

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

RENE ROMO, an individual; BENJAMIN
WEAVER, an individual; *et al.*,

Plaintiffs,

vs.

Case No.: 2012-CA-00412

KEN DETZNER, in his official capacity as
Florida Secretary of State, and PAMELA
JO BONDI, in her official capacity as
Attorney General,

Defendants.

FILED
2012 APR -5 P 4:13
CIRCUIT COURT
LEON COUNTY, FLORIDA

THE LEAGUE OF WOMEN VOTERS OF
FLORIDA; THE NATIONAL COUNCIL
OF LA RAZA; *et al.*,

Plaintiffs,

v.

Case No.: 2012-CA-00490

KEN DETZNER, in his official capacity
as Florida Secretary of State; THE FLORIDA
SENATE; *et al.*,

Defendants.

**THE SECRETARY OF STATE'S RESPONSE IN OPPOSITION TO THE
PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT AND INJUNCTIVE RELIEF**

Defendant Kenneth W. Detzner, in his official capacity as Florida Secretary of State (the "Secretary"), pursuant to Florida Rule of Civil Procedure 1.510 and this Court's Order dated March 26, responds in opposition to the Romo Plaintiffs' and Coalition Plaintiffs' motions for summary judgment and injunctive relief. The Secretary adopts the arguments set forth in the Florida House of Representatives and Florida Senate's Joint Response in Opposition to

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Plaintiffs' Motions for Summary Judgment and Temporary Injunctive Relief, and incorporates those arguments herein.

As set forth in more detail in the Secretary's earlier memorandum in response to the Plaintiffs' motion for entry of a scheduling order, critical statutory deadlines related to the 2012 election are imminent. The State's election machinery has been set in motion and the candidate qualifying process is nearly upon us. The deadline for federal candidates qualifying by the petition method to submit their candidate petitions falls only 19 days after the date appointed for this Court's consideration of the Plaintiffs' motions. Subsequent election-related deadlines will arrive in rapid succession with little room for deviation. For example, just ten days after the conclusion of candidate qualifying, supervisors of elections must order their absentee ballots to meet the federal deadline for transmitting the August 14 primary ballot to military and overseas voters. And the deadline for mailing absentee ballots to military and overseas voters for the November 6 general election falls only 30 days after the results of the August 14 primary election are certified.

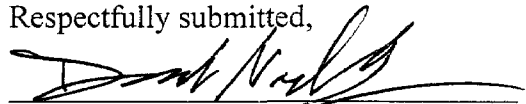
Finally, the Secretary notes that the Plaintiffs have requested alternative relief in the nature of a temporary injunction. The courts have routinely recognized that "[i]nterference with impending elections is extraordinary." *Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 919 (9th Cir. 2003). In 1994, the United States District Court for the Northern District of Florida declined to enter a preliminary injunction against the use of Florida's Congressional maps "primarily because the court finds that the public interest would not be served by an act that would inevitably disrupt an election process already well underway." *Johnson v. Smith*, 1994 WL 907596 (N.D. Fla. 1994). The *Johnson* court noted that candidates had begun to organize their campaigns, to raise funds, and to spend those funds in reliance on the

then-existing districting scheme. *Id.* In light of these interests, the court concluded any interference with the elections process “would produce considerable confusion, inconvenience, and uncertainty among voters, candidates, and election officials.” *Id.* The same public interests and potential for confusion and disruption noted by the Northern District in *Johnson* are present here and weigh heavily against the Plaintiffs’ request for a temporary injunction.

Although the Secretary believes that temporary injunctive relief should be denied for this and the additional reasons stated in the Florida House of Representatives and Florida Senate’s Joint Response in Opposition, any injunctive relief granted by the Court must be predicated on the Plaintiffs’ posting of a significant bond. *See Fla. R. Civ. P. 1.610(b)* (“No temporary injunction shall be entered unless a bond is given by the movant in an amount the court deems proper, conditioned for the payment of costs and damages sustained by the adverse party if the adverse party is wrongfully enjoined.”) Although the precise financial burden on state and county elections officials would depend on the scope and nature of the injunction, the costs involved in preparing and ordering alternative ballots alone would be substantial. If this Court grants a temporary injunction – which it should not – the Secretary is prepared to proceed on an expedited basis to assess the amount of costs and damages to his office and the offices of the 67 supervisors of elections in order for the Court to set an appropriate bond.

WHEREFORE, the Secretary respectfully requests that the Court deny the Plaintiffs’ motions for summary judgment and injunctive relief.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by email this 5th day of April, 2012, on the following:

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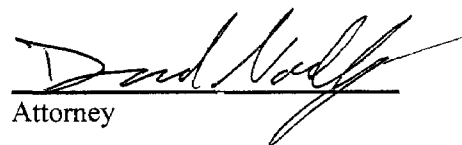
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