IN THE
SUPREME COURT OF FLORIDA

CASE NO. SC002346

PALM BEACH COUNTY CANVASSING BOARD,

Petitioner,

vs.

KATHERINE HARRIS, as Secretary of State of the State of Florida, and **ROBERT A. BUTTERWORTH,** as Attorney General of the State of Florida,

Respondents.

RESPONSE OF INTERVENOR GEORGE W. BUSH TO PETITIONER'S EMERGENCY PETITION FOR EXTRAORDINARY WRIT

BENJAMIN L. GINSBERG
PATTON BOGGS LLP
Washington D.C.

GEORGE J. TERWILLIGER, III
TIMOTHY E. FLANIGAN
MARCOS D. JIMENEZ
WHITE & CASE LLP
Washington D.C.

BARRY RICHARD
Florida Bar No. 0105599
Greenberg Traurig, P.A.
Post Office Drawer 1838
Tallahassee, FL 32302
Phone (850) 222-6891
Facsimile (850) 681-0207

Counsel for Intervenor

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Statutes

Other Authorities

Constitutional Provisions

STATEMENT OF THE CASE AND FACTS

This action is an attempt to draw the Court into a dispute beyond its jurisdiction and to convince it to interfere with the sound discretion entrusted in the Division of Elections by Florida law. It seeks a declaratory judgment where none will lie, and an advisory opinion where none should issue.

On November 7, 2000, the people of Florida, along with the rest of the nation, cast their votes for electors for President of the United States. That night, the Florida votes were counted, and Governor George W. Bush and Dick Cheney received the most votes. Because the margin of victory was less than .5 percent, the next day an automatic statewide recount commenced, and, again, Governor Bush and Secretary Cheney won.

Since that time, there have been numerous additional recounts in selective counties throughout the state and at least a dozen lawsuits filed, while Florida and the nation have awaited the results.

By letter dated November 13, 2000, Petitioner Palm Beach County Canvassing Board ("the Board") requested the opinion of the Division of Elections ("the Division") of the Office of the Secretary of State, on two questions. One of those questions (the only one at issue here) was:

> Would a discrepancy between the number of votes determined by a tabulation system and by a manual recount of four precincts be considered an "error in voting tabulation which could affect the outcome of" an election within the meaning of Section 102.166(5), Florida Statutes, thereby enabling the canvassing board to request a manual recount of the entire county, or are "errors" confined to errors in tabulation system/software?

In response to this request, the Division issued an opinion ("the Division Opinion") that manual recounts are not authorized unless the Board concludes that "the vote tabulation system fails to count … properly punched punchcard ballots."

The next day, in response to the same request from Petitioner, the Attorney General chose to issue another, contradictory, advisory opinion ("the Attorney General's Opinion") on the very same question.

In the face of those opinions, Petitioner filed a pleading described simply as being "in the nature of an interpleader," asking this Court to opine on the two advisory opinions. Under Florida law, there is no basis for doing so.

SUMMARY OF ARGUMENT

Because this petition is an original action before the Supreme Court, there is, of course, no factual record developed below. Were the Court to have before it the entire course of the events of the past nine days, Intervenors would have ample evidentiary basis to establish that the delays in manual recounts in Palm Beach, Broward, and Miami-Dade Counties were entirely of the counties own making. (For the Court's information, a copy of the Fact Memorandum filed in the U.S. District Court for the Southern District of Florida is attached as Exhibit 1.) In particular, Intervenors would demonstrate that Palm Beach delayed three days after receiving the request for a manual recount and that it spent a total of nine hours over the course of seven days actually engaged in a manual count. Similarly, Broward waited until the day after the statutory deadline had expired to even commence the full manual recount, and Miami-Dade has never yet commenced such a recount. In contrast, Volusia County diligently conducted its county-wide manual recount, and completed the task in time to submit certified results within the statutory time period.

No doubt, opposing parties would contest these facts, and the ordinary evidentiary disputes would play out. For that reason and others expressed herein, Intervenors believe, this Court should confine its inquiry to the issues of jurisdiction and deference before it, and not to untested factual allegations of either party.

Under the Florida Constitution, this Court lacks jurisdiction because advisory opinions can issue only in narrowly defined circumstances and only at the request of the Governor or the Attorney General - not county boards. *A fortiori*, an advisory opinion on an advisory opinion, is unauthorized under Florida law.

Even were this Court to claim jurisdiction, Florida statutes are unambiguous that the authority to interpret the election laws is vested in the Secretary of State, not the Attorney General. Indeed, the Attorney General's opinion was not only unauthorized under law, but contrary to his official guidelines never to issue advisory opinions on issues - like election law - within the purview of other State constitutional officers.

Florida statutes and this Court's precedents make clear that the Division's Advisory Opinion is binding, unless clearly erroneous and contrary to the plain text of the statute. The opinion is neither.

The Division's opinion is fully consistent with the text of the statute and with the overall structure of the recount provisions. And it is a reasonable exercise of the discretion entrusted in it by the State legislature to administer the election laws.

Accordingly, this Court should decline Petitioner's entreaty to insert itself where it lacks jurisdiction or to interfere with the Division's sound exercise of discretion fairly applying the election laws of Florida.

ARGUMENT

I. This Court is Without Original Jurisdiction To Render An Advisory Opinion In This Case.

In this case, Petitioner has improperly invoked the original jurisdiction of this Court by seeking what is essentially an advisory opinion. This Court's ability to issue advisory opinions, however, is strictly limited by the Florida Constitution to certain specified subjects and must be invoked by either the Governor or the State Attorney General. Here, neither of those officers has requested an advisory opinion and, in any event, neither is authorized to do so regarding the interpretation of Florida election statutes. This Court's original jurisdiction is likewise strictly limited, and cannot be expanded by manipulation of the form of an action into various categories of mandamus or prohibitory writs.

A. This Court's Ability to Issue Advisory Opinions is Strictly Limited by the Florida Constitution.

This Court may issue advisory opinions only in the circumstances specifically set forth by the Florida Constitution. Thus, the Court may respond to a request by the Governor for an opinion interpreting the Governor's powers under the state constitution. Article IV, Section 1(c), Florida Constitution. It may issue an advisory opinion to the Attorney General on the validity of an initiative petition. Article IV, Section 10. And it has the authority to issue advisory opinions on matters of bar discipline pursuant to its "exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted." Article V, Section 15, Florida Constitution; *In re The Florida Bar*, 316 So. 2d 45, 46 & n.1 (Fla. 1975).

This Court has strictly construed these grants of jurisdiction, consistently denying requests for advisory opinions in any other context. For example, even though Article IV Section 1 specifically empowers the Governor to request advisory opinions as to his constitutional authority, the Court has resolutely rebuffed gubernatorial requests for advisory opinions concerning his *statutory* authority, *see, e.g., In re Advisory Opinion to the Governor*, 103 Fla. 668, 137 So. 881 (Fla. 1931) (and cases cited), because it is simply "without authority" to issue them. 103 Fla. at 670, 137 So. 881; *Advisory Opinion to the Governor*, 64 Fla. 1, 59 So. 778 (Fla. 1912) (Justices are "not authorized" to render advisory opinion to Governor on question of statutory authority); *In re Opinion of Supreme Court*, 39 Fla. 397, 22 So. 681 (Fla. 1897) ("[A]ny expression" from the Court on any such topic would be "ex parte and unauthorized").

The Florida Constitution does not grant the Supreme Court the authority to issue advisory opinions to the officers of individual counties of the State under *any circumstance*, nor does it authorize the Court to issue advisory opinions to private parties on any issue not related to bar admissions or discipline under Article V, Section 15, Florida Constitution. *See, e.g. Ready v. Safeway Rock Co.*, 157 Fla. 27, 33, 24 So.2d 808, 811 (Fla. 1946) (Brown, J., concurring) ("The Constitution of Florida only gives to the Governor of the State the right to request advisory opinions from the Justices of this court."); *cf. In re Advisory Opinion to the Governor*,

---

This Court has also issued advisory opinions regarding attorney admission and disciplinary issues pursuant to the limited provisions of Article V, Section 15, Florida Constitution.

509 So.2d 292 (Fla. 1987) (Article IV, Section 1(c) does not "generally authorize this Court to resolve questions concerning the legal rights and obligations of private parties.").

Here, in the absence of any grant of authority to issue an advisory opinion to county canvassing boards, much less an opinion on the particular legal topic at issue here, this Court is without jurisdiction to hear this petition. *Cf. Sullivan v. Division of Elections, Department of State*, 413 So.2d 109 (Fla. 1st DCA 1982) (declining to review Secretary of State's advisory opinion in the absence of statutory grant of jurisdiction to do so).

B. This Court's Power to Issue Extraordinary Writs in Aid of its Jurisdiction Cannot Provide A Basis to Review the Legal Opinion of An Executive Officer.

The Board invokes two articles of the Florida Constitution that it maintains grant this Court authority to review the legal opinions of state officers. Neither Article V, Section 3(b)(7) nor Article V, Section 3(b)(8) even arguably extends this Court's original jurisdiction to review the legal opinions of state officers. Section 3(b)(7) authorizes only "writs of prohibition to courts and all writs necessary to the complete exercise of [this Court's] jurisdiction." By definition, a writ exercised to protect the Court's jurisdiction cannot expand that jurisdiction. A predicate to the exercise of any such power is the independent existence of subject matter jurisdiction. As the other provisions of Section 3(b) make clear, this Court has not been granted any original jurisdiction to review the sundry legal opinions of the numerous state officers authorized to issue such opinions within their spheres of authority.

Thus, Article V, Section 3(b)(7), Florida Constitution cannot serve as a basis for this Court to reach the merits of Petitioners' claims. It is well-established that this Court's "all writs" authority "does not confer added appellate jurisdiction on this Court, and this Court's all writs power cannot be used as an independent basis of jurisdiction." *St. Paul Title Insurance Corp. v. Davis*, 392 So.2d 1304, 1305 (Fla. 1980). Rather, Section 3(b)(7) merely provides for this Court to "issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction." Under this "all writs" authority, the Court may issue writs only where it is necessary to preserve its "ultimate jurisdiction." *See, e.g., State ex rel. Chiles v. Public Employees Relations Commission,* 630 So.2d 1093, 1094 (Fla. 1994) (quoting *Florida Senate v. Graham*, 412 So.2d 360, 361 (Fla. 1982)). In contrast, here, there is no claim raised in the Petition over which this Court would have ultimate jurisdiction.

It is also plain that a writ of prohibition is not appropriate in the instant case. As this Court has explained, "[t]he writ of prohibition is an extraordinary writ that may be granted only when a lower court is without jurisdiction or attempts to act in excess of jurisdiction." *Chiles*, 630 So.2d at 1094 (citing *English v. McCary*, 348 So.2d 293 (Fla. 1977)). In this case, there is no lower court at all. Putative Petitioner has brought this case directly before this Court and so there is no inferior Court possibly subject to a writ of prohibition.

Nor can Article V, Section 3(b)(8) provide this Court with the subject matter jurisdiction this action so obviously lacks. That provision allows only for the issuance of "writs of mandamus and quo warranto to state officers and state agencies." Neither of these extraordinary writs is applicable to this case. Mandamus will only lie under Florida law to compel a ministerial act that an executive officer is under a clear legal duty to perform. Mandamus cannot apply to the executive's discretionary action in issuing an advisory opinion because discretionary judgments are, of course, the very antithesis of ministerial actions.

It is black-letter law that the writ of mandamus does not lie to control a government official's discretionary actions unless those actions are arbitrary and capricious. "It is apodictic ... that while mandamus lies to enforce an officer to act, it cannot be used to control his discretion." *Green v. Walter,* 161 So.2d 830, 834 (Fla. 1964). *See also Soto v. Board of County Commissioners of Hernando County,* 716 So.2d 863, 864 (Fla. 5th DCA 1998) ("A writ of mandamus is a command from a court directed to another such as . . . [a] public officer or governmental entity, requiring the party to whom it is directed to perform an act that the party has

---

In any circumstance other than those set forth in the Florida Constitution, the courts are expressly without authority to issue advisory opinions. *See, e.g., LaBella v. Food Fair, Inc.*, 406 So.2d 1216 (Fla. 3rd DCA. 1981) (quoting *William v. Howard*, 329 So.2d 277, 283 (Fla. 1976)); *Collins v. Horten*, 111 So.2d 746, 751 (Fla. 1st DCA 1959) (quoting *Bryant v. Gray*, 70 So.2d 581, 584 (Fla. 1954)) ("Courts do not have the power to give legal advice or opinions."); *Benevolent and Protective Order of the Elk of U.S. of America, Miami Lodge No. 948 v. Dade Co.*, 166 So.2d 605, 607 (Fla. 3rd DCA 1964).

a legal duty to perform because of its official position. The act commanded by the writ must be ministerial and cannot be one that the party sought to be coerced has any discretion in performing. Mandamus is proper to enforce a right which is clearly and certainly established in the law, but not to litigate the existence of such a right."); *Eastmore v. Stone,* 265 So.2d 517, 518 (Fla. 1st DCA 1972). Rather, only where "the discretion" is exercised "in an arbitrary or capricious manner," such as when the official acts "for personal, selfish or fraudulent motives or for any reason or reasons not supported by the discretion conferred by law," *Garvin v. Baker,* 59 So.2d 360, 361 (Fla. 1952), will mandamus lie. *See also State ex rel. Kinsella v. Florida State Racing Commission*, 20 So.2d 258, 261 (Fla. 1944)("Official action by boards . . . in arbitrarily and erroneously exercising or abusing discretion given by law is reviewable on mandamus where no other adequate legal remedy exists."); *State ex rel. Schweitzer v. Turner,* 19 So.2d 832 (Fla. 1944).

The writ of quo warranto is likewise inapplicable in this case. That writ applies only in the truly extraordinary instance in which an official's actions are so far beyond his or her lawful authority as to require that the official forfeit his or her right to the public office. As this Court has long recognized:

> A quo warranto proceeding against an officer is not a proper remedy to test the legality of his part or future conduct or acts, and to compel, restrain or obtain a review of such conduct or acts where they do not *ipso facto* operate as or constitute grounds for forfeiture of the office and neither title to the office nor the right to a franchise is involved.

State ex rel. Landis v. City Commission of Jacksonville, 117 Fla. 311, 319, 157 So. 651, 654 (1934), *superceded by statute on other grounds*, *State ex rel. Watson v. Dade Co. Roofing Co.,* 156 Fla. 260, 264, 22 So.2d 793, 794 (Fla. 1945).

"When any official usurps a position of public trust created by the people of Florida the remedy is in quo warranto: but mere abuse of discretion in discharging the functions of the office, as distinguished from the title itself to such office, cannot be attacked by quo warranto." *Quo Warranto in Florida,* Univ. of Flor. Law. Rev., No. 4, Vol. IV (1951) 559, 565.

II. The Board Is Obliged Under Florida Law To Abide By The Opinion Of The Division Of Elections, Not That Of The Attorney General.

The relief sought by the Board in this case is guidance as to which of two conflicting legal opinions - the Division's Opinion or the Attorney General's Opinion - it is obliged to follow. Assuming *arguendo* that this Court has jurisdiction in this case, the narrow question posed by the Petition is straightforward.

Florida law leaves no room for doubt that the Division has the authority to issue binding legal guidance on these issues and that the Attorney General does not. Section 106.23(2), Florida Statutes provides that the "Division of Elections shall provide advisory opinions when requested by any supervisor of elections . . . [or] local officer having election-related duties . . . relating to any provisions or possible violations of Florida election laws with respect to actions such supervisor . . . [or] local officer having election-related duties . . . has taken or proposes to take." That same section further provides that "[t]he opinion, until amended or revoked, shall be binding on any person or organization who sought the opinion . . . unless material facts were omitted or misstated in the request for the advisory opinion (emphasis added)."

This Court has held that the opinions of the Division of Elections are binding and "remain binding until properly amended or revoked by the Division itself, or invalidated by a court having jurisdiction of the matter." *Smith v. Crawford*, 645 So.2d 513 (Fla. 1st DCA 1994).

Significantly, the Attorney General's Opinion cites no legal authority justifying the issuance of his opinion or giving it any binding effect.

Quo warranto may also lie to prevent an officer from taking an action he or she has absolutely no statutory authority to undertake. *See, e.g, State of Florida v. Kenny*, 714 So. 2d 404 (Fla. 1998) (public defenders with no statutory authority to file federal civil rights action against state officers). Obviously, there is no question that the Secretary of State has legal authority to issue an advisory opinion here.

The Board's concerns regarding any putative liability it may face are also definitively resolved by section 106.23(2): "Any such person or organization, acting in good faith upon such an advisory opinion, shall not be subject to any criminal penalty provided for in the chapter."

Indeed, the Attorney General has expressly acknowledged this limitation on his authority. In an opinion dated July 29, 1993, addressed to the Supervisor of Elections of Brevard County, Attorney General Butterworth opined as to certain matters arising under the Florida public records law. He expressly deferred, however, to the Division of Elections as to any matters arising under the Florida Election Code, citing Fla. Stat. 106.23(2). Op. Att'y Gen. Fla. 93-48 (1993). Such deference is consistent with the official policy of the Attorney General as stated on its website, which reads as follows:

> "[W]hen an opinion request is received on a question falling within statutory jurisdiction of some other state agency, the request will either be transferred to that agency or the requesting party will be advised to contact the other agency… questions arising under the Florida Election Code should be directed to the Division of Elections in the Department of State."

See The Florida Attorney General's Office: Legal Opinions (emphasis added).

The question posed by the Board is therefore plainly answered under Florida law and by the Attorney General himself: The Board is obliged to follow the opinion of the Division of Elections and not that of the Attorney General.

III. The Opinion Of The Division Of Elections Is Consistent In all Respects With The Statutory Scheme of Fla. Stat. 102.166(5).

A. The Division Opinion Comports With The Plain Language of the Statute.

Section 102.166(5) provides as follows:

> If the manual recount indicates an error in the vote tabulation which could affect the outcome of the election, the county canvassing board shall:
>
> (a) Correct the error and recount the remaining precincts with the vote tabulation system;
> (b) Request the Department of State to verify the tabulation software; or
> (c) Manually recount all ballots.

The Division Opinion concluded that "an error in vote tabulation" as used in this section means a counting error, such as that which may result from an error in the vote tabulation and reporting software of the voting system.

This reading is consistent with the plain language of the statute. The "error in the vote tabulation" standard must be read in light of the three remedies for any such error set forth in paragraphs (a) through (c). The first two remedies manifestly relate only to the correction of mechanical or software errors in the tabulation system. The third option - a full manual recount - is most naturally read as being triggered only when the first two methods of correcting the error are unavailing.

Of course, it is not required that the Division's reading be the only possible reading of the statute, only that it be a reasonable one. Thus, in *Smith v. Crawford*, 645 So.2d 513 (Fla. 1st DCA 1994), the Court of Appeal upheld the Division's reading of an ambiguous provision of the Florida election laws, noting that "a court is required to give deference and great weight to the agency's construction of the statutes it is charged with administering, and a court is not authorized to overturn the agency's determination unless it is 'contrary to the language of the statute,' *Greyhound Lines, Inc. v. Yarborough*, 275 So.2d 1, 3 (Fla. 1973), or 'clearly erroneous,' *Department of Professional Regulation, Board or Medical Examiners v. Durrani*, 455 So.2d 515, 517 (Fla. 1st DCA 1984)." *Crawford,* 645 So.2d at 521 (emphasis supplied). Whether this is the only reasonable reading of the statute is irrelevant; it is enough that it is not contrary to the language of the statute or clearly erroneous. *See also Donato v. American Tel. & Tel. Co.*, 767 So.2d 1146 (Fla. 2000); *Bellsouth Telecommunications, Inc. v. Johnson*, 708 So.2d 594 (Fla. 1998); *Florida Interexchange Carriers Ass'n v. Clark*, 678 So.2d 1267, 1270 (Fla. 1996); *Republic Media, Inc. v. State of Florida Department of Transportation*, 714 So.2d 1203 (Fla. 5th DCA 1998).

B. The Division Opinion Is in Harmony with the Structure and Logic of the Statute as Well, and Therefore Is Due Full Deference.

Not only is the Division's interpretation consistent with the text of Section 102.166(5), but it also comports with the remainder of Section 102.166, addressing manual recounts. Section 102.166(3) speaks of examining the machinery of vote counting; Section 102.166(8-10) refers to adjusting the tabulation software. The entire language of the statute speaks in terms of mechanical errors, capable of mechanical correction, that produced inaccurate tallies.

Petitioners may suggest that the reference to voters' intent in Section 102.166(7)(b) necessitates an inquiry into voter error. This is incorrect for two reasons. First, Section 102.166(7)(b) is describing the *procedure* for conducting a manual recount, not the *threshold*

Moreover, were voter error – the improper filling out of a ballot – sufficient to trigger a manual recount, then *every election would require a manual recount*. There is no machine capable of counting an improperly prepared ballot, and every election will result in some voter error, so if that were all that were necessary, manual recounts would be ubiquitous.

Nor does it suffice to say that, even if manual recounts were not called for in every election, they are appropriate in every *close* election. Close elections are plainly a contingency the legislature anticipated, and they provided for an automatic recount in such circumstances – *by machine counters*. Had the legislature intended a manual count instead (because there would certainly be some voter error), it would have been a simple matter to so provide. But the legislature chose differently.

Therefore, the Division concluded that "an error in the vote tabulation" meant an error tabulating properly cast votes, rather than antecedent error on the part of the voters. Although some, including the Attorney General, might disagree, there is no claiming that the Division's interpretation is wholly unreasonable, and so it deserves full deference.

Put simply, "[a] reviewing court must defer to any statutory interpretation by an agency which is within the range of the reasonable." *Natelson v. Department of Ins.*, 454 So.2d 31 (Fla. 1st DCA 1984) (emphasis added).

CONCLUSION

Accordingly, this Court should decline Petitioner's entreaty to insert itself where it lacks jurisdiction or to interfere with the Secretary's sound exercise of discretion in fairly applying the election laws of Florida.

---

for triggering one. And second, there are instances - such as a torn or damaged ballot - where voter intent can be plainly discernable, but the machine may be unable to read it. If there are some such ballots, a county-wide recount is not justified on their account, but they should nonetheless be counted if a manual recount is ongoing.

Yet another reason for this Court to follow settled Florida law and defer to the Division's interpretation of the election laws is that, to do otherwise – to alter the settled expectations and rules of the game after an election has occurred – would violate due process, equal protection, and other federal law. *See Roe v. Alabama*, 68 F.3d 404 (11th Cir. 1995); *see also* 3 U.S.C. §§ 1-5.

BARRY RICHARD

Florida Bar No. 0105599
Greenberg Traurig, P.A.
Post Office Drawer 1838

Tallahassee, FL 32302

Phone (850) 222-6891

Facsimile (850) 681-0207

Counsel for Intervenor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following on this 16th day of November, 2000.

BRUCE ROGOW,
BEVERLY A. POHL
Bruce A. Rogow, P.A.
Broward Financial Centre
500 East Broward Blvd., Ste. 1930
Ft. Lauderdale, FL 33394

DENISE D. DYTRYCH
Palm Beach County Attorney
JAMES C. MIZE, JR.
ANDREW J. McMAHON
GORDON SELFRIDGE
Assistant Palm Beach County Attorneys
301 North Olive Avenue, Ste. 601
West Palm Beach, FL 33401

JOHN D.C. NEWTON, II
Berger, Davis & Singerman
215 South Monroe Street, Ste. 705
Tallahassee, FL 32301
Fax 850-561-3013

MITCHELL W. BERGER
Berger, Davis & Singerman
350 East Las Olas Boulevard, Ste. 100
Ft. Lauderdale, FL 33301
Fax 954-523-2872

W. DEXTER DOUGLASS
Douglass Law Firm
211 East Call Street
Tallahassee, FL 32302
Fax 850-224-3644

DAVID BOIES
Boies, Schiller & Flexner, LLP
80 Business Park Drive, Ste. 110
Armonk, New York 10504
Fax 914-273-9810

ROBERT A. BUTTERWORTH, Attorney General
The Capitol, PL-01
Tallahassee, FL 32399-1050
Fax 850-410-2672

KATHERINE HARRIS, Secretary of State
DEBORAH KEARNEY, General Counsel
Florida Department of State
The Capitol, PL-02
Tallahassee, FL 32399-0250
Fax 850-487-2214

JOSEPH P. KLOCK, JR.
DONNA E. BLANTON
Steel, Hector & Davis
215 South Monroe Street, Ste. 601
Tallahassee, FL 32301

_____

BARRY RICHARD

Courtesy copies have been provided to the following counsel by fax, and *pro se* litigant, involved in related litigation:

Cecile Dykas, Assistant Attorney General	(954) 712-4707
Kendall Coffey, Esq., for Florida Democratic Party	(305) 285-0257
William R. Scherer, Esq. and Mark Wallace for Florida Republican Party	(854) 463-9244
Gary M. Farmer, Jr., Esq. for Rogers plaintiffs Henry B. Handler, Esq., for Fladell plaintiffs	(954) 771-9880
Marcos D. Jimenez, Esq., for Siegel plaintiffs	(561) 997-5280
Benedict P. Kuehne, for Florida Democratic Party plaintiff	(301) 358-5744
Patrick W. Lawlor, Esq., for Elkin plaintiffs	(305) 789-5987
Mark A. Cullen, Esq., for Horowitz plaintiffs	(954) 481-3631
Andrew Meyers, Chief Appellate Counsel for Broward County	(954) 989-9660
Lawrence A. Gottfried, *pro se* 1121 S. Military Trail, Apt. #1224, Boynton Beach, FL 33436	(954) 357-7641 By U.S. Mail