

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

**FLORIDA VOTERS IN CHARGE
and WILLIAM SPICOLA,**

Plaintiffs-Petitioners,

v.

Case No.: 2022 CA 000168

HON. LAUREL M. LEE, in her official
capacity as Secretary of State for the
State of Florida,

Defendant-Respondent.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF,
EMERGENCY PETITION FOR WRIT OF MANDAMUS,
AND EMERGENCY PETITION FOR WRIT OF QUO WARRANTO**

Plaintiffs, Florida Voters in Charge and William Spicola, by and through undersigned counsel, respectfully bring this action to remedy infringement of their fundamental constitutional right to petition for amendments to the Florida Constitution.

INTRODUCTION

1. Plaintiff Florida Voters in Charge (“FVIC”) is the sponsor of Initiative No. 21-16 (the “Proposed Initiative”), and Plaintiff William Spicola is its Chairperson and a Florida voter who supports the Proposed Initiative. Due to the implementation of unlawful statutes, rules, and practices, the Secretary of State may not count, for ballot qualification purposes, all valid signatures that Florida voters have submitted in support of the Proposed Initiative.

2. Supervisors of elections around the state have not fulfilled their duty to promptly verify signatures as they were submitted, and instead permitted a backlog of signatures to amass, such that many signatures will not be processed and sent to the Secretary of State by February 1,

2022. Yet the Secretary of State plans to cut off the verification process at 5 p.m. on February 1, 2022, leaving tens of thousands of signatures dated prior to February 1 sitting on supervisors' desks and ineffective for this or any other election cycle.

3. Moreover, tens of thousands of signatures have been rejected for purported mismatch with the signature in the voter registration system. But the state offers no notice or opportunity to cure, such that these voters are deprived of their ability to support the Proposed Initiative.

4. The Constitution permits regulation of the initiative petition process only to the extent it is strictly necessary to ensure ballot integrity. The statutory provisions, rules, and ad hoc practices that have led to exclusion of thousands of voters from the official count are not strictly necessary—or even logically related—to ballot integrity. Accordingly, Plaintiffs seek to have those laws and practices declared unlawful and enjoined, with the injunction imposing an effective remedy that ensures the Secretary will not certify ballot qualification and position until all signatures are processed and all voters with mismatched signatures are afforded notice and an opportunity to cure.

5. This case comes to the Court in an emergency posture, with the certification deadline just one day away. Without emergency relief, the Secretary of State may prevent FVIC's proposed ballot initiative from appearing on the ballot, despite it having garnered the requisite number of signatures from eligible voters under Florida law prior to February 1, 2022.

PARTIES

1. Plaintiff, FLORIDA VOTERS IN CHARGE (“FVIC”) is a Political Committee, registered with the Secretary of State. FVIC has, at all relevant times, been authorized and acting as the Sponsor of the Proposed Initiative, pursuant to § 100.371, Fla. Stat. (the “Initiative Petition Statute”).

2. Plaintiff William Spicola is a citizen, resident, and registered voter in Leon County, Florida. Spicola is the Chairperson of FVIC. Spicola signed a petition in favor of the Proposed Initiative on January 31, 2022 but does not know if his signature has been verified, counted, or rejected.

3. Defendant, the Honorable LAUREL M. LEE, is sued in her official capacity as the Secretary of State for the State of Florida, and is the State's chief election officer. Under Article XI, section 3 of the Florida Constitution, the Secretary alone is responsible for certifying whether an initiative petition has received the constitutionally requisite number of signatures to qualify for the ballot. Moreover, the Secretary must "[o]btain and maintain uniformity in the interpretation and implementation of the election laws" throughout the state and may "[p]rovide written direction and opinions to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code or rules adopted by the Department of State." §§ 97.012(1), (16), Fla. Stat.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to article V, section 5(b) of the Florida Constitution, and section 26.012, Florida Statutes.

5. This Court has authority to grant declaratory and injunctive relief under sections 86.011, 86.061, and 26.012(3), Florida Statutes.

6. Venue is proper in Leon County, Florida, where Defendant maintains her agency headquarters, under section 47.011, Florida Statutes.

GENERAL ALLEGATIONS

I. THE BALLOT INITIATIVE LEGAL FRAMEWORK

A. The Florida Constitution's Self-Executing Initiative Power

1. *The General Initiative Power*

7. The right to propose constitutional amendments by initiative petition is expressly reserved to the people of Florida, as follows:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

Art. XI, § 3, Fla. Const. (the "Initiative Petition Clause").

8. "A proposed amendment ... by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held." *Id.* art. XI, § 5(b).

9. The 1968 Constitution originally provided that the petition power was "invoked by filing with the secretary of state a petition ... signed by" a requisite "number of electors, which had to be "filed with the secretary of state" at least ninety-one days before the general election at which it would be "submitted to the electors." Art. XI, §§ 3, 5(a), Fla. Const. (1968).

10. In 2004, the voters approved a legislatively-proposed amendment to section 5, creating current subsection (b). *See* S.J. Res. 2394 (2004). This amendment changed the date by which an initiative petition must be "filed" from ninety-one days prior to the election, to February

1 of the election year—i.e., adding an additional six months of time before the general election. Art. XI, § 5(b), Fla. Const. (2004).

2. *The Reserved Power to Approve Gaming by Initiative*

11. In addition to reserving the general power of amendment to the People, the Florida Constitution “ensures that Florida voters shall have the *exclusive* right to decide whether to authorize casino gambling in the State of Florida.” Art. X, § 30(a), Fla. Const. (emphasis added).

12. Accordingly, the Constitution “requires a vote by citizens’ initiative pursuant to Article XI, section 3, in order for casino gambling to be authorized under Florida law[,]” and this process is “the exclusive method of authorizing casino gambling.” Art. XI, § 3, Fla. Const.

B. Statutory Provisions

13. For eleven years, the initiative process in Florida proceeded pursuant to the Constitution’s self-executing provisions.

14. A significant amendment—the Ethics in Government provision—was adopted in 1976 through a petition process that was not regulated by statute or rule. *See State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566 (Fla. 1980) (citing Amendment 1, codified at Art. II, § 8, Fla. Const.).

15. In 1979, the Legislature first “established procedures for placing constitutional amendments on the ballot by initiative petition, through the enactment of section 100.371, Florida Statutes.” *Tax Relief*, 386 So. 2d at 563.

16. The Legislature has subsequently amended section 100.371 (hereinafter the “Initiative Petition Statute”) fourteen times, most recently through significant changes in 2019 and 2020.

17. The following is an overview of provisions relevant to this matter.

1. “Filing” Deadline

18. As noted above, the 1968 Constitution originally provided that a petition must be “filed with the secretary of state” at least ninety-one days prior to the general election at which it would be presented to the electors. Art. XI, §§ 3, 5(a), Fla. Const. (1968).

19. The 1979 version of the Initiative Petition Statute provided that a “petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by the secretary of a certificate or certificates from supervisor of elections [sic] indicating the petition has been signed by the constitutionally required number of electors.” § 100.371(5), Fla. Stat. (1979).

20. In 1980, the Florida Supreme Court, exercising its original writ jurisdiction, addressed the constitutionality of a Department of State rule requiring petition sponsors to submit signatures to the supervisors of elections “no later than 5 p.m. of the 122nd day prior to the General Election,” and for supervisors to submit verification certificates to the Secretary “no later than 5 p.m. of the 92nd day preceding the General Election.” *Tax Relief*, 386 So. 2d at 564–65 (citing Fla. Admin. Code § 1C-7.091 (1980)). The Court—addressing the pre-2004 version of Article XI—held that “verification is ... a task which the legislature may require to be accomplished as a prerequisite to filing an initiative constitutional proposal with the secretary of state.” *Id.* at 567. The Court identified such verification as “an element of ballot integrity,” and explained that such measures are permissible “only when necessary to ensure ballot integrity.” *Id.* at 566–67.

21. As noted above, the electors amended Article XI in 2004, such that it now requires that the “initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.” Art. XI, § 5(b), Fla. Const. This had the effect of

moving the “filing” date out six months from the one established in the 1968 Constitution, and a full nine months out from the general election.

22. In the legislative session following this 2004 constitutional amendment, the Legislature amended the Initiative Petition Statute. *See* Ch. 2005-278, Laws of Fla. That amendment altered subsection (1) of the statute to read:

Constitutional amendments proposed by initiative shall be placed on the ballot for the general election provided the initiative has been filed with the Secretary of State no later than February 1 of the year the general election is held. A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that the petition has been signed by the constitutionally required number of electors.

§ 100.371(1), Fla. Stat. (2005).

23. In 2007, the Legislature amended subsection (1) again, such that the second sentence now reads:

A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors, under this code, subject to the right of revocation established in this section.

Ch. 2007-30, Laws of Fla.

24. In 2010, the Florida Supreme Court held that the right of revocation was unconstitutional, *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1072 (Fla. 2010), but the remainder of subsection (1) remains in effect today. *See* § 100.371(1), Fla. Stat. (2021).

2. *Timing of Verification of Signatures*

25. The original 1979 Petition Initiative Statute established the requirement that a petition sponsor “submit signed forms to the appropriate supervisor of elections for verification.”

Ch. 79-365, Laws of Fla. The statute imposed a duty on the supervisors to “promptly verify” such signatures and “immediately transmit[]” certification of the verification. *Id.*

26. The following year, the Florida Supreme Court held that this duty of promptness is not just statutory—it is required by the Constitution. The Court assumed that supervisors would “act reasonably in the verification process” and held that they “must not unduly delay the verification process,” with “thirty days” being “the outer limit of time reasonably necessary to verify electors’ signatures.” *Tax Relief*, 386 So. 2d at 567.

27. This is how things stood until 2007, when the Legislature amended the statute to read that supervisors shall “promptly verify the signatures within 30 days of receipt of the petition forms.” Ch. 2007-30, Laws of Fla. This timeline remained in place for another thirteen years, until 2020.

28. In 2020, the Legislature amended the statute to read: “The supervisor shall promptly verify the signatures within 60 days after receipt of the petition forms.... However, for petition forms submitted less than 60 days before February 1 of an even-numbered year, the supervisor shall promptly verify the signatures within 30 days after receipt....” Ch. 2020-15, Laws of Fla. (currently codified at § 100.371(11)(a), Fla. Stat.). The legislative history does not include any discussion of how the new sixty-day timeframe is permissible in light of *Tax Relief*’s holding that 30 days is the “outer limit” of verification time prior to the filing deadline that can be deemed “necessary” under the Constitution. *See* SB 1794; HB 7037; Fla. H.R. Staff Final Bill Analysis 6, CS/CS/HB 7037 (April 9, 2020), available at <https://www.flsenate.gov/Session/Bill/2020/7037/Analyses/h7037z1.JDC.PDF>.

29. Thus, under the current version of the Initiative Petition Statute, supervisors have a duty to verify all signatures “promptly.” The absolute deadline is sixty days for any signature

submitted before or on the December 3 preceding the election; the absolute deadline for any signature submitted after December 3 is thirty days. In practice, this means that a signature submitted on December 3 need not be verified until February 1, but a signature submitted on December 4 must be verified by January 3.

30. The Initiative Petition Statute also requires that each supervisor of elections, starting on the December 1st preceding an election (and monthly before that), “shall post on his or her website the aggregate number of verified valid signatures and the distribution of such signatures by congressional district for each proposed amendment proposed by initiative.” § 100.371(11)(c), Fla. Stat.

31. The Secretary of State, in turn, “shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts, and ... shall post such information on its website” at the end of each week starting on December 1st prior to the election (and monthly before that). *Id.* § 100.371(12).

3. *Expiration of Signatures*

32. The Constitution is silent regarding the effective period of a signature on an initiative petition.

33. In 1983, the Legislature enacted an amendment to the Initiative Petition Statute that provided: “Every signature shall be dated when made and shall be valid for a period of 4 years following said date, provided all other requirements of law are complied with.” Ch. 83-251, Laws of Fla. (codified at § 100.371(2), Fla. Stat. (1983)).

34. In 2005, the Legislature reaffirmed this four-year expiration in further amendments to section 100.371. *See* Ch. 2005-278, Laws of Fla. (codified at § 100.371(3), Fla. Stat. (2005)).

35. In 2011, along with amendments responsive to this Court’s decision in *Florida Hometown* (invalidating signature revocation provisions), the Legislature reduced the effective period for signatures from four years to two years. Ch. 2011-40, Laws of Fla. (codified at § 100.371(3), Fla. Stat. (2011)).

36. In 2020, the Legislature again reduced the effective period for petition signatures: “Each signature shall be dated when made and shall be valid until the next February 1 occurring in an even-numbered year for the purpose of the amendment appearing on the ballot for the general election occurring in that same year, provided all other requirements of law are met.” Ch. 2020-15, Laws of Fla. (codified at § 100.371(11)(a), Fla. Stat. (2020)). The bill analysis prepared by the Florida Senate states that the purpose of this amendment was to “prevent[] signatures from being held over for a subsequent election.” Fla. S. Comm. on Rules CS for CS for CS for SB 1794 (2020) Bill Analysis and Fiscal Impact Statement 1 (Feb. 27, 2020), *available at* <https://www.flsenate.gov/Session/Bill/2020/1794/Analyses/2020s01794.rc.PDF>.

4. Requirement to Submit All Signatures

37. The 2019 amendment to the petition statute included another novel provision: a requirement that a petition sponsor submit to a supervisor of elections every petition signature collected, with hefty fines for failure to do so. Ch. 2019-64, Laws of Fla. (codified at § 100.371(7), Fla. Stat. (2019)).

38. Accordingly, if a sponsor reviews a signature and finds obvious evidence of invalidity—such as a form signed by “Mickey Mouse”—the sponsor must still submit the form to a supervisor for processing and pay the associated fee. The supervisor must take the time to process that signature, even if it slows down the processing of valid signatures.

5. *Pay by Hour vs. Pay by Signature*

39. Since 1968, sponsors of citizen initiatives have employed paid staff to help circulate petitions among the general public, and a common method of compensation was to pay per signature. This created an incentive for petition circulators to ensure that signatures were valid, as a sponsor could decrease compensation if signatures were not ultimately verified.

40. In 2019, however, the Legislature made it a crime to “compensate[] a petition circulator ... based on the number of petition forms gathered.” Ch. 2019-64, Laws of Fla. (codified at § 104.186, Fla. Stat. (2019)).

41. This change, combined with the new requirement to submit all signatures collected (also enacted in 2019) has slowed the processing time for signature verification.

6. *Signature Verification*

42. The Initiative Petition Statute directs that a supervisor may verify that a signature is valid if:

1. The form contains the original signature of the purported elector.
2. The purported elector has accurately recorded on the form the date on which he or she signed the form.
3. The form sets forth the purported elector’s name, address, city, county, and voter registration number or date of birth.
4. The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.
5. The signature was obtained legally, including that if a paid petition circulator was used, the circulator was validly registered under subsection (3) when the signature was obtained.

§ 100.371(11)(a), Fla. Stat. Accordingly, nothing in the Initiative Petition Statute explicitly directs or authorizes supervisors to engage in signature matching as part of signature verification.¹

¹ Another provision of the Florida Election Code states directs supervisors to “compar[e] the signature on the petition and the signature of the registered voter in the voter registration system.” § 99.097(3)(a), Fla. Stat. (2021). But that statute appears in the chapter of the Election

43. The Initiative Petition Statute does not require supervisors to inform petition sponsors or signatories of whether or why any specific signature has been rejected. It also does not contain a cure provision.

44. On the other hand, the statute does permit an elector to file a challenge if he believes his signature was improperly included on a petition. *Id.* § 100.371(9).

45. The 2020 Amendments to the Initiative Petition Statute require initiative sponsors to pay the “actual cost” of each signature verified. § 100.371(11)(a), Fla. Stat.

B. The Secretary of State’s Central Role in Initiative Petitions

46. Article XI of the Florida Constitution explicitly provides only one constitutional officer with a role in the citizen initiative process: the Secretary of State.

47. Reflecting that unique constitutional role, the Initiative Petition Statute likewise deems the Secretary of State the key constitutional official in the initiative process.

48. The original 1979 Initiative Petition Statute required all signatures verifications to be “immediately transmitted to the Secretary of State” so that the secretary could “determine ... the total number of verified signatures and distribution of such signatures,” and if the requisite numbers were met, “issue a certificate of ballot position for that proposed amendment.” §§ 100.371(4)–(5), Fla. Stat. (1979).

49. The Secretary retains these and other key roles under the current version of the Initiative Petition Statute.

Code pertaining to “Candidates,” and the Election Code defines a candidate as a “person,” not an initiative. *Id.* § 97.021(7).

50. First, no petition can be circulated without the approval of the secretary. *See* § 100.371(2), Fla. Stat. (providing that proposed amendment text must be submitted to the Secretary of State prior to the sponsor obtaining any signatures).

51. Second, petition circulators require the approval of the secretary. *See id.* §§ 100.371(3)–(4) (providing that all petition circulators must register with, and use forms and obey rules promulgated by, the Secretary of States).

52. Third, the statute provides that an initiative petition must be “filed with the Secretary of State” and that the secretary alone must “determine[.]” whether the “constitutionally required number and distribution” of “valid and verified petition forms have been signed.” *Id.* §§ 100.371(1), (4). If the secretary determines “that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for th[e] proposed amendment.” *Id.* § 100.371(4).

53. Fourth, the secretary is responsible for general administration and enforcement of the Initiative Petition Statute. The secretary is empowered to “adopt rules ... to carry out the provisions” of the statute, and “may refer ... to the Attorney General” any violation of the statute. *Id.* §§ 100.371 (8), (14).

54. All of this is in addition the secretary’s “responsibility” as “chief election officer of the state” to “[o]btain and maintain uniformity in the interpretation and implementation of the election laws,” and “[p]rovide written direction and opinions to the supervisors of elections on the performance of their official duties.” *Id.* §§ 97.012(1), (16).

55. In the current election cycle, the Secretary of State has taken at least two actions relevant to this lawsuit: (1) promulgating an October 2021 rule to implement the 2019 and 2020 amendments to the Initiative Statute, and (2) issuing a December 2021 directive to all supervisors.

1. October 2021 Implementing Rule

56. As noted above, the Initiative Petition Statute grants the Secretary of State expansive rulemaking authority to implement the statute's provisions, and it has done so since the statute's inception. *See* § 100.371(6), Fla. Stat. (1979); § 100.371(14), Fla. Stat. (2021).

57. The Secretary has exercised that authority at least eleven times since 1980, and the current version of the implementing rule is found at Fla. Admin. Code 1S-2.0091.

58. In 2020, the Legislature enacted two critical changes to the petition statute.

59. First, supervisors were given 60 days to verify signatures received prior to the December 3 before the general election. § 100.371(11)(a), Fla. Stat.

60. Second, signatures expire after February 1 of the election year. *Id.* These statutory amendments took effect on April 8, 2020, *id.*, giving sponsors and electors seeking to amend the Constitution in 2022 less than two years to gather the 891,589 signatures necessary to qualify for the ballot—the shortest ever period since the 1968 Constitution conferred the fundamental right of petition.

61. Despite this compressed schedule, the Department of State did not issue a new rule implementing the statutory amendments until **October 1, 2021**, just five months before the signature-invalidation date established by the new 2020 law. The amended rule contains two provisions relevant here.

62. First, the rule addresses the timelines for supervisors to conduct verification. The rule states:

[T]he Supervisor of Elections for the county in which the signee is a registered voter shall verify the signatures on each initiative petition form within 60 days, except for a petition form submitted less than 60 days before February 1 of an even-numbered year, which must be verified within 30 days, after receipt of the form...

Fla. Admin. Code 1S-2.0091(3)(a). Critically, this rule *omits* the statutory command that supervisors shall “*promptly* verify” signatures. § 100.371(11)(a), Fla. Stat. (emphasis added)

63. Second, the rule states:

In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the constitutionally requisite number of verified signatures must be verified and reported to the Division no later than 5:00 p.m. on February 1 of the year in which the general election is held.

Fla. Admin. Code 1S-2.0091(7).

2. *December 2021 Directive to Supervisors*

64. On December 29, 2021, the Director of the Division of Elections at the Department of State sent a directive to all supervisors of elections. § 97.012(16), Fla. Stat. (empowering Secretary of State to “[p]rovide written direction ... to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code”).

65. In that communication, attached hereto as Exhibit 1, Director Matthews stated:

- “[a]s of December 3, 2021, [supervisors] are required to **promptly** verify signed petitions no later than 30 days from the date of receipt”;
- that while “a voluminous amount petitions” might come in during the “final days” this would be no different from “past cycles”;
- that “petitions signed prior to April 8, 2020, still have a two-year expiration date,” while petitions signed on or after April 8, 2020, are valid only through February 1, 2022”; and
- “the requirement to verify as valid or not continues even after a petition makes ballot position.”

II. PLAINTIFFS

66. FVIC is a registered political committee and is the sponsor of the Proposed Initiative, entitled Limited Authorization of Casino Gaming, attached hereto as Exhibit 2.

67. Pursuant to the official summary, the proposed amendment:

Authorizes businesses with active cardroom licenses as of January 1, 2022 to offer casino gaming if they meet location limitations and make minimum capital investment towards new development and construction. Authorizes such businesses to relocate within the same county prior to December 31, 2025. Defines “casino gaming.” Allows taxation and regulation of casino gaming consistent with the amendment.

68. FVIC and its supporters seek to place this proposed amendment on the November 2022 general election ballot.

69. To date, FVIC has invested substantial time and resources collecting signatures, employing hundreds of petition circulators across the state.

70. Hundreds of thousands of Floridians have indicated their support for the petition, as their verified signatures demonstrate.

71. Plaintiff William Spicola is a registered voter in Leon County, Florida, and the Chairperson of FVIC. Spicola signed a petition in favor of the Proposed Initiative on January 31, 2022, but he does not know if the Leon County supervisor will verify, count, or reject his signature.

III. THE FAILURE TO PROMPTLY VERIFY SIGNATURES

72. FVIC began collecting signatures at the end of July and submitting signatures to supervisors on August 10, 2021.

73. By December 4, 2021, FVIC had submitted 1,200,514 signatures, and by January 3, 2022, it had submitted an additional 698,870 signatures for a cumulative total of 1,899,384 signatures.

74. FVIC has continued submitting signatures throughout the month of January, and as of the date of this filing has submitted 417,046 January signatures.

75. FVIC has expended an incredible amount of resources to mount this petition drive.

76. The signature-verification process across the state this cycle has been an unmitigated disaster. Hundreds of thousands of signatures FVIC submitted have not been

processed “promptly” or even within the outer limit of the sixty- and thirty-day timeframes established by the 2020 Amendments to the Initiative Petition Statute.

77. Indeed, of the over 2.2 million signatures FVIC has submitted to the supervisors, over eight percent have not been processed as of the date of this filing.

78. Some petition forms submitted in December have languished in supervisors’ offices longer than the thirty-day absolute deadline for any signature submitted after December 3, 2021.

79. In Manatee County, the supervisor was, on January 6, 2022, still processing petitions submitted on December 5, 2022.

80. The St. Lucie County supervisor, as of January 6, 2022, had not even started processing *any* December petitions.

81. Similarly, in Broward County, the supervisor was, as of January 6, 2022, still processing petitions from November and had not begun processing petitions delivered on December 7, 2021.

82. And, in Hardee County, the supervisor has not reported even a single verification to the Department of State, even though FVIC first began submitting signatures there in August 2021.

83. The lack of promptness is also demonstrated by differences in processing times among supervisors and even within the same supervisor office over time.

84. The Gadsden County supervisor has consistently processed petitions within 7–10 days of receipt, averaging over 300 signatures per week in December and over 1,000 per week in January. As a result, Gadsden County has avoided significant backlogs.

85. In contrast, in Bay County, which has received a similar number of petitions as Gadsden, the supervisor has processed, on average, about 100 signatures per week through

December and fewer than 360 signatures per week in December and January, leading to a significant backlog of signatures in January. Bay County currently has a backlog of over 2,000 petitions, which is approximately 20 percent of the petitions delivered to date.

86. These differences in processing times are also apparent among larger counties. Polk County has received more than 70,000 petitions, and has fewer than 2,300 outstanding.

87. The supervisor has avoided backlogs by processing nearly 7,000 signatures per week in December and nearly 8,000 signatures per week in January.

88. In contrast, the supervisor of Leon County processed less than 4,400 signatures, on average, per week in December, and just over 4,600 per week in January.

89. Leon County now has a backlog of almost 11,000 signatures.

90. Collier County has over 6,500 outstanding petitions, having processed approximately 1,000 signatures, on average, per week in December, and fewer than 1,600 signatures, on average, per week in January.

91. Other supervisors began processing petitions slowly but then significantly picked up the pace in recent weeks. In Orange County, for instance, the supervisor's office processed an average of 12,000 per week in December. Since January 1, the same office has processed over 43,000 petitions on average per week.

92. Similarly, the Miami-Dade supervisor's office is now processing, on average, about 40,000 signatures per week, after averaging only around 7,600 signatures per week in December.

93. The supervisor's office in Duval County has increased its processing rate from an average of approximately 10,500 petitions per week in December to more than 34,000 per week in January.

94. In Hillsborough County, the supervisor's office has increased its rate from an average of approximately 7,800 petitions per week in December to almost 28,000 per week in January.

95. In Palm Beach County, the supervisor averaged fewer than 5,500 signatures per week in December, but significantly increased the processing rate in January and is averaging more than 25,000 signatures per week.

96. In Broward County, the supervisor's office has also increased its processing rate, but to a much lesser degree than other large counties. Broward County currently has more outstanding petitions than Miami-Dade, Palm Beach, Duval, Orange, and Hillsborough counties and has not processed as far into January as other comparable counties.

97. The delay in processing signatures is occurring for numerous reasons.

98. First, the 2020 amendments to the Initiative Petition Statute, by creating a new sixty-day verification window for pre-December signatures, created a license for supervisors to let thousands of signatures pile up. *See* §§ 100.371(11)(a), Fla. Stat. Supervisors took this leeway and ran with it, even though, as the Department of State admitted on December 29, 2021, these officials knew from "past cycles" that "a voluminous amount of petitions" are submitted in the "final days." *See* Exhibit 1.

99. Far from acting "promptly," as is required by statute, supervisors permitted staff dedicated to signature verification to take long vacations during the critical final two months of signature collection, failed to hire sufficient staff, and even closed their offices entirely during regular business days.

100. All of this occurred despite the fact that petition sponsors pay "the actual cost of signature verification incurred by the supervisor." § 100.371(11)(a), Fla. Stat.

101. Second, for signatures submitted in January, the statutory scheme provides no hard deadlines on processing times, leaving each supervisor to define what it means to “promptly verify” signatures submitted in the final month of the process.

102. Accordingly, there is no uniformity across the state: some voters who submit signatures in January will be counted and some will not, based on nothing more than the vagaries of individual supervisors’ staffing decisions.

103. For instance, a staff member from the Broward County supervisor’s office stated that the office had stopped processing petitions delivered after January 3.

104. Staff members from the office of the Brevard County supervisor have also stated that the supervisor does not expect to finish processing the January signatures. The supervisor’s failure to hire enough staff to allow her office to complete the processing is especially striking given that she charges 88 cents per signature, significantly more than any other office charges for verification.

105. Some supervisors have gone so far as to declare that any signatures submitted after January 3—approximately a month before the filing deadline—will simply not be verified, despite them being timely submitted under the Constitution.

IV. THE SIGNATURE MATCH DEBACLE

106. The Initiative Petition Statute permits signature verification only if five criteria are met. § 100.371(11)(a)(1)–(5), Fla. Stat. Absent from that list is any explicit requirement or authorization that supervisors match the signature on a petition to a signature on file with the supervisor.

107. Nonetheless, the supervisors engage in such signature matching as a prerequisite for verification, and the Secretary of State refuses to treat as verified any signatures that fail the supervisors signature match.

108. If a voter's signature is rejected for failure to match, to the best of Plaintiffs' knowledge and based on information provided to Plaintiffs by supervisors, the voter is not notified and is not given an opportunity to cure the signature.

109. Likewise, there is no policy or practice to provide the initiative sponsor with a list of specific names rejected for signature mismatch. Instead, at most, supervisors merely provide an aggregate count of voters rejected for signature mismatch upon request. The supervisors in a number of counties have refused to provide even this aggregated information.

110. In December, FVIC requested from the Duval County supervisor a list of names that had been rejected for signature mismatch. The Duval supervisor refused to provide that list until January 21, 2022.

111. The list contained approximately 32,000 names rejected for signature mismatch. FVIC contacted the voters for whom cell phone numbers were provided through a text campaign and delivered 18,340 text messages successfully.

112. Of those, 486 voters clicked through to a form contained in the text that contained questions about their signatures. Of the 112 voters that completed the form, 109, or 97 percent, affirmed that they signed the petition and want an opportunity to cure their signature.

113. However, the Duval supervisor has explained that these voters have no opportunity to cure. Instead, the supervisor indicated that the voter has to sign a new petition—in January, with no guarantee the supervisor will process the new petition, and with no guarantee it will not again be rejected for mismatch (with no opportunity to cure).

114. Recently, FVIC's consultant was also able to obtain lists of voters whose signatures were rejected from Marion, Orange, and Leon Counties and it conducted the same text campaign for these voters.

115. All six of the Marion County voters that clicked through to the form in the text and completed the full form affirmed that they signed the petition in support of the Proposed Initiative and want an opportunity to cure.

116. Ten of the twelve Orange County voters that completed the form affirmed that they signed the petition and want a chance to cure.

117. Four Leon County voters clicked through to the form and all completed it, with 3 out of the 4 affirming that they signed the petition and want a chance to cure.

V. INJURY TO PLAINTIFFS

118. Due to the current Ballot Initiative Statute and the ways in which it is being implemented, Plaintiffs are suffering, and will continue to suffer, irreparable injury, as Defendant's actions are violating their fundamental, constitutional right to petition to amend the Florida Constitution by ballot initiative.

119. Florida courts presume irreparable harm when fundamental rights are violated, and the Florida Supreme Court has unequivocally stated that "the initiative petition method to amend the constitution is a fundamental right." *Tax Relief*, 386 So. 2d at 566.

120. Absent relief from the Court, Plaintiff FVIC's Proposed Initiative may not appear on the ballot in the 2022 general election, despite FVIC having gathered enough signatures from qualified voters in support of the Proposed Initiative. If the Proposed Initiative does not appear on the ballot, FVIC will also have lost the substantial resources it spent on the Proposed Initiative and on its attempts to comply with the unconstitutionally burdensome statutory framework.

121. Plaintiff Spicola will also be harmed absent relief from the Court. The current unconstitutionally burdensome statutory framework impermissibly interferes with both his right to participate in the ballot initiative process and to engage in political speech. If his signature is not verified due to the unconstitutional regime in place, he will be entirely precluded from exercising those rights during this petition cycle.

COUNT I
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Sixty-Day Verification Window
Violation of Fundamental Right to Initiative Petition, Art. XI, § 3, Fla. Const.

122. The allegations in paragraphs 1–121 are incorporated herein by reference.

123. Article XI, section 3 of the Florida Constitution, secures a self-executing, fundamental right to amend the Constitution through citizen initiative. Any regulation of the initiative process must be strictly necessary and essential for ballot integrity; any regulation that does not meet this requirement is unconstitutional. *Fla. Hometown*, 29 So. 3d at 1068.

124. Because “the initiative petition method to amend the constitution is a fundamental right,” the supervisors must “act reasonably in the verification process,” “must not unduly delay the verification process,” and “*thirty days is the outer limit of time reasonably necessary to verify electors’ signatures by supervisors of elections.*” *Tax Relief*, 386 So. 2d at 566–67 (emphasis added).

125. In 2020, the Legislature amended the Initiative Petition Statute to permit supervisors *sixty* days to verify signatures submitted earlier than sixty days from February 1. § 100.371(11)(a), Fla. Stat.

126. On October 1, 2021, the Secretary of State reinforced this change by promulgating a rule incorporating the sixty-day deadline to verify signatures submitted earlier than sixty days from February 1. *See* Fla. Admin. Code R. 1S-2.0091(3)(a).

127. Article XI, section 3 of the Florida Constitution prohibits any verification process that takes longer than thirty days. *Tax Relief*, 386 So. 2d at 566–67. By providing supervisors with sixty days to verify certain signatures, § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a) violate the fundamental right to amend the constitution by initiative petition, and are therefore unconstitutional and invalid.

128. Implementation of the unconstitutional statutory provision and rule has caused supervisors to not promptly verify signatures and has resulted in a backlog of submitted signatures that will not be processed by 5 p.m. on February 1, 2022. If these voters’ signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that the sixty-day provisions of § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a) are unconstitutional; (2) enjoining Defendant from enforcing those portions of § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a); and (3) ordering Defendant to delay certification of the final signature count until all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary.

COUNT II
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Sixty-Day Verification Window
Violation of Equal Protection, Art. I, § 2, Fla. Const.

129. The allegations in paragraphs 1–121 are incorporated herein by reference.

130. Under the Florida Constitution’s Equal Protection Clause, all Florida citizens must be treated as equal before the law. Art. I, § 2, Fla. Const.

131. The deadlines established in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a), require verification within thirty days of voter signatures submitted on or after December 4, 2021, but permit verification within sixty days of voter signatures submitted prior to that date. For example, a voter signature submitted on December 4 must be verified by January 3, but a voter signature submitted one day earlier need not be verified until February 1.

132. In other words, in theory, the voter who submits a signature earlier may not have it verified until later in the process. And in actual practice—because the system has become so backlogged due to the sixty-day allowance—the December 3 signatory may not have his signature counted at all. Indeed, the Secretary admitted on December 29, 2021, that a “voluminous amount of petitions” are always submitted “in the[] final days,” Ex. 1, virtually assuring that the voters in the sixty-day window would get stuck in the glut.

133. This differential treatment cannot survive the strict scrutiny that applies to the fundamental initiative petition right.

134. First, the only permissible government interest for initiative petition regulation—ballot integrity—is not served by the 60/30 dichotomy. To the contrary, it has created a threat to ballot integrity by introducing a backlog of signatures that required supervisors to rush signature verification at the end of the qualifying period, often with temporary staff that may be less well trained.

135. Second, even if the government could somehow circumvent *Tax Relief* and show a compelling interest in a verification window longer than thirty days, the 60/30 split is not a narrowly tailored or least-restrictive means of serving that interest. Instead, a first-in/first out rule

would be less restrictive, because it would allow initiative sponsors to accurately gauge the status of their petition drives. The 60/30 regime has left everyone guessing, as pools of voters in the different windows piled up in December and January. The introduction into the initiative process of such legislatively designed indeterminacy is not permissible. *See Fla. Hometown*, 29 So. 3d at 1060 (statute invalid where “it is simply impossible for initiative proponents to ascertain the number of signatures necessary for ballot placement before the time to do so expires”).

136. Thus, the different verification deadlines in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a), violate equal protection and have been unconstitutionally applied to Plaintiffs.

137. Implementation of the unconstitutional statutory provision and rule has caused supervisors to not promptly verify signatures and has resulted in a backlog of submitted signatures that will not be processed by 5 p.m. on February 1, 2022. If these voters’ signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that the different verification deadlines set out in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a) are unconstitutional; (2) enjoining Defendant from enforcing those portions of § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(3)(a); and (3) ordering Defendant to delay certification of the final signature count until all signatures submitted to supervisors prior to February 2, 2022 have been processed, verified, and submitted to the Secretary.

COUNT III
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Violations of Deadlines under §§ 97.012(1), 100.371(11)(a), Fla. Stat.

138. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

139. It is the Secretary’s duty to “[o]btain and maintain uniformity in the interpretation and implementation of the election laws,” including by adopting rules and “provid[ing] written direction ... to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code.” §§ 97.012(1), (16), Fla. Stat.

140. According to § 100.371(11)(a), Fla. Stat., as amended in 2020:

The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained.... The supervisor shall promptly verify the signatures within 60 days after receipt of the petition forms and payment of a fee for the actual cost of signature verification incurred by the supervisor. However, for petition forms submitted less than 60 days before February 1 of an even-numbered year, the supervisor shall promptly verify the signatures within 30 days after receipt of the form and payment of the fee for signature verification.

141. The Florida Supreme Court has held that, because “the initiative petition method to amend the constitution is a fundamental right,” the supervisors must “act reasonably in the verification process,” “must not unduly delay the verification process.” *Tax Relief*, 386 So. 2d at 566–67.

142. Various county supervisors have not complied with the statutory sixty- and thirty-day deadlines required by § 100.371(11)(a), Fla. Stat., have failed to “promptly verify” signatures submitted by Plaintiff FVIC, and have failed to “not unduly delay the verification process.”

143. Despite knowing that a voluminous amount of petitions would be submitted in the final days of this petition cycle, the Secretary of State has failed to secure supervisors’ compliance with their statutory and constitutional duties.

144. The Secretary of State contributed to the supervisors’ failure to “promptly verify” signatures this cycle by promulgating an implementing rule omitting any requirement to “promptly” verify signatures:

the Supervisor of Elections for the county in which the signee is a registered voter *shall verify* the signatures on each initiative petition form within 60 days, except for a petition form submitted less than 60 days before February 1 of an even-numbered year, which *must be verified* within 30 days, after receipt of the form

Fla. Admin Code. R. 1S-2.0091(3)(a) (emphasis added).

145. On December 29, 2021, the Secretary implicitly recognized this omission, issuing a directive to supervisors that “even after January 3, 2022, your statutory duty to *promptly verify* and submit petitions continues.” Ex. 1 (emphasis added).

146. Thus, from October 1, 2021, through December 29, the supervisors were under the impression, based on the Secretary of State’s rule, that prompt verification was not required and they could take the full sixty or thirty days to verify petitions, even if not necessary to do so.

147. The supervisors’ failures to promptly verify signatures created a backlog in signature processing, rendering the supervisors unable to “promptly verify” signatures that FVIC submitted in January.

148. Due to the verification backlog, the supervisors will not process every FVIC signature by 5 p.m. on February 1, 2022. The Secretary, in turn, will refuse to count these signatures in determining whether the Proposed Initiative has met the constitutionally requisite number for placement on the ballot.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order (1) declaring that Defendant violated §§ 97.012(1), 100.371(11)(a), Fla. Stat., by failing to ensure that all supervisors uniformly complied with their statutory duties throughout the petition signature verification process; and (2) ordering Defendant to delay certification of the final signature count until all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary.

COUNT IV
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Signature Expiration
Violation of Fundamental Right to Initiative Petition, Art. XI, § 3, Fla. Const.

149. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

150. Article XI, section 3, Florida Constitution, secures a self-executing, fundamental right to amend the Constitution through citizen initiative. Any regulation of the initiative process must be strictly necessary and essential for ballot integrity; any regulation that does not meet this requirement is unconstitutional. *Fla. Hometown*, 29 So. 3d at 1068.

151. The Florida Constitution does not establish an expiration date for the validity of signatures on initiative petition forms.

152. In 2020, the Legislature amended § 100.371, Fla. Stat., to provide that signatures are only “valid until the next February 1 occurring in an even-numbered year for the purpose of the amendment appearing on the ballot for the general election occurring in that same year.” Ch. 2020-15, Laws of Fla. (codified at § 100.371(11)(a), Fla. Stat. (2021)).

153. Further, the Secretary has adopted a rule providing that the Department of State will not accept signature verifications after February 1, even for signatures dated prior to February 1. *See* Fla. Admin. Code R. 1S-2.0091(7).

154. Thus, for the first time in the history of initiative petitions in Florida, petition signatures are no longer treated equally for purposes of expiration dates: a petition signed in January of the election year may never be counted because the supervisors do not have to verify it by February 1, and if they do not, the Secretary will ignore it and the signature’s validity will lapse.

155. Accordingly, this new provision is unconstitutional under the Initiative Petition Clause in Article XI because it is not “neutral [and] nondiscriminatory,” and instead violates the

requirement that “a uniform process must exist through which initiative sponsors submit initiative petitions.” *Fla. Hometown*, 29 So. 3d at 1057, 1067.

156. Nor is this provision strictly “necessary for ballot integrity.” *Fla. Hometown*, 29 So. 3d at 1057. First, the initiative system operated for forty-two years without treating voters differently and without denying *any* validity to a certain class of voters based on when they sign. Many amendments were adopted under this regime, without any indication that treating voters equally undermined ballot integrity. That long history is strong evidence that this change was not necessary. Second, the legislators who supported this amendment flatly admitted that its purpose was to make the process more “rigorous” than the process the Constitution establishes. Third, if the concern is that signatures should be valid for only one election cycle, then the answer is to ensure that *every* signature collected prior to the cutoff date gets processed and counted if valid—not to establish a set of signatures that may never become effective for any ballot qualification. Where a less restrictive alternative is available, a rule is not “necessary for ballot integrity.” *Fla. Hometown*, 29 So. 3d at 1058, 1071-72.

157. Accordingly, § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(7), acting in concert, are unconstitutional.

158. Implementation of the unconstitutional statutory provision and rule means that certain timely voter signatures will not be processed by 5 p.m. on February 1, 2022, and will not be eligible for use in any other election. If these voters’ signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that by providing that signatures are only “valid until the next February 1 occurring in an even-numbered year for the purpose of the amendment appearing on the ballot for the general election

occurring in that same year,” § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(7) are unconstitutional; (2) enjoining Defendant from enforcing those provisions of § 100.371(11)(a), Fla. Stat. and Fla. Admin. Code 1S-2.0091; and (3) ordering Defendant to delay certification of the final signature count until all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary.

COUNT V
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Arbitrary Treatment of January Signatures
Violation of Fundamental Right to Initiative Petition, Art. XI, § 3, Fla. Const.

159. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

160. Article XI, section 3, Florida Constitution, secures a self-executing, fundamental right to amend the Constitution through citizen initiative. Any regulation of the initiative process must be strictly necessary and essential for ballot integrity; any regulation that does not meet this requirement is unconstitutional. *Fla. Hometown*, 29 So. 3d at 1068.

161. According to § 100.371(11)(a), Fla. Stat., supervisors shall “promptly verify” signatures submitted less than thirty days prior to February 1, 2022.

162. On October 1, 2021, the Secretary of State promulgated a rule that omits the word “promptly” and thus fails to create *any* duty for supervisors to verify signatures submitted less than thirty days prior to February 1, 2022. *See* Fla. Admin. Code R. 1S-2.0091(3)(a).

163. Section 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a), allow each supervisor to adopt his or her own arbitrary timeline for processing January signatures, including no verification at all.

164. Treating January signatures this way is not strictly necessary or essential for ballot integrity. To the contrary, in every other context, if a voter or candidate acts by a time certain, his

or her vote or paperwork is counted, regardless of how long it takes election officials to process the vote or paperwork. *See, e.g.*, § 100.011(1), Fla. Stat. (“Any elector who is in line at the time of the official closing of the polls shall be allowed to cast a vote in the election.”); § 99.061(7)(a), Fla. Stat. (candidate qualifying paperwork must be “filed” by date certain and is verified after); Fla. Admin. Code R. 1S-2.0001 (candidate qualifying paperwork delivered to Department by deadline is deemed timely filed even though verification occurs after delivery).

165. Moreover, the Initiative Petition Clause of the Florida Constitution does not permit this kind of indeterminacy for voters seeking to exercise their fundamental right to petition. As the Supreme Court has held, a regulation of the initiative petition process is unlawful if “it is simply impossible for initiative proponents to ascertain the number of signatures necessary for ballot placement before the time to do so expires.” *Fla. Hometown*, 29 So. 3d at 1060.

166. Accordingly, the treatment of January signatures in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a) is unconstitutional under Art. XI, § 3, Fla. Const.

167. Implementation of the unconstitutional statutory provision, rule, and practice means that certain timely voter signatures may not be processed by 5 p.m. on February 1, 2022. If these voters’ signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that by not providing supervisors with any procedure as to how quickly they must verify signatures submitted between January 3 and February 1, the signature verification deadlines set out in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(3)(a) are unconstitutional, (2) enjoining Defendant from enforcing those provisions of § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(3)(a); (3) ordering Defendant to delay certification of the final signature

count until all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary.

COUNT VI
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Arbitrary Treatment of January Signatures
Violation of Equal Protection, Art. I, § 2, Fla. Const.

168. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

169. Under Florida’s equal protection clause, all Florida citizens must be treated as equal before the law. Art. I, § 2, Fla. Const.

170. Under § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code R. 1S-2.0091(3)(a), (7), a qualified, registered voter who signs a petition on a particular day in January in one county might have his or her signature verified and counted, while a qualified, registered voter who submits his or her signature on that same day in another county may never have his or her signature verified or counted.

171. This disparate treatment of similarly situated voters violates equal protection. *See Bush v. Gore*, 531 U.S. 98, 104–05 (2000).

172. Implementation of the unconstitutional statutory provision, practice, and rule means that certain timely voter signatures may not be processed by 5 p.m. on February 1, 2022. If these voters’ signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that by not providing supervisors with any procedure as to how quickly they must verify signatures submitted between January 3 and February 1, the signature verification deadlines set out in § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(3)(a), (7) are unconstitutional,

(2) enjoining Defendant from enforcing those provisions of § 100.371(11)(a), Fla. Stat., and Fla. Admin. Code 1S-2.0091(3)(a), (7); and (3) ordering Defendant to delay certification of the final signature count until all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary

COUNT VII
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Signature Matching
Violation of Fundamental Right to Initiative Petition, Art. XI, § 3, Fla. Const.

173. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

174. Article XI, section 3, Florida Constitution, secures a self-executing, fundamental right to amend the Constitution through citizen initiative. Any regulation of the initiative process must be strictly necessary and essential for ballot integrity; any regulation that does not meet this requirement is unconstitutional. *Fla. Hometown*, 29 So. 3d at 1068.

175. Article XI, section 3, Florida Constitution, does not contain an explicit or implicit requirement that, in order to be verified, petition signatures must match another signature stored in the voter database.

176. Section 100.371, Florida Statutes, does not contain an explicit or implicit requirement that, in order to be verified, petition signatures must match another signature stored in the voter database. Instead, the statute requires that a petition form must “contain the original signature of the purported elector.” § 100.371(11)(a), Fla. Stat.

177. There is no explicit constitutional or statutory authority granting supervisors and the Secretary of State the power to reject petition signatures based on a failure to match the signature to another signature stored in the voter database.

178. To the best of Plaintiffs' knowledge, the Secretary of State and supervisors of elections afford ballot initiative proponents and voters no notice or opportunity to cure signatures rejected solely because they do not match another signature stored in the voter database.

179. Rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without the opportunity to cure, unduly burdens the fundamental right to amend the constitution by initiative petition and is not strictly necessary for ballot integrity.

180. Implementation of this unconstitutional practice means that certain timely and valid voter signatures will be rejected without notice. If these voters' signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without notice and the opportunity to cure, is unconstitutional; (2) enjoining Defendant from rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without notice and the opportunity to cure; and (3) directing Defendant to delay certification of the final signature count until voters are afforded notice and an opportunity to cure signatures rejected solely because the signature did not match another signature stored in the voter database.

COUNT VIII
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Signature Matching
Violation of Equal Protection, Art. I, § 2, Fla. Const.

181. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

182. Under Florida's equal protection clause, all Florida citizens must be treated as equal before the law. Art. I, § 2, Fla. Const.

183. The Initiative Petition Statute does not require supervisors to match a signature on a petition to a signature on file with the supervisor in order to determine that the signature is valid. § 100.371(11)(a)(1)–(5), Fla. Stat. Yet the supervisors engage in such signature matching as a prerequisite for verification, and the Secretary of State refuses to treat as verified any signatures that fail the supervisors signature match.

184. Signature matching is performed by the staff of supervisors' offices, who are laypeople and not handwriting experts.

185. Accordingly, voters across the state are not treated equally in having their signature considered: a signature might pass muster in one county and be rejected in another based on arbitrary signature matching procedures.

186. This differential treatment cannot survive the strict scrutiny that applies to the fundamental initiative petition right.

187. Implementation of this unconstitutional practice means that certain timely and valid voter signatures may be rejected based on arbitrary standards. If these voters' signatures are not processed and counted, their fundamental rights will be irreparably harmed.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order (1) declaring that rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without the opportunity to cure, is unconstitutional; (2) enjoining Defendant from rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without the opportunity to cure; (3) ordering Defendant to afford FVIC an opportunity to cure signatures rejected solely because the signature did not match

another signature stored in the voter database; and (4) directing Defendant to delay certification of the final signature count until FVIC is afforded an opportunity to cure signatures rejected solely because the signature did not match another signature stored in the voter database.

COUNT IX
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Signature Matching
Violation of Art. I, § 9, Fla. Const.
Violation of 42 U.S.C. § 1983 and the Fifth and Fourteenth Amendments to the U.S. Constitution

188. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

189. The Florida Constitution provides that “[n]o person shall be deprived of life, liberty or property without due process of law.” Art. I, § 9, Fla. Const.

190. The United States Constitution provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV.

191. Under 42 U.S.C. § 1983, “[e]very person who, under color of any statute [or] ... regulation ... of any State ... 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, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress[.]”

192. Defendant, Secretary of State, is a state official with primary responsibility for the implementation and enforcement of the State’s election laws.

193. At all times relevant to this action, the Defendant—a state official—was purporting to act pursuant to her authority under Florida statute and the Department of State’s own duly promulgated rules. Accordingly, she was acting under color of state law.

194. Under the Florida Constitution, a voter has a fundamental right to the initiative petition process. Denying that right due to signature mismatch, without notice, violates the due process requirements of both the state and federal constitutions.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order (1) declaring that rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without the opportunity to cure, is unconstitutional; (2) enjoining Defendant from rejecting petition signatures based on a failure to match the signature to another signature stored in the voter database, without the opportunity to cure; (3) ordering Defendant to afford FVIC an opportunity to cure signatures rejected solely because the signature did not match another signature stored in the voter database; and (4) directing Defendant to delay certification of the final signature count until FVIC is afforded an opportunity to cure signatures rejected solely because the signature did not match another signature stored in the voter database.

COUNT X
PETITION FOR EMERGENCY WRIT OF QUO WARRANTO

195. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

196. Quo warranto is the proper means for determining “whether a state officer or agency has improperly exercised a power or right derived from the State.” *Detzner v. Anstead*, 256 So. 3d 820, 822 (Fla. 2018).

197. The Secretary of State is a state officer.

198. Pursuant to section 97.012, Florida Statutes, the Secretary of State is Florida’s chief election officer, statutorily bound to “[o]btain and maintain uniformity in the interpretation and implementation of the election laws.” § 97.012(1), Fla. Stat. To carry out those duties under the statute, section 97.012 vests the Secretary with the authority to “pursuant to ss. 120.536(1) and 120.54, adopt by rule uniform standards for the proper and equitable interpretation and

implementation of the requirements of chapters 97 through 102 and 105 of the Election Code,” and to “[p]rovide written direction ... to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code or rules adopted by the Department of State.” *Id.*

199. For all of the foregoing reasons, Defendant’s enforcement of § 100.371, Fla. Stat., and Fla. Admin. Code R. 1S-2.0091 constitutes an improper and invalid exercise of the authority derived from the State.

200. Further, Defendant’s enforcement of a signature-match requirement as part of the initiative petition process constitutes an improper and invalid exercise of the authority derived from the State.

201. Absent an immediate determination by this Court, the functions of government would be adversely affected, as the legitimacy of the initiatives appearing on the ballot in 2022 would be thrown into question.

WHEREFORE, Plaintiffs respectfully request that this Court issue an emergency writ of quo warranto, finding that Defendant has improperly exercised the authority granted to her by the State and ordering Defendant to delay certification of the final signature count until (1) all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary and (2) all voters who signed a petition in favor of the Proposed Initiative are afforded notice and an opportunity to cure if their signatures were rejected solely because the signature did not match another signature stored in the voter database.

COUNT XI
EMERGENCY PETITION FOR WRIT IN MANDAMUS

202. The allegations in paragraphs 1 through 121 are incorporated herein by reference.

203. Under Florida law:

[A] petition for writ of mandamus must contain the facts on which the plaintiff relies for relief, a request for the relief sought, and, if desired, argument in support of the petition with citations of authority. If the complaint shows a prima facie case for relief, a trial court must issue an alternative writ of mandamus, and once an alternative writ has issued, the burden is on the respondent to come forth with facts upon which it refused to perform its legal duty.

Chandler v. City of Greenacres, 140 So. 3d 1080, 1083 (Fla. 4th DCA 2014).

204. For all of the foregoing reasons, Plaintiff has a clear, certain, and indisputable legal right to have Defendant withhold a ballot qualification decision until: (1) all signatures submitted prior to February 2, 2022 have been processed, and all verified signatures included in the count, and (2) all voters whose signatures have been rejected due to signature mismatch are provided notice and an opportunity to cure.

205. Plaintiff has no other adequate remedy or legal method for obtaining relief.

WHEREFORE, Plaintiff respectfully requests that this Court issue an emergency writ in mandamus and order Defendant to delay certification of the final signature count until (1) all signatures FVIC submitted prior to February 2, 2022 have been processed, verified, and submitted to the Secretary and (2) all voters who signed a petition in favor of the Proposed Initiative are afforded notice and an opportunity to cure if their signatures were rejected solely because the signature did not match another signature stored in the voter database.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Declare unlawful the statutory provisions, rules, and practices challenged in Counts I–II and Counts IV–V, above, and enjoin enforcement of those statutory provisions, rules, and practices;
- B. Issue an injunction and/or writ ordering Defendant to delay certification of the final signature count until (1) all signatures FVIC submitted prior to February 2, 2022

have been processed, verified, and submitted to the Secretary and (2) all voters who signed a petition in favor of the Proposed Initiative are afforded notice and an opportunity to cure if their signatures were rejected solely because the signature did not match another signature stored in the voter database; and

- C. grant such other relief as the Court deems just and proper, including but not limited to an award of attorney's fees and costs.

Dated: January 31, 2022

Respectfully submitted,

/s/ Jesse Panuccio
Jesse Panuccio
Fla. Bar No. 31401
Sabria McElroy (FBN 95657)
Alisha Moriceau (FBN 1011395)
Michael Mikulic (FBN 125073)
BOIES SCHILLER FLEXNER LLP
401 East Las Olas Blvd.
Suite 1200
Fort Lauderdale, FL 33301
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Email: jpanuccio@bsflp.com

Exhibit 1

From: "Matthews, Maria I."
<Maria.Matthews@DOS.MyFlorida.com>
Date: December 29, 2021 at 3:26:59 PM EST
To: SOEList <FVRSSOE@dos.myflorida.com>, SOEStaffContacts <SOEStaffContacts@dos.myflorida.com>, "Earley, Mark" <Mark.Earley@leonvotes.gov>, charles overturf <charles.overturf@putnam-fl.com>, Travis Hart <travis@lafayettevotes.com>
Cc: "Lee, Laurel M." <Laurel.Lee@dos.myflorida.com>, "Kennedy, Jennifer L." <Jennifer.Kennedy@DOS.MyFlorida.com>, "McVay, Brad R." <Brad.McVay@dos.myflorida.com>, "Marconnet, Amber" <Amber.Marconnet@DOS.MyFlorida.com>, "Davis, Ashley E." <Ashley.Davis@dos.myflorida.com>, "O'Brien, Colleen E." <Colleen.OBrien@dos.myflorida.com>, "Ard, Mark" <Mark.Ard@DOS.MyFlorida.com>, "Randolph, Lenard J." <Lenard.Randolph@DOS.MyFlorida.com>
Subject: Reminders: Initiative Petitions

Dear Supervisors of Elections and Staff:

A few key reminders as we are almost within the last 30 days before the February 1, 2022, deadline for determining whether an initiative petition has met the requisite signature threshold for ballot position on the 2022 General Election Ballot:

1. Verification of Petitions

As of December 3, 2021, you are required to promptly verify signed petitions no later than 30 days from date of receipt and upon advance payment of the fee unless the sponsoring political committee has an undue burden affidavit on file.

We are well aware that many, if not all of you, have received, and continue to receive, a voluminous amount of petitions in these final days (as has proven to be the case in past cycles as well). While the verification is more involved with registered paid petition circulators, the requirements and deadlines are firmly set in section [100.371\(11\)\(a\)](#), Fla. Stat. Petitions received prior to January 3, 2022, *must be* verified and submitted by February 1, 2022. Of course, even after January 3, 2022, your statutory duty to promptly verify and submit petitions continues. (Note that petitions signed on or after April 8, 2020, are valid only through February 1, 2022, whereas petitions signed prior to April 8, 2020, still have a 2-year expiration date). Additionally, the requirement to verify as valid or not continues even after a petition makes ballot position (subject to payment).

2. Determination of Ballot Position

Secretary Lee will determine whether any initiative has made ballot position on or immediately after February 1 based on the reported verified signatures, and we will notify you at that time.

3. Signature Verification Cost

On February 2, you will be required to provide your new verification cost for these petitions, if there is any change to be made, for the next upcoming cycle. See section [100.371\(11\)\(b\)](#), Fla. Stat. This will then need to be posted. For current county-by-county summary of verification costs, please visit: [Initiative Petition – Signature Verification Costs by County](#)

XLSX

If you have any issues or questions, please do not hesitate to contact us.

Respectfully,

Maria Matthews, Esq.
Division of Elections, Director
Florida Department of State
500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6520
Maria.matthews@dos.myflorida.com

Exhibit 2

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title: Limited Authorization of Casino Gaming.

Ballot Summary: Authorizes businesses with active cardroom licenses as of January 1, 2022 to offer casino gaming if they meet location limitations and make minimum capital investment towards new development and construction. Authorizes such businesses to relocate within the same county prior to December 31, 2025. Defines "casino gaming." Allows taxation and regulation of casino gaming consistent with the amendment.

Article and Section Being Created or Amended: Article X, Section 33 is created

Full Text of the Proposed Amendment: Article X, Section 33 is created.

- (a) DEFINITIONS. As used in this section, the following words and terms shall have the following meanings:
- (1) "Casino" means a facility at which Casino Gaming is authorized as provided in this section.
- (2) "Casino Gaming" shall include any form of gaming that is within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA"), and in 25 C.F.R. § 502.4, upon adoption of this amendment, and any forms of gaming that are added to such definition of Class III gaming in the future. This includes, but is not limited to, any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games); any player-banked game that simulates a house banking game, such as California black jack; casino games such as roulette, craps, and keno; any slot machines as defined in 15 U.S.C. § 1171(a)(1); and electronic gambling devices, simulated gambling devices, internet sweepstakes devices, and other forms of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. As used herein, "Casino Gaming" shall also include any game or series of games of poker or dominoes. "Casino Gaming" shall not include Sports Betting, lotteries within the meaning of Article X, section 7, or pari-mutuel wagering on horse racing, dog racing, jai alai exhibitions, or any activity prohibited by federal law. For purposes of this section, "gambling" and "gaming" are synonymous.
- (3) "Gaming Complex" means the structure housing the Gaming Floor, and all related retail, hotel, entertainment, convention, financial facilities (including automated teller machines and facilities utilized to extend credit to casino patrons), and restaurant facilities, provided that such facilities are located in close proximity to the Gaming Floor.

Initiative Information

Date Approved 7/15/2021

Serial Number 21-16

Sponsor Name: Florida Voters in Charge

Sponsor Address: 3948 3rd Street S, #415, Jacksonville Beach, FL 32250

CONSTITUTIONAL AMENDMENT FULL TEXT

- (4) “Gaming Floor” means the area of a Casino where Casino Gaming is conducted.
- (5) “Gaming Position” means a playing position from which an individual may participate in any form of Casino Gaming authorized by this section.
- (6) “License Holder” means a holder of an active cardroom license issued by the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, as of January 1, 2022, or any person to whom such license is subsequently transferred.
- (7) “Notice of Commencement of Casino Gaming” means a notice provided to the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, or such other entity as may be designated by statute, that a License Holder:
- i) holds an active cardroom license issued by the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, as of January 1, 2022,
 - ii) meets the requirements of subsection (c),
 - iii) commits to the requirements of subsection (d), and
 - iv) intends to commence Casino Gaming under this Section.
- (8) “Seminole Tribe Gaming Compact” means the 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed April 23, 2021, as amended May 17, 2021.
- (9) “Sports Betting” means wagering on any past or future professional sport or athletic event, competition or contest; any Olympic or international sports competition event; any collegiate sport or athletic event (but not including proposition bets on such collegiate sport or event); any motor vehicle race; or any portion of any of the foregoing, including but not limited to the individual performance statistics of an athlete or other individual participant in any event or combination of events, or any other in-play wagering with respect to any such sporting event, competition or contest, except “Sports Betting” does not include Fantasy Sports Contests (as defined in the Seminole Tribe Gaming Compact), pari-mutuel wagering, or any other type of game that is excluded from the definition of “Sports Betting” pursuant to the Seminole Tribe Gaming Compact.
- (10) “Tribal Facility” means the buildings in which any type of Casino Gaming is conducted at the following casinos pursuant to the Seminole Tribe Gaming Compact:
- (a) Seminole Indian Casino - Big Cypress, Clewiston, FL
 - (b) Seminole Indian Casino – Brighton, Okeechobee, FL
 - (c) Seminole Indian Casino – Coconut Creek, Coconut Creek, FL

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CONSTITUTIONAL AMENDMENT FULL TEXT

- (d) Seminole Indian Casino – Hollywood, Hollywood, FL
- (e) Seminole Hard Rock Hotel & Casino – Hollywood, Hollywood, FL
- (f) Seminole Indian Casino – Immokalee, Immokalee, FL
- (g) Seminole Hard Rock Hotel & Casino – Tampa, Tampa, FL
- (b) AUTHORIZATION OF CASINO GAMING. In accordance with Article X, section 30, Casino Gaming is hereby authorized to be conducted by any License Holder subject to the location and capital investment requirements of subsections (c) and (d) below, and such Casino Gaming may be commenced immediately upon submission of a Notice of Commencement of Casino Gaming.
- (c) LOCATION LIMITATIONS. A License Holder shall be authorized to conduct Casino Gaming only if the Gaming Floor of such License Holder is more than 130 miles on a straight line from all Tribal Facilities. Prior to or after the commencement of Casino Gaming, a License Holder may relocate its Gaming Floor to another location within the same county, provided that such relocation is completed prior to December 31, 2025.
- (d) MINIMUM CAPITAL INVESTMENT REQUIREMENT. Within three years of submission of a Notice of Commencement of Casino Gaming, a License Holder must expend at least \$250,000,000 in new development and construction costs related to the License Holder’s Gaming Complex. Qualifying expenditures include improvements to property, furnishings, and other equipment, but shall not include any purchase price and costs associated with the acquisition of real property on which the Gaming Complex is located. Such expenditures must, in the aggregate, be completed within three years after submission of a Notice of Commencement of Casino Gaming. Failure to make the required expenditures within three years after submission of a Notice of Commencement of Casino Gaming will result in suspension of Casino Gaming authorization until such time as the License Holder meets the expenditure requirement. The minimum capital investment requirement included herein shall be adjusted annually by the change in the Consumer Price Index compiled by the United States Department of Labor, and shall be fixed at the time a License Holder submits a Notice of Commencement of Casino Gaming pursuant to this Section. Ownership of the License or License Holder, or any portion thereof, may, at any time, be sold or transferred for any purpose, including, but not limited to, raising the funds required to comply with this subpart, to any person not prohibited from holding a pari-mutuel permit pursuant to section 550.1815, Florida Statutes (2021).

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CONSTITUTIONAL AMENDMENT FULL TEXT

- (e) CONSTRUCTION. Nothing herein shall be deemed to prohibit the conduct of a game or series of games of poker or dominoes which are played in a nonbanking manner, or any other form of Class II gaming within the definition of IGRA, if such gaming is conducted in accordance with Florida law. In addition, nothing herein shall be deemed to limit any other authorization of gambling or gaming provided by this Constitution or by law or to limit the right of state and local government to exercise their authority through general law to regulate or tax any gaming or gambling activities, including through the establishment of age restrictions, so long as such regulation is consistent with this section and does not prohibit any gaming or gambling activities authorized by this section, restrict the number of games or total Gaming Positions in a Casino, or impose zoning requirements more restrictive than those applicable to hotels or pari-mutuel facilities. Nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to IGRA for the conduct of casino gaming on tribal lands, or to affect any existing gaming on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA.
- (f) EFFECTIVE DATE. This section is effective upon approval by the voters, is self-executing, and no Legislative implementation is required.
- (g) SEVERABILITY. If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

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