Lee testified to the Senate Committee on Ethics and Elections that one of the elements of the success of the 2020 General Elections was informing voters concerned that their ballots might not arrive in time to be counted if sent by regular mail that "if they were concerned that they waited too long, they could drop them

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off, that there were multiple methods to return those ballots.”⁴¹ According to Craig Latimer, the President of the Florida Supervisors of Elections: “In 2020 our voters overwhelmingly appreciated the peace of mind that came from dropping their mail ballot off in a secure drop box, because they knew that by using the drop box instead of a mailbox, their ballot would be received on time.”⁴²

89. Of the 4.85 million mail ballots cast, approximately 31 percent (1.5 million) were cast in secure drop boxes.⁴³

90. According to Mark Earley, Supervisor of Elections of Leon County, “Supervised drop boxes are the gold standard of the chain of custody for receiving voter ballots.”⁴⁴

91. The reliance on secure drop boxes in the 2020 election was of particular significance and importance to the Black and Hispanic communities. In the November 2020 General Elections, Florida voters voted by mail in record numbers. Out of 11.1 million votes cast, 4.85 million were cast by mail, a record in percentage and in absolute numbers of votes. As noted earlier, approximately 550,000 Black

⁴¹ Senate Committee on Ethics and Elections, Hearing February 16, 2021.

⁴² Miami Herald, April 30, 2021.

⁴³ FSE Statement March 22, 2021

⁴⁴ Senate Government Oversight and Accountability Committee, Hearing of March 10, 2021.

voters and 740,000 Hispanic voters voted by mail in the 2020 election, and a large percentage of these ballots were returned by drop boxes.

92. The widespread use of mail voting, and in particular the use of secure drop boxes, was recognized as a major factor that helped reduce the long lines at polling places on election day in Black and Hispanic communities, a problem widely noted in the 2016 and 2018 elections. For example, according to Representative Christopher Benjamin, “in 2020, we had unprecedented numbers of black voters participate in our elections. They used drop boxes. . . We used people to assist our elderly in getting their votes to the drop boxes or getting them to the polls. . . we know that [restricting drop boxes] will have a disparate impact on folks like me.” House Debate on SB 90 April 28, 2021. [Provide statements from Plaintiffs, if we have them].

Commented [31]: We should add facts and examples from our plaintiffs, if we have them.

93. Prior to enactment of SB 90, Florida law required supervisors of elections to allow voters to use secure drop boxes to return their mail ballots at secure drop boxes “at the main office of the supervisor, at each branch office of the supervisor and at each early voting site.” F.S. 101.69(2) (2020).

94. Supervisors also had the discretion to place secure drop boxes at any other site that could qualify as an early voting site -- such as a city hall, permanent public library facility fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or

government-owned community center -- provided that any such site be staffed by the supervisor's office or by a law enforcement officer. *Id.*

95. Prior to enactment of SB 90, Supervisors had the discretion to allow access to secure drop boxes 24 hours a day, without restrictions on the times a drop box could be used by voters. Moreover, drop boxes were available the Sunday before election day, a critical day for early voting, and a boon to voters who wanted to vote by mail and be confident that their ballot would arrive and be counted on time.

96. SB 90 made several changes to restrict the use of secure drop boxes. For example, SB 90 requires election supervisors to operate most drop boxes only during the hours of operation for in-person early voting, *see* F.S. § 101.69(2)(a) (2021), which is between 8 and 12 hours a day. Counties may only make a secure drop box available for voting outside of early voting hours if the drop box is at the Supervisor's main office or permanent branch office. *Id.* Since most counties only have a single such office, as a practical matter this means that most counties will have only a single drop box available beyond early voting hours.

97. For voters who work and cannot get time off, this is particularly burdensome, since they cannot in most cases get to the drop box to submit their ballot during work hours. As stated by Representative Patricia Williams, the provisions of SB 90, including the restrictions on drop boxes "deters people of color from voting. Number one, because we work more, our hours are longer. . . The

number of hours we work, because of the drop box that would not be there 24 hours as it normally would be, that deters us from voting.” House Floor Debate April 28, 2021.

98. SB 90 also prohibits election supervisors from operating drop boxes on the Sunday before election day, unless they elect to also have early voting on that Sunday. . F.S. § 101.657(1)(d). This restriction will eliminate programs like those of Plaintiff XXX, which engages in “souls to the polls” campaigns on the Sunday before election day to encourage people to drop their ballots in secure drop boxes after Sunday Church services.

Commented [32]: We should add more information here from our plaintiffs.

99. Second, SB 90 requires that all secure drop boxes be “monitored in person by an employee of the supervisor’s office.” F.S. §101.69(2)(a) (2021). As a practical matter, this will severely limit the number of drop boxes available to voters, due to the costs of continuously staffing drop boxes. [ANYTHING MORE WE CAN SAY ABOUT IMPACT ON AFRICAN AMERICAN OR HISPANIC VOTERS?].

Commented [33]: We should add additional information from our Plaintiffs here.

100. SB 90’s restrictions on the use of drop boxes will discourage the use of drop boxes, defeating the purpose of using drop boxes to reduce the volume of in person voters crowding into early voting sites and on Election Day.

101. The Secure Drop Box Restrictions impose a particular burden on minority and other voters who disproportionately rely on secure drop boxes to vote after work, to vote on the Sunday before election day, or to avoid disproportionately

long lines at their local precincts during in person voting. The use of drop boxes has become increasingly important as the mail service becomes less reliable, particularly in minority communities. As Representative Geraldine Thompson, a member of Florida's House who is Black, observed: "[B]ecause it was people like me who used drop boxes in the last election more than they ever had and who made their voices heard, we are today considering a bill that would restrict the use of drop boxes."

102. During the legislative debate over SB 90, the bill's lead sponsor confirmed the absence of any legitimate justification for the restrictions on secure drop boxes: "I'm not trying to present a case that there's a problem" and "I've never made the case that there's box tampering." No other legislator identified any concern or problem with the use of secure drop boxes.

103. No state interest outweighs the burden on voting imposed by the Restrictions on Secure Drop Boxes.

104. **Third Party Voter Registration Disclaimer.** Section 7 of SB 90 requires third party voter registration organizations to inform registrants that their registrations might not arrive on time to enable them to vote, a disclaimer that is intended to and will have a chilling effect on third party voter registration organizations.

105. Independent voter registration organizations, like Plaintiff Florida Rising, have engaged in extensive voter registration drives in recent years, and

particularly during the 2018 and 2020 General Elections. These efforts registered up to XX voters throughout Florida.

Commented [34]: Add facts from our plaintiffs, if we can.

106. These voter registration efforts are particularly important to reaching historically disenfranchised voters, including Black and Hispanic voters, and helping them exercise their right to vote.

107. In part as a result of these efforts, voter registration among Black and Hispanic voters in Florida has risen significantly over the last several years, culminating in a record turnout in the 2020 General Elections.

108. Under Florida law independent voter registration organizations are subject to an extensive regulatory regime governing their activities. They are required to register with the state, provide information on their officers and registered agent, the names of the individuals registering voters for the organization, and provide a sworn statement from each individual registering voters for the organization that they will obey all state laws governing voter registration. *See* F.S. § 97.0575(1)(a)-(d) (2020).

109. SB 90 imposes a series of changes that will drastically impair the ability of organizations to register new voters, and in particular to register Black and Hispanic voters. SB 90 revises F.S. § 97.0575(3)(a) to require that an organization deliver a completed registration to the County SOE where the applicant resides or to the division of elections within “14 days after completed by the applicant, but not

after registration closes for the next ensuing election.” Moreover, SB 90 also requires the organization to (i) inform the applicant that the organization might not deliver the completed application on time; and (ii) inform the applicant of other ways to register to vote.

110. These forced statements, by suggesting that the organization may not return the registrations on time, directly discourage the activity of the organization. Defendant XX has built a reputation among voters of timely and efficiently returning registration forms. The forced message contained in SB 90 directly conflicts with the mission and purpose of Defendant XX.

Commented [35]: This is a placeholder; add information from our Plaintiffs, if we can.

111. During the debate on SB 90, legislators were advised of the impact of this forced disclaimer. Representative Geraldine Thompson informed the House of Representatives that “[W]e’re shaking confidence in voter registration by having to inform people that the ballot might not get there in time.”⁴⁵

112. Senator Shevrin Jones, during Senate floor debate on SB 90 advised that this provision “will likely have a chilling effect on the willingness of potential electors to participate in voter registration drives.” Senator Jones offered an amendment striking this language, specifically informing his colleagues that “we

⁴⁵ House Floor Debate, April 28, 2021.

know that minorities are more likely to vote through third party voter organizations.”

The amendment was defeated.⁴⁶

113. **Vote-By-Mail Application Restriction.** Section 24 of SB 90 imposes a series of restrictions on requesting mail ballots.

114. The Legislature, after years of making voting by mail easier, enacted these new restrictions after an election in which African American and Hispanic voters made unprecedented use of mail ballots -- specifically, that 40 percent of African American voters voted by mail in the 2020 election, double the percentage from 2016, and Hispanic voters almost doubled their use of mail ballots over the same period from 26.7% in 2016 to 42.1% in 2020.

115. Under prior Florida law, a voter could request a VBM ballot by phone, by mail or in person, without providing identification. See F.S. § 101.62(1)(b). A written request with a signature was required if the voter was requesting that the ballot be sent to an address other than the one at which they were registered. Identification was needed only when a voter directed the SOE to accept a request by a member of the voter’s immediate family or a legal guardian, in which case the application had to contain the voter’s name, address, and date of birth, and the

⁴⁶ Senate Floor Debate, April 22, 2021.

requestor's name, address, driver's license number if available, and the requestor's relation to the voter. *Id.*

116. Similarly, prior to the enactment of SB 90, VBM Ballots, once returned, were checked by the SOE or the County Canvassing Board ("CCB") to verify that the signature on the VBM ballot matches the signature in the registration books and that the voter is "duly registered in the County." F.S. 101.68(2)(c)1. If the SOE or the CCB found that a signature was missing or did not match the signature on file, the SOE notified the voter and the voter had an opportunity to provide a cure affidavit with a valid signature and one of several forms of identification. F.S. 101.68(4)(a)-(d).

117. The processes for applying for and reviewing VBM ballots were praised widely by the Secretary of State and Florida lawmakers as an essential element of the success of the 2020 Elections in Florida. Secretary of State Lee testified to the House Committee on Ethics and Elections that the signature match is "to verify that their ballot is coming from the intended voter," that the number of signature mismatches was "very low", and that the very low number was "a credit to the work" of the Supervisors of Elections. Moreover, for the past several years, the Secretary of State has offered training on signature matching to local officials to ensure it is conducted in a rigorous and objective manner. Secretary Lee did not

identify any issue or problem with VBM voting that would require additional restrictions or precautions.

118. SB 90 imposes onerous new requirements on voters applying for a VBM ballot. Under Section 24 of SB 90, both the voter seeking a VBM ballot and anyone making a request for a VBM ballot on behalf of the voter must provide their Florida driver's license number, their Florida identification card number, or the last four digits of the voter's and the requestor's social security numbers. *See* F.S. §§ 101.62(1)(b) & (c), (3) & (4)(c). SB 90 requires SOEs to verify that the information provided with a VBM request matches the information in the county's voter registration records. F.S. § 101.62(1)(b). SB 90 expressly bars SOEs from providing VBM ballots to any voter unless these requirements are satisfied. F.S. § 101.62(7).

119. These added requirements for voters to provide identifying information, and for SOEs to verify the identification, are completely unnecessary and will lead to the arbitrary rejection of mail ballot requests. There has been no evidence of fraud or abuse from voters using VBM ballots, and no evidence of individuals impersonating other voters to obtain a VBM ballot—the specific kind of abuse that imposing this ID requirement or signature match requirement would theoretically address. At numerous times during the hearings and floor consideration of SB 90, bill sponsors pressed on whether they were aware of any abuses or irregularities related to VBM in 2020, could identify no such instances. During the

Senate Elections Committee Hearing, Brad Ashwell, Florida State Director of All Voting is Local, specifically challenged the sponsor of SB 90, Senator Baxley, to “point out anybody doing irregularities to necessitate this bill.” Senator Baxley failed to identify any specific instances of irregularities. Florida Secretary of State Laurel Lee, in her testimony before the Senate Committee on Ethics and Elections, stated she was not aware of any abuse with respect to mail ballots.

120. The VBM Application Requirement will prevent many voters in Florida from obtaining a VBM ballot, because many voters in Florida registered to vote without providing either a driver’s license or ID card number or a social security number, and lack those documents. Other voters will be barred from obtaining VBM ballot because they do not remember the document that they used when registering to vote. For example, a new Florida voter may register using a social security number before obtaining a driver’s license or ID card in the state. Many years later, when applying for a VBM ballot, if that voter supplies her subsequently obtained driver’s license number, the request will be rejected. SB 90’s ID requirement for requesting a VBM ballot will impose a an unnecessary burden on voting for all voters, but will have a disproportionate effect on voters of color.

121. Given the extensive reporting on the increasing use of mail ballots by Black and Hispanic voters during and after the 2020 election, the Florida legislature was aware of the increased use of mail ballots by African American voters, and was

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aware that imposing restrictions on mail ballots would likely impact African American voter participation. And the Legislature was aware that the identification requirements pose a particular burden on voters who lack these forms of ID, including African American and Hispanic voters. According to the 2012 American National Elections Study, African American and Hispanic voters are more than twice as likely to lack photo IDs than white voters. African American voters are less likely to have a driver's license or a State identification. Throughout Florida, tens of thousands of voters lack photo IDs or social security numbers, and these voters are disproportionately African American and Hispanic. In Pinellas County alone, 28,000 voters lack identification or social security numbers.⁴⁷ Under the VBM Application Requirement, these voters will be unable to obtain vote by mail ballots.

122. **Line Warming Restriction.** Section 29 of SB 90 in effect criminalizes the practice of providing food, water and other assistance to voters waiting in line to vote.

123. Plaintiffs Hispanic Federation and Faith in Florida have since 2012 engaged in non-partisan efforts to support and encourage voters waiting in extended lines to remain in line. These activities, referred to as "Line Warming," have included providing food, water, chairs, umbrellas and other services. For example,

⁴⁷ Mitch Perry, *In St. Pete, Voting and Civil Rights Advocates Speak Out Against Florida Elections Bill*, Bay News 9 (May 11, 2021), <https://www.baynews9.com/fl/tampa/politics/2021/05/11/voting-and-civil-rights-advocates-speak-out-against-florida-elections-bill>.

Plaintiff's efforts included assisting 102 year old Desiline Victor, a determined Haitian American voter whom Plaintiff assisted in voting [NEED SPECIFICS]. In the 2020 General Election, Plaintiff XXX engaged in [describe vote warming campaign]. Plaintiff XXX in 2020 engaged in get out the vote efforts that included bringing people to the polls, assisting them in walking into the polling station, providing chairs, water and food. In prior years, Plaintiff XXX provided voters with umbrellas, to encourage voters to remain in line in rainy conditions.

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Commented [38]: Need some information here from our plaintiffs regarding their specific line warming programs in 2020 or 2018.

124. Prior to SB 90, Florida law barred "solicitation" of voters within 150 feet of a polling place. Solicitation was defined as "seeking or attempting to seek any vote, fact, opinion or contribution; distributing or attempting to distribute any political campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph [exempting exit polling]; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item." F.S. 102.031(4)(b).

125. "Solicitation" prior to enactment of SB 90 did not encompass provision of food, water, chairs, umbrellas, or other support intended to encourage voters not to leave voting lines and make it easier for them to stay in line and cast a ballot.

126. SB 90 added language to F.S. § 102.031 expanding the definition of "soliciting" or "solicitation" to also encompass "engaging in any activity with the intent to influence or effect of influencing a voter." F.S. § 102.031(4)(b). There is no definition of what "influencing a voter" means, and nothing in the law restricts it

to attempting to influence how a voter votes. Thus, this provision would have the effect of barring activities, such as the program implemented by Plaintiffs Hispanic Federation and Faith in Florida in the 2020 elections, to provide food, water or other support to voters to encourage them to remain in line and exercise their right to vote.

127. Line warming was particularly important in mobilizing the African American vote in the 2020 General Elections. Representative Christopher Benjamin during House Floor Debate on SB 90 described the numerous efforts to turnout the African American vote in the 2020 General Elections, including using “volunteers to tend people in the lines,” and that banning line warming will have a “disparate impact” on African American voters.⁴⁸

128. Similarly, Senator Audrey Gibson observed during Senate Floor debate:

“Restricting food and water, it's totally obvious why that happens. Because many of us engaged, in our minority communities in particular, may have food trucks or activities of food near -- it'll be more than 150 feet, but we may take a plate over to those who are 150 feet away from the entrance to the polling place.”⁴⁹

129. Several amendments were offered to SB 90, in Committee and on the floor, to remove the Line Warming Ban. These amendments were all rejected.⁵⁰

⁴⁸ House Floor Debate, April 28, 2021

⁴⁹ Senate Floor Debate, April 29, 2021

⁵⁰ Senate Rules Committee, April 14, 2021, Barcode 742050; House Floor Debate April 29, 2021, Barcode 710189.

130. In enacting SB 90, the Florida legislature was aware that historically, voting lines in precincts with larger numbers of African American and Hispanic voters have had longer wait times than other precincts, and that Churches and community organizations that support African American and Hispanic voters have traditionally provided support to voters in line, including distributing food, water, chairs, and umbrellas, and assisting elderly and disabled voters who may not be able to stand in line for long periods of time. Thus, the Line Warming Restriction will disproportionately impact African American and Hispanic voters.

DEFENDANT CLASS ACTION ALLEGATIONS

Defendant Class Supervisors of Elections

131. This action is brought against defendants Bishop, Ogg, Chambless, Arrington and Latimer as representatives of a defendant class comprised of all county Supervisors of Elections in the State of Florida. Supervisors of Elections, including defendants Bishop, Ogg, Chambless, Arrington and Latimer, are charged by law with the duty to implement the VBM Application Restriction and the Line Warming Restriction.

132. The persons comprising the class are so numerous that joinder of all members is impractical. Joining 67 individual County Supervisors of Elections from across the state would cause inefficient and duplicative proceedings that would be difficult and impracticable to manage. The questions of law common to the class are

whether the Secure Drop Box Restrictions, the Voter Registration Disclaimer, the VBM Application Restriction and the Line Warming Restriction violate the First, Fourteenth and Fifteenth Amendments to the U.S. Constitution, Sections 2 and 208 of the Voting Rights Act, the Americans with Disability Act, and Section 2 of the Rehabilitation Act, as alleged in this Complaint. Questions of fact common to the class include the impact of the challenged restrictions on Florida voters.

133. The defenses of defendants Bishop, Ogg, Chambless, Arrington and Latimer are likely to assert are typical of the defenses of the class. Defendants Bishop, Ogg, Chambless, Arrington and Latimer and the class member County Supervisors of Elections are public officers with identical public duties under Florida election law, the Voting Rights Act, ADA, Rehabilitation Act, and the U.S. Constitutional.

134. Defendants Bishop, Ogg, Chambless, Arrington and Latimer as Supervisor of Elections of their respective Counties, will fairly and adequately protect the interests of the class. Because Defendants Bishop, Ogg, Chambless, Arrington and Latimer are empowered with the same election law enforcement and oversight functions as every other county Supervisor of Elections, they can fairly and adequately protect the interests of the Defendant class of Supervisors. As public officers, Defendants Bishop, Ogg, Chambless, Arrington and Latimer can be

expected to litigate this action with the vigor and forthrightness required of a representative party.

135. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(A) in that the prosecution of separate actions against individual members of the class would create a risk of inconsistent or varied adjudication with respect to individual members of the class which would establish incompatible standards of conduct for the Defendants.

136. A defendant class is independently appropriate under Federal Rule of Civil Procedure 23(b)(1)(B) because adjudications with respect to individual class members, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede the ability of the other nonparty members to protect their interests. All of the proposed defendant class members have identical election-related responsibilities under SB 90. Thus, if this case were brought only against Defendants Bishop, Ogg, Chambless, Arrington and Latimer, all County Supervisors of Elections in the proposed defendant class would risk running afoul of federal law if they continued to apply and enforce any of the challenged restrictions enjoined by any court order in this case.

137. In the alternative, this action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2) in that the relief Plaintiffs seek—namely, an

injunction prohibiting application or enforcement of the challenged restrictions—is identical as to each member of the defendant class and makes final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Section 2 of the Voting Rights Act

52 U.S.C. § 10301, *et seq.*

(Intentional Racial Discrimination & Discriminatory Results)

**(Secure Drop Box Restriction, VBM Application Restriction, and
Line Warming Restriction)**

Against Supervisor Defendant Class

138. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

139. Section 2 of the Voting Rights Act, 52 U.S.C. § 10301(a), provides in pertinent part:

No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color

140. In direct violation of Section 2, SB 90 (1) Restricts the availability of secure drop boxes for early voting (the Secure Drop Box Restriction); (2) requires that voters provide state identification or the last four digits of their Social Security number in order to request a vote-by-mail ballot (the VBM Application Restriction); and (3) prohibits [Plaintiffs?] and other civic and religious organizations from

providing food, water, and other necessities to voters outside the no-solicitation zone surrounding polling places (the Line Warming Restriction).

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141. SB 90 violates Section 2 of the Voting Rights Act because these provisions were adopted for the purpose of denying voters of color full and equal access to the political process.

142. These provisions would violate Section 2 even in the absence of discriminatory intent, because, by their discriminatory impact, they will “result in a denial or abridgement” of the right of voters of color to vote and to participate equally in the democratic process.

143. A voting qualification, prerequisite, practice, or procedure violates Section 2 “if, based on the totality of circumstances,” election processes “are not equally open to participation” by protected classes of citizens, in that they “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”

144. SB 90 violates Section 2 of the Voting Rights Act because, given the “totality of circumstances,” including the long history of racial discrimination in voting in Florida, the challenged provisions, individually and cumulatively, will disproportionately deny voters of color, including African American and Hispanic voters, an equal opportunity to participate in the political process and to elect representatives of their choice.

SECOND CLAIM FOR RELIEF
Fourteenth Amendment
U.S. Const. amend., XIV; 42 U.S.C. § 1983
(Intentional Race Discrimination)
(Secure Drop Box Restriction, VBM Application Restriction, and
Line Warming Restriction)
Against Supervisor Defendant Class

145. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

146. 42 U.S.C. § 1983 provides a cause of action, including for declaratory or injunctive relief, against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws....”

147. The Secure Drop Box Restriction, the VBM Application Restriction, and the Line Warming Restriction violate the Fourteenth Amendment to the United States Constitution because they were purposefully enacted and operate to deny, abridge, or suppress the right to vote of otherwise eligible voters on account of race or color.

148. The facts alleged herein reveal that race was a motivating factor in the enactment of SB 90, which was adopted with the racially discriminatory intent to raise obstacles to voting for voters of color, including African American and

Hispanic voters. *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977).

149. Florida’s long history of racial discrimination in the context of voting, the known and reasonably foreseeable discriminatory impact of SB 90, the bill’s legislative history, and the tenuous and pretextual nature of the stated justifications for the bill raise a strong inference that it was enacted with a discriminatory purpose in violation of the Fourteenth Amendment.

THIRD CLAIM FOR RELIEF

Fifteenth Amendment

U.S. Const. amend., XV; 42 U.S.C. § 1983

(Intentional Race Discrimination in Voting)

**(Secure Drop Box Restriction, VBM Application Restriction, and
Line Warming Restriction)**

Against Supervisor Defendant Class

150. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

151. 42 U.S.C. § 1983 provides a cause of action, including for declaratory or injunctive relief, against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws....”

152. Section 1 of the Fifteenth Amendment to the United State Constitution prohibits states from denying or abridging the right of American citizens to vote on account of their race or color.

153. SB 90 violates the Fifteenth Amendment to the United States Constitution because Defendants intentionally enacted and intend to administer and enforce the Secure Drop Box Restriction, the VBM Application Restriction, and the Line Warming Restriction to deny and abridge the right to vote on account of race or color.

FOURTH CLAIM FOR RELIEF
First and Fourteenth Amendments
U.S. Const. amend. XIV; 42 U.S.C. § 1983
(Undue Burden on the Right to Vote)
(Secure Drop Box Restriction, VBM Application Restriction, and
Line Warming Restriction)
Against Supervisor Defendant Class

154. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

155. 42 U.S.C. § 1983 provides a cause of action, including for declaratory or injunctive relief, against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws...”

156. The right to vote is a fundamental constitutional right protected by both the First and Fourteenth Amendments to the United States Constitution.

157. State election laws may not place burdens upon the constitutional right to vote unless relevant and legitimate state interests of sufficient weight necessarily justify the magnitude and character of the burdens imposed. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

158. Any burden on the constitutional right to vote—even a slight one—“must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation.” *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 191 (2008) (Stevens, J., controlling op.).

159. The more a challenged law burdens the right to vote, the more strictly must it be scrutinized. *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1318-19 (11th Cir. 2019).

160. The Secure Drop Box Restriction, the VBM Application Restriction and the Line Warming Restriction individually and collectively impose severe burdens or, at a minimum, significant burdens, on the voting rights of eligible Floridians, including on [Plaintiffs and members of Plaintiffs’ organizations].

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161. Given that the sponsors of SB 90 were unable to point to any substantial evidence of the problems the challenged provisions purportedly address, none of the burdens the law imposes are necessary to achieve, nor are they reasonably related

to, any sufficiently weighty legitimate state interest. These burdens accordingly lack any constitutionally adequate justification and must be enjoined.

FIFTH CLAIM FOR RELIEF
Freedom of Speech/Expression and Unconstitutional Overbreadth and Vagueness
U.S. Const. amend. I; 42 U.S.C. § 1983
(Line Warming Restriction)
Against Supervisor Defendant Class

162. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

163. 42 U.S.C. § 1983 provides a cause of action, including for declaratory or injunctive relief, against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws...”

164. Plaintiff[s] Hispanic Federation [Faith in Florida? Other organizations?] enjoy rights under the First Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment, to engage in protected speech and expression.

165. Plaintiff[s] regularly engage, and intend to continue engaging, in protected speech by communicating with voters waiting in long polling place lines to convey a message about the importance of staying in line, the value of each

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individual's vote, and each individual's inherent value as a person and a participant in our democracy.

166. Plaintiff[s] also provide(s) food, water, seating, and other support to voters waiting in long lines at polling places as an expressive manifestation of [Plaintiffs'] central message concerning the importance of voting.

167. Plaintiffs(s)' "line warming" activities fall squarely within the protections of the First Amendment. Encouraging participation in the political process in the face of obstacles is "the type of interactive communication concerning political change that is appropriately described as 'core political speech.'" *Meyer v. Grant*, 486 U.S. 414, 422-23 (1988).

168. SB 90's Line Warming Restriction is squarely aimed at the line warming activities of [Plaintiff[s]] and similar organizations and individuals and unconstitutionally targets protected speech and expression, and must therefore be enjoined.

169. The Line Warming Restriction is also impermissibly overbroad.

170. A statute is overbroad and thus facially invalid if it prohibits a substantial amount of protected speech, even if some of the speech it proscribes may permissibly be restricted. *United States v. Williams*, 553 U.S. 285, 292 (2008); *NAACP v. Button*, 371 U.S. 415, 433 (1963); *Thornhill v. Alabama*, 310 U.S. 88, 101-02 (1940).

171. [Plaintiffs'] line-warming activities involve speech and expressive conduct that is protected by the First Amendment. Nonetheless, that speech and conduct appear to be banned by SB 90's Line Warming Restriction.

172. Whatever activity (if any) might fall within the legitimate sweep of the Line Warming Restriction, a substantial number of the Line Warming Restriction's applications, including to [Plaintiffs'] line-warming speech and expressive conduct, are unconstitutional. The Line Warming Restriction must be therefore be invalidated as overbroad. *United States v. Stevens*, 559 U.S. 460, 473 (2010).

173. The Line Warming Restriction is also unconstitutionally vague.

174. The Due Process Clause of the Fourteenth Amendment incorporates the "fundamental principle in our legal system" that "laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012); see *Kolender v. Lawson*, 461 U.S. 352, 353-54 (1983). Laws must be drafted so that regulated parties "know what is required of them so they may act accordingly." *Fox Television Stations*, 567 U.S. at 253. And "precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way." *Id.*

175. "When speech is involved, rigorous adherence to those requirements is necessary to ensure that ambiguity does not chill protected speech." *Id.* at 253-54;

see Button, 371 U.S. at 432 (“[S]tandards of permissible statutory vagueness are strict in the area of free expression.”).

176. The Due Process Clause “requires the invalidation of laws that are impermissibly vague.” *Fox Television Stations*, 567 U.S. at 253.

177. The Line Warming Restriction prohibits “engaging in any activity with the intent to influence or effect of influencing a voter.” But it fails to define “activity” or “influence,” two general words with myriad conceivable meanings and applications. Nor does it clarify what conduct has the “effect of influencing a voter,” nor how one would determine that a voter has been influenced.

178. As a result of the Line Warming Restriction’s vagueness, [Plaintiff(s)] will be unable to determine whether, for example, tasking volunteers with urging voters to stay in line and vote or offering food, water, seating, and other items to voters would be a directive to violate the law, putting volunteers at risk of criminal prosecution. And local law enforcement will be unable to determine whether such conduct requires their intervention, inviting confusion and chaos at polling places.

179. The inevitable result of the Line Warming Restriction’s irredeemable vagueness is the chilling of protected political speech and expression.

180. Because the Line Warming Restriction fails to adequately identify the speech and conduct it prohibits, and because its lack of constitutionally necessary “precision and guidance” invites arbitrary, selective, and discriminatory

enforcement, the Line Warming Restriction is unconstitutionally vague and must be enjoined. *Fox Television Stations*, 567 U.S. at 253.

SIXTH CLAIM FOR RELIEF

Violation of Section 208 of the Voting Rights Act of 1965, 52 U.S.C. § 10508

Preemption

(Line Warming Restriction)

Against Supervisor Defendant Class

181. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

182. Section 208 of the Voting Rights Act provides that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” The Voting Rights Act defines “vote” to include “all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this chapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly.” 52 U.S.C. § 10310(c)(1). Section 208 thus guarantees any voter who requires aid in casting an absentee ballot the right to assistance by a person of their choice, other than a person connected to the voter’s employer or union.

183. The Line Warming Restriction conflicts directly with and violates Section 208 and is therefore preempted and invalid.

184. The Line Warming Restriction bars assisting a voter by providing a chair or bringing water. If a voter requests assistance from a friend or family member in waiting on line to vote, the Line Warming Restriction bars the chosen person from assisting the voter and criminalizes such assistance. The voter has thus been deprived of her right to assistance by the person of her choice under Section 208.

185. |

186. The Line Warming Restriction criminalizes conduct that is contemplated and encouraged by Section 208, depriving voters of their federally guaranteed right to assistance in casting their ballot. Accordingly, the Line Warming Restriction is preempted and invalidated by federal law.

Commented [42]: Like the ADA and Rehab Act claims (see below for more detailed comments on this issue), this claim needs language linking the Section 208 violation with the relevant plaintiff organizations' missions of assisting voters, which could be borrowed from the First Amendment claim on line warming.

SEVENTH CLAIM FOR RELIEF
Failure to Provide Reasonable Accommodations in
Violation of Americans with Disability Act, 42 U.S.C. § 12131 *et seq.*
(Line Warming Restriction)
Against Defendant Supervisor Class

187. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

188. Under Title II of the Americans with Disabilities Act (ADA), state and local governments may not impose requirements on participation in public services, programs, or activities, including voting, that screen out individuals with disabilities from fully and equally enjoying those programs and must make reasonable modifications in policies, practices, or procedures, including voting and election

procedures, when the modifications are necessary to avoid discrimination on the basis of disability.

189. Individuals who suffer from a medical vulnerability or condition that makes it difficult or impossible to stand for long periods of time, including in long polling place lines, have a disability within the meaning of the ADA.

190. The Line Warming Restriction severely limits the ability of Plaintiffs Hispanic Federation and Faith in Florida to carry out their mission of assisting voters with disabilities and helping ensure they are able to vote by providing chairs, water, umbrellas, and similar aid.

Commented [43]: Are these the correct Plaintiffs? Are there others?

191. |

Commented [44]: Need additional language here (and in other paragraphs in this count, and potentially elsewhere in the complaint in descriptions of plaintiffs' assistance to disabled voters) linking Plaintiffs' activities/mission to this claim. Our argument is that the line warming ban is a sufficient injury to the organization's mission of assisting disabled voters to confer Article III standing under *Havens* (diversion of resources), which in turn is sufficient for standing to allege a violation of the ADA.

192. The Line Warming Restriction thus imposes a substantial burden on voters with disabilities without making a reasonable accommodation for these voters.

193. The failure to accommodate these voters constitutes a condition on access to the ballot box that has the effect of screening out such individuals from participating in elections, in violation of Title II of the ADA.

EIGHTH CLAIM FOR RELIEF
Failure to Provide Reasonable Accommodation
in Violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794
(Line Warming Restriction)
Against Supervisor Defendant Class

194. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

195. Under Section 504 of the Rehabilitation Act, federally funded programs, including state and local programs related to elections and voting, may not discriminate against individuals with disabilities and must make reasonable accommodations to allow individuals with disabilities to access the federal funded program, activity, or service.

196. The Florida Division of Elections receive federal funding through the Help America Vote Act and the CARES Act, and thus are subject to Section 504 of the Rehabilitation Act.

197. Individuals who suffer from a medical vulnerability or condition that makes it difficult or impossible to stand for long periods of time, including in long polling place lines, have a disability within the meaning of the ADA.

198. The Line Warming Restriction severely limits the ability of Plaintiffs Hispanic Federation and Faith in Florida to carry out their mission of assisting voters with disabilities and helping ensure they are able to vote by providing chairs, water, umbrellas, and similar aid.

199. | |

Commented [45]: Are these the correct Plaintiffs? Are there others?

Commented [46]: Again need additional language, which can be duplicated here from the ADA claim, to link the Plaintiffs organizations' mission to the failure to provide reasonable accommodations, sufficient for a colorable argument for diversion of resources standing.

200. The Line Warming Restriction thus imposes a substantial burden on voters with disabilities without making a reasonable accommodation for these voters.

201. The failure to accommodate these voters constitutes a condition on access to the ballot box that has the effect of screening out such individuals from participating in future elections, in violation of Section 504 of the Rehabilitation Act.

NINTH CLAIM FOR RELIEF
Freedom of Speech and Compelled Speech
U.S. Const. amend. I; 42 U.S.C. § 1983
(Voter Registration Disclaimer)
Against Defendant Lee

202. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

203. 42 U.S.C. § 1983 provides a cause of action, including for declaratory or injunctive relief, against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws...”

204. Plaintiffs Florida Rising [and other third-party voter registration organizations?] enjoy rights under the First Amendment to the United States

Commented [47]: Need specific information on any other plaintiffs that operate or plan to operate as TVPROs.

Constitution, as applied to the states by the Fourteenth Amendment, to engage in protected speech and expression, including political speech.

205. In engaging in organized voter registration activities, Plaintiff Florida Rising Together [and others?] engage in speech and expression protected by the First Amendment.

Commented [48]: Same comment here and anywhere else "Plaintiffs" is used in this count

206. Plaintiffs' voter registration activities, including their conversations with voters in the course of those activities, constitute speech and expressive conduct intended to share Plaintiffs' belief in the importance of participation by all eligible citizens, including marginalized and excluded constituencies, in the democratic process. Advocating for that belief by working to persuade Floridians to vote and to assist eligible voters in registering to vote is core political speech and expression. *See Meyer*, 486 U.S. at 422-23.

207. Restrictions on protected political speech and expression violate the First Amendment when they "significantly inhibit" election-related speech and association and are "not warranted by the state interests ... alleged to justify [the] restrictions." *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 192 (1999). Laws that burden core political speech are subject to "exacting scrutiny," and will be upheld only if the restrictions are "narrowly tailored to serve an overriding state interest." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995).

208. The Voter Registration Disclaimer infringes on Plaintiffs' First Amendment rights because it chills the protected speech and expression that occurs during voter registration activities. By requiring Plaintiffs to warn voters that Plaintiffs "might not deliver" their registration forms in time to be processed, the Voter Registration Disclaimer will dissuade eligible voters from registering to vote with Plaintiffs by giving them the incorrect impression that Plaintiffs cannot be trusted to handle their registration materials. In fact, Plaintiffs take great care and pride in their secure and efficient collection and submission of voter registration applications in compliance with Florida law.

209. The intent and effect of the Voter Registration Disclaimer is to diminish and impair Plaintiffs' ability to engage in protected political speech and expression by assisting eligible Floridians with voter registration.

210. The Voter Registration Disclaimer is not warranted by any sufficiently weighty state interest. The State lacks any legitimate interest in sowing doubt and uncertainty among eligible Florida voters about the trustworthiness and reliability of third-party voter registration organizations like Plaintiffs. And any valid interest the State may have in ensuring that such organizations promptly submit voter registration materials can be accomplished by other means consistent with the U.S. Constitution.

211. The Voter Registration Disclaimer therefore represents an unconstitutional restriction on political speech and expression and should be enjoined.

212. The Voter Registration Disclaimer also unconstitutionally compels Plaintiff Florida Rising Together [and others?] and other third-party voter registration organizations to engage in speech in violation of their First Amendment rights.

Commented [49]: Same comment here and anywhere else "Plaintiffs" is used in this count.

213. Plaintiffs enjoy rights under the First Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment, to be free from government mandates to engage in speech and expression of the government's choosing.

214. "Some of [the Supreme] Court's leading First Amendment precedents have established the principle that freedom of speech prohibits the government from telling people what they must say." *Rumsfeld v. Forum for Acad. & Institutional Rights, Inc.*, 547 U.S. 47, 61 (2006). A law that "compel[s] individuals to speak a particular message" is a content-based regulation of speech and is therefore "presumptively unconstitutional." *Nat'l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2371 (2018).

215. The Voter Registration Disclaimer unconstitutionally forces Plaintiffs and other persons and entities engaging in voter registration to speak for the

government by making a disclaimer or warning that Plaintiffs would not otherwise recite. The disclaimer constitutes speech (specifically, confusing, misleading, and dissuading speech); Plaintiffs object to the government imposing such speech upon them; and the speech will be readily associated with Plaintiffs and tied to their name when Plaintiffs involuntarily warn voters that they “might not deliver” their voter registration forms timely and effectively.

216. The Voter Registration Disclaimer compels Plaintiffs to undermine their own credibility by forcing Plaintiffs to tell potential voters that, in effect, Plaintiffs cannot be trusted with their registration forms. Such statements will be inaccurate because Plaintiffs take great care and pride in their secure and efficient collection and submission of voter registration applications in compliance with Florida law.

217. The Voter Registration Disclaimer is not narrowly tailored to serve any compelling or overriding state interest. To the extent the government believes that the Voter Registration Disclaimer is needed, the government must speak for itself. The State may not coopt Plaintiffs and other civic organizations to speak in furtherance of the State’s own attempts to discourage voter registration. Because the Voter Registration Disclaimer forces Plaintiffs to deliver that message on the State’s behalf without a sufficiently compelling reason, the Voter Registration Disclaimer violates the First Amendment and should be enjoined.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court:

- a. Issue a declaratory judgment, pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57, declaring that the Secure Drop Box Restriction, the VBM Application Restriction, the Line Warming Restriction, and the Voter Registration Disclaimer are illegal and unconstitutional in violation of Sections 2 and 208 of the Voting Rights Act of 1965, 52 U.S.C. §§ 10301 and 10508, Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the First, Fourteenth, and Fifteen Amendments to the United States Constitution;
- b. Preliminarily and permanently enjoin Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing the Secure Drop Box, the VBM Application Restriction, the Line Warming Restriction, and the Voter Registration Disclaimer;
- c. Issue an order requiring Defendants to pay Plaintiffs' costs, expenses, and reasonable attorneys' fees incurred in the prosecution of this action, as authorized by, *inter alia*, 42 U.S.C. § 1988 and other applicable laws; and;
- d. Grant such other and further relief as may be just and equitable.