

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

DEMOCRATIC SENATORIAL
CAMPAIGN COMMITTEE, and
BILL NELSON FOR U.S. SENATE,

Plaintiffs,

v.

KENNETH W. DETZNER, in his
official capacity as Florida Secretary
of State, the FLORIDA
ELECTIONS CANVASSING
COMMISSION, and RICK SCOTT,
PAMELA BONDI, and JIMMY
PATRONIS in their official capacity
as members of the Florida Elections
Canvassing Commission

Defendants.

Case No. 4:18-cv-00528-MW-MJF

**PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

NOW COME Plaintiffs Democratic Senatorial Campaign Committee and Bill Nelson for U.S. Senate (collectively, "Plaintiffs") by and through their attorneys, and move the Court pursuant to Rule 65(a) and 65(b) of Federal Rules of Civil Procedure for a preliminary injunction and temporary restraining order against Kenneth W. Detzner, in his official capacity as Florida Secretary of State, the Florida Elections Canvassing Commission, and Rick Scott, Pamela Bondi, and Jimmy Patronis in their official capacity as members of the Florida Elections Canvassing Commission. In support thereof, Plaintiffs state as follows:

1. On November 13, 2018, Plaintiffs filed their Complaint for Declaratory and Injunctive Relief, alleging that Plaintiffs are entitled to relief from this Court for violations of their rights as well as the rights of their supporters and members—which include thousands of eligible Florida voters—under the First and Fourteenth Amendment to the U.S. Constitution, pursuant to 42 U.S.C. §§ 1983 and 1988.

2. Plaintiffs seek an emergency temporary restraining order and preliminary injunction enjoining the enforcement of Fla. Stat. §§ 102.111, 102.112(2), 102.112(3), 102.141(7)(c), and any other source of state law that requires Defendants, their officers, employees, and agents, and all persons acting in active concert or participation with Defendants, or under Defendants' supervision, direction, or control, including all supervisors of elections and canvassing boards, to halt any machine or manual recount before it is completed and/or refuse to count votes validly cast in an election that is subject to a recount because of a county's failure to complete a machine or manual recount by a state statutory deadline. Plaintiffs further request that the Court declare that all counties in Florida must be afforded an opportunity to complete the machine and manual recount processes set out in Florida Revised Statute Section 102 and its implementing regulations and certify official returns under Fla. Stat. § 102.112(1) including the results of such recount(s), notwithstanding any deadlines imposed by Florida law, including Fla.

Stat. §§ 102.141(7)(c) and 102.112(2). Plaintiffs further seek an injunction to preclude Defendants from taking any action to certify the results for the office of U.S. Senate until all counties in Florida complete the machine and manual recount processes set out above and certify official returns under Fla. Stat. § 102.112(1).

3. Federal Rule of Civil Procedure 65 provides for the issuance of a preliminary injunction and temporary restraining order under circumstances such as those that exist in the present case. Federal Rule of Civil Procedure 56 provides for the issuance of a declaratory judgment under circumstances such as those that exist in the present case.

4. In support of this motion, Plaintiffs submit a Memorandum of Law, addressing all necessary elements for the entry of a preliminary injunction and temporary restraining order.

5. Plaintiffs seek leave to present 30 minutes of oral argument in support of this Motion pursuant to Local Civil Rule 7.1(K).

6. Plaintiffs file this motion as an emergency motion pursuant to Local Rule 7.1(L) since it is essential that this Court expeditiously rule on this motion to ensure no voters are unfairly and arbitrarily disenfranchised.

WHEREFORE, for the foregoing reasons, and for those set forth in Plaintiffs' supporting memorandum of law, Plaintiffs respectfully move that the

Court enter an emergency temporary restraining order and preliminary injunction enjoining the enforcement of Fla. Stat. §§ 102.111, 102.112(2), 102.112(3), 102.141(7)(c), and any other source of state law that requires Defendants, their officers, employees, and agents, and all persons acting in active concert or participation with Defendants, or under Defendants' supervision, direction, or control, including all supervisors of elections and canvassing boards, to halt any machine or manual recount before it is completed and/or refuse to count votes validly cast in an election that is subject to a recount because of a county's failure to complete a machine or manual recount by a state statutory deadline. Plaintiffs further request that Court declare that all counties in Florida must be afforded an opportunity to complete the machine and manual recount processes set out in Florida Revised Statute Section 102 and its implementing regulations and certify official returns under Fla. Stat. § 102.112(1) including the results of such recount(s), notwithstanding any deadlines imposed by Florida law, including Fla. Stat. §§ 102.141(7)(c) and 102.112(2).

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(F), I HEREBY CERTIFY that the enclosed Memorandum of Law of Plaintiffs contains approximately 768 words, which is

fewer than the total words permitted by the rules of court. Counsel relies on the word count of the computer program used to prepare this memorandum.

Dated: November 13, 2018

Respectfully submitted,

/s/

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