

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

JOHN W. LICCIONE,
Plaintiff,

v.

Case No.: 26-002751-CI

RON DESANTIS, et al.,
Defendant.

_____/

DEFENDANT, SUPERVISOR MARCUS' MOTION TO DISMISS

COMES NOW, Defendant JULIE MARCUS, in her official Capacity as Pinellas County Supervisor of Elections, by and through the undersigned counsel, pursuant to Rule 1.140 of the Florida Rules of Civil Procedure, hereby files this Motion to dismiss Plaintiff's Complaint dated May 14, 2026.

**Plaintiff's Complaint should be dismissed because it fails to
comply with basic rules of pleading.**

Rule 1.110(b), Fla. R. Civ. P. provides that to set forth a claim for relief a complaint must contain "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief" "Whether a complaint is sufficient to state a cause of action is an issue of law." *Doe v. Baptist Primary Care, Inc.*, 177 So. 3d 669, 674 (Fla. 1st DCA 2015). In determining whether a plaintiff has met his burden to survive a motion to dismiss, the court is limited to the specific allegations stated on the face of the operative complaint and its attachments. *Santiago v. Mauna Loa Invs., LLC*, 189 So. 3d 752, 755 (Fla. 2016). While "courts must liberally construe, and accept as true, factual allegations in a complaint and reasonably deductible inferences therefrom," they

need not accept ... conclusory allegations, unwarranted deductions, or mere legal conclusions made by a party.” *W.R. Townsend Contracting, Inc. v. Jensen Civil Construction, Inc.*, 728 So. 2d 297, 300 (Fla. 1st DCA 1999). “Legal conclusions presented as allegations of fact . . . are not deemed true.” *Point Conversions, LLC v. Omkar Hotels, Inc.*, 321 So. 3d 326, 328 (Fla. 1st DCA 2021).

Plaintiff filed a thirty-eight page, two-count complaint containing fourteen prayers for relief. Count I alleges a violation of Article III, Section 20(a) of the Florida Constitution – Incumbent Protection and Partisan Favoritism against all Defendants. Specifically stating that Defendant Marcus will implement EOGPCRP2006 in Pinellas County, if true, all sixty-seven supervisors will implement EOGPCRP2006 across the State and should be included in this lawsuit as indispensable parties. A change to District 14 (or potentially any other district) affects multiple counties as Plaintiff’s Complaint alleges; as a result, multiple necessary parties are missing.

Count II asserts an alleged violation of Article III, Section 20(b) of the Florida Constitution – Compactness and Political/Geographical Boundaries against all Defendants. Specifically stating that “Defendant Marcus will implement EOGPCRP2006 in Pinellas County”, if true, all sixty-seven supervisors will implement EOGPCRP2006 across the State and should be included in this lawsuit as indispensable parties.

Instead of setting forth “a short and plain statement of the ultimate facts” as required by Rule 1.110(b), Fla. R. Civ. P., Plaintiff’s Complaint is filled with supposition and legal conclusions not supported by fact or law.

Under Florida law, “[l]itigants at the outset of a suit must be compelled to state their pleadings with sufficient particularity for a defense to be prepared.” *Arky, Freed, Stearns, Watson, Greer, Weaver & Harris, P.A. v. Bowmar Instrument Corp.*, 537 So. 2d 561, 563 (Fla. 1988). Moreover, conclusory allegations are insufficient. *Stein v. BBX Cap. Corp.*, 241 So. 3d 874, 876 (Fla. 4th DCA 2018). “Florida is a fact-pleading jurisdiction, not a notice-pleading jurisdiction.” *Deloitte & Touche v. Gencor Indus. Inc.*, 929 So. 2d 678 (Fla 5th DCA 2006). A complaint “must set forth factual assertions that can be supported by evidence which gives rise to legal liability.” *Barrett v. City of Margate*, 743 So. 2d 1160, 1162-1163 (Fl. 4th DCA 1999). The “complaint must allege ultimate facts establishing each and every essential element of a cause of action in order to entitle the pleader to the relief sought.” *Sanderson v. Eckerd Corp.*, 780 So. 2d 930, 933 (Fla. 5th DCA 2001).

Moreover, the Complaint improperly commingles the allegations against all Defendants and misstates statutory duties and obligations. See, *Aspsoft, Inc. v. WebClay*, 983 So. 2d 761, 768 (Fla. 5th DCA 2008). In *Veltmann v. Walpole Pharmacy, Inc.*, 928 F. Supp. 1161, 1163-64 (M.D. Fla. 1996), the court dismissed a complaint explaining that plaintiff’s failure to separate each alleged act by each defendant into individually numbered paragraphs made it “virtually

impossible to ascertain from the [c]omplaint which defendant committed which alleged act.” *Id.* at 164. Although dismissed on other grounds, the court noted that plaintiff’s general allegations against all the named defendants would have been sufficient grounds for dismissal as well. *Id.* Plaintiff’s Complaint should similarly be dismissed.

Temporary-Injunction Standard

A temporary injunction is an “extraordinary remedy that should be granted sparingly.” *State, Dep’t of Health v. Bayfront HMA Med. Ctr., LLC*, 236 So.3d 466, 472 (Fla. 1st DCA 2018) (citing *Sch. Bd. of Hernando Cty. v. Rhea*, 213 So.3d 1032, 1040 (Fla. 1st DCA 2017)). To obtain a temporary injunction, the movant must prove: (1) a substantial likelihood of success on the merits, (2) a lack of an adequate remedy at law, (3) the likelihood of irreparable harm absent the entry of an injunction, and (4) that injunctive relief will serve the public interest. *Id.* The movant must show all four. *Id.* Plaintiff fails in this regard.

Declaratory-Judgment Standard

To obtain declaratory relief, the Plaintiffs must have alleged (1) that there is a bona fide, actual, present practical need for the declaration; (2) that the declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts; (3) that some immunity, power, privilege or right of the complaining party is dependent upon the facts or the law applicable to the facts; (4) that there is some person or persons who have, or reasonably may have an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law; (5) that the antagonistic and adverse

interests are all before the court by proper process or class representation; and (6) that the relief sought is not merely the giving of legal advice by the courts or the answer to questions propounded from curiosity. *See, e.g., Ahearn v. Mayo Clinic*, 180 So. 3d 165, 174 (Fla. 1st DCA 2015) (quoting *May v. Holley*, 59 So.2d 636, 639 (Fla.1952)). Further, like mandamus and injunctive relief, a party seeking a declaratory judgment must first exhaust available administrative remedies. *Gulf Pines Mem'l Park, Inc. v. Oaklawn Mem'l Park, Inc.*, 361 So. 2d 695, 699 (Fla. 1978).

As with the Plaintiff's causes of action for mandamus and injunctive relief, their cause of action for declaratory relief fails because (1) the plaintiff does not have a right to require the Defendants to administer an election under new uncreated/approved maps or a "remedial map"; and (2) the Plaintiff failed to exhaust available administrative remedies under chapter 120.

The Plaintiff Failed To Exhaust Or Consider Available Administrative Remedies.

As with mandamus and injunctive relief, a claim for declaratory relief against an agency is due to be dismissed absent an allegation that a presumptively available administrative remedy "is unavailable or inadequate to accomplish appellant's purposes." *Spink v. McConnell*, 529 So. 2d 813, 814 (Fla. 1st DCA 1988); *see also Fla. Soc'y of Newspaper Editors v. Pub. Serv. Comm'n*, 543 So. 2d 1262 (Fla. 1st DCA 1989). The Plaintiff here made no such allegation. Their cause of action for declaratory relief against Defendant, Supervisor Marcus should be dismissed.

Supervisor Marcus Is An Improper Party.

On May 19, 2026, the Pinellas County Board of County Commissioners passed Resolution 2-37, which established precinct changes which in accordance with the requirements of Florida Statutes, the Supervisor submitted to the Secretary of State with written descriptions and revised precinct boundary maps mooted any relief sought by Plaintiff.

Plaintiffs' understanding of the Secretary's authority over the county supervisors of elections is mistaken. The Federal Eleventh Circuit, in *Jacobson v. Florida Secretary of State*, 957 F.3d 1193 (11th Cir. 2020), very recently found that "the reality" of the Secretary's relationship with supervisors of elections was that "the Supervisors are independent officials under Florida law who are not subject to the Secretary's control." *Id.* Indeed, "the only means of control the Secretary has over the Supervisors is through coercive judicial process." *Id.* at 1207-08.6.

As in *Jacobson*, the reality here is the State Defendants have no relevant control over the county supervisors of elections, who are "independent officials." 957 F.3d at 1207. The Plaintiffs' assumption that the State Defendants can *require* county supervisors of elections to do anything through informal guidance is misplaced.

Under Fla. Stat. 99.091, when Florida is entitled to additional representatives according to the last census, representatives shall be elected from the state at large and at large thereafter until the state is redistricted by

the legislature.

Plaintiff's Complaint Is Legally Insufficient

Pursuant to Rule 1.130(b), Fla. R. Civ. P., “any exhibit attached to a pleading must be considered a part thereof for all purposes.” The contents of Plaintiff's Exhibit 1, which he describes as “EOGPCRP2026/ House Bill 1-D map and enrollment materials... ” are instrumental for purposes of this motion and state in part:

“[t]he proposed map redraws on race-neutral terms districts in southeast Florida that were affected by the FDA's [the Fair District Amendment's] race-based requirements. Changes in this region result in changes elsewhere in the map. In addition, since the 2020 census, Florida's population ha continued to grow at a breakneck pace, adding almost 2 million more residents as of July 1, 2025—an 8.9% increase. The most population grown[sic] appears to have occurred in the outlying areas surrounding Tampa and Orlando an dnorth[sic] of Palm Beach County up the eastern coast. While still based on 2020 census data, the proposed map nevertheless attempts to account for these dramatic population changes by reconfiguring districts around the areas of high growth.”

Exhibit 1 to Plaintiff's Complaint supports dismissal as it (a) materially conflicts with the allegations of Plaintiff's Complaint thereby rendering it a nullity, and (b) demonstrates that this Honorable Court cannot grant the relief requested including “directing Defendants to administer the 2026 congressional elections under a [currently not drawn] congressional map... or “requiring an interim congressional configuration to avoid placing Pinellas County voters into districts ... in Hillsborough, Manatee, Sarasota, DeSoto, Hardee, or Polk Counties...”

Additionally, Plaintiff's Complaint fails to state a cause of action upon which relief may be granted and must be dismissed in accordance with Fla. R. Civ. P. 1.140(b)(6).

Dismissal is warranted because Exhibit 1 to Plaintiff's Complaint conflicts with the material allegations of the Complaint and render it a nullity.

The gravamen of Plaintiff's Complaint is that Florida's current congressional map was drawn with the intent to favor an incumbent, Anna Paulina Luna. (Complaint ¶¶ 1, 2, 141-144) Exhibit 1 must be considered part of the Complaint for all purposes. See, Fla. R. Civ. P. 1.130(b) ("Any exhibit attached to a pleading must be considered a part thereof for all purposes." Exhibit 1 sets forth as the basis for the redistricting the politically neutral justifications of removing race-based consideration and redrawing "on race-neutral terms" as well as attempting to account for "dramatic population changes by reconfiguring districts around the areas of high growth." (Complaint, Exhibit 1 pg. 1-3) As the Florida Supreme Court has stated, "[i]f an exhibit facially negates the cause of action asserted, the document attached as an exhibit controls and must be considered in determining a motion to dismiss." *Fladell v. Palm Beach County Canvassing Bd.*, 772 So. 2d 1240, 1242 (Fla. 2000).

Dismissal is warranted because if Julie Marcus, Pinellas County Supervisor of Elections, is a proper party, Exhibit 1 establishes that there are other indispensable parties to the action.

Plaintiff asks this court to issue a "temporary and preliminary injunction prohibiting the Defendant Marcus, in her official capacity as Pinellas County

Supervisor of Elections, from taking any action to implement EOGPCRP2026 within Pinellas County, including building or modifying any 2026 elections definitions reflecting EOGPCRP2026 boundaries, loading or processing GIS boundary files derived from EOGPCRP2026, reassigning any Pinellas County voter's congressional district designation on the basis of EOGPCRP2026, generating ballot styles based on EOGPCRP2026, issuing voter notifications reflecting EOGPCRP2026, processing congressional candidates qualifying petitions under EOGPCRP2026, or administering any 2026 congressional primary or general election under EOGPCRP2026 boundaries" (**Doc. #1, pg. 35-36 ¶g**).

According to Plaintiff, "Defendant Marcus is a necessary defendant because the challenged voter deportation occurs in Pinellas County and would be operationalized through PCSOE if EOGPCRP2026 is not enjoined. EOGPCRP2026 removes Gulfport, South Pasadena, Treasure Island, St. Pete Beach, Madeira Beach, the Redington beaches, southern Seminole, Boca Ciega Bay communities, and other South Pinellas barrier-island and bayfront communities from the anti-Luna CD-13 electoral universe." If this is the case, then the Supervisors of the counties where voters "were deported" would be necessary.

Wherefore, the Plaintiff's causes of action against the Defendant, Supervisor Marcus should be dismissed. Supervisor Marcus is not proper

defendant in this case, and the Plaintiff has failed to allege sufficient injunctive, and declaratory causes of action against her.

CERTIFICATE OF SERVICE

I certify that on June 3, 2026, this document has been furnished by portal, to the following:

JOHN WILLIAM LICCIONE

Plaintiff, Pro Se

jliccione@gmail.com

/s/ **Jared D. Kahn**

JARED D. KAHN

Florida Bar No.: 105276

Pinellas County Attorney's Office

315 Court Street, Sixth Floor

Clearwater, FL 33756

Phone: 727-464-3354

Fax: 727-464-4147

jkahn@pinellas.gov

eservice@pinellas.gov

Attorney for PINELLAS COUNTY

SUPERVISOR OF ELECTIONS