IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

06-22463

CIV - HUCK

CBS BROADCASTING INC., AMERICAN BROADCASTING COMPANIES, INC., THE ASSOCIATED PRESS, CABLE NEWS NETWORK LP, LLLP, FOX NEWS NETWORK, L.L.C. and NBC UNIVERSAL, INC.,

Plaintiffs,

- v. -

SUE M. COBB, in her official capacity as Secretary of State of the State of Florida, and LESTER SOLA, in his official capacity as the Supervisor of Elections of Miami-Dade County, Florida and as proposed representative of a defendant class of all county Supervisors of Elections in the State of Florida,

Defendants.

Case No.:

MAGISTRATE JUDGE

COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs CBS Broadcasting Inc., American Broadcasting Companies, Inc., The Associated Press, Cable News Network LP, LLLP, CBS Broadcasting Inc., Fox News Network, L.L.C. and NBC Universal, Inc. ("Plaintiffs") for their Complaint state as follows:

INTRODUCTION

1. This is an action to challenge Fla. Stat. §102.031(4) (a), (b)(2005), a recently enacted statute which, *inter alia*, prohibits Plaintiffs from asking a voter a "fact" or "opinion" or from "conducting a poll" within 100 feet of Florida polling places on election

day. For reasons previously expressed by this Court and others, the law violates the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment. Plaintiffs seek a declaration that the law is unconstitutional as applied to Plaintiffs' newsgathering and exit polling activities, along with preliminary and permanent injunctive relief enjoining enforcement of the statute against those First Amendment-protected activities.

JURISDICTION AND VENUE

2. This action arises under and pursuant to the Constitution of the United States and the First and Fourteenth Amendments thereof and 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. §§ 1983 and 1988. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in this district under 28 U.S.C. §§ 1391(b) because a substantial part of the harm faced by Plaintiffs is threatened in this judicial district and Defendants reside in this judicial district.

THE PARTIES

4. Plaintiff CBS Broadcasting Inc. ("CBS") is a corporation organized and existing under the laws of the State of New York with its principal place of business at 51 West 52nd Street, New York, New York 10019. CBS is engaged, *inter alia*, in the gathering of news, the production of news programming, and the transmission of news programming to its affiliated broadcast stations in the State of Florida and throughout the country.

5. Plaintiff American Broadcasting Companies, Inc. ("ABC") is a corporation organized and existing under the laws of the State of Delaware with its principal place

of business at 77 West 66th St, New York, New York 10023. ABC News, a division of ABC, is engaged, *inter alia*, in the gathering of news, the production of news programming, and the transmission of news programming to the public through the ABC Television Network, which consists of more than 200 owned and affiliated broadcast stations throughout the country, including its affiliated stations in Florida. ABC News produces multiple radio newscasts and news reports each day, disseminated via the ABC Radio Networks and owned and affiliated radio stations across the country. ABC News also produces and operates abcnews.com, a leading internet source of news and information, and delivers video news programming through broadband and wireless transmissions.

6. Plaintiff The Associated Press ("AP") is a mutual news cooperative formed under the New York Not-For-Profit-Law with its principal place of business at 450 West 33rd St., New York, New York 10001. The AP serves thousands of daily newspaper, radio, television and online customers with coverage in all media and news in all formats.

7. Plaintiff Cable News Network LP, LLLP ("CNN") is a limited liability limited partnership registered under the laws of the State of Georgia with its principal place of business at 1 CNN Center, Atlanta, Georgia 30303. CNN, the first 24-hour new network, is engaged, *inter alia*, in the gathering of news, the production of news programming, and the transmission of news programming in Florida, throughout the country and across the world through its cable and satellite television networks, radio networks, Websites, CNN Mobile and CNN Newsource, its syndicated news service.

8. Plaintiff Fox News Network, L.L.C. ("Fox News") is a limited liability company organized and existing under the laws of the State of Delaware with its principal

place of business at 1211 Avenue of the Americas, New York, New York 10036. Fox News, a division of News Corp., is engaged, *inter alia*, in the gathering of news, the production of news programming, and the transmission of news programming in Nevada, throughout the country and across the world through its cable and satellite television networks, Fox News Radio, Websites, Fox News Mobile and Fox News Edge, its syndicated news service.

9. Plaintiff NBC Universal, Inc. ("NBC") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 30 Rockefeller Plaza, New York, New York 10112. Through the NBC Television Network, comprised of owned or affiliated broadcast stations in the State of Florida and throughout the country, NBC News, a division of NBC, provides news and information to the public through its regularly scheduled news programs and special coverage of news of particular interest. NBC News also contributes news reports to NBC's 24-hour business news channel, CNBC, and produces all programming for MSNBC, which delivers news to more than 75 million households on cable 24 hours a day and more than 20 million users a month on the internet.

10. Defendant Sue M. Cobb ("Cobb") is Secretary of State of the State of Florida and is named herein in her official capacity as Secretary of State. As Secretary of State, Cobb is the chief election officer in the State of Florida.

11. Defendant Lester Sola ("Sola") is the Supervisor of Elections for Miami-Dade County, Florida and is named herein in his official capacity as Supervisor of Elections. As Supervisor of Elections for Miami-Dade County, Sola is charged by law with the duty to designate those areas around polling places in Miami-Dade County within which,

inter alia, voters views may be sought and to ensure and maintain order at polling places throughout Miami-Dade County.

PLAINTIFFS' NEWSGATHERING ACTIVITIES

12. In order to better inform the public about voting behavior, voting trends, and voters' reactions to important issues of the day, Plaintiffs jointly conduct polls of voters leaving polling places on election days (sometimes referred to as "exit polls") at selected polling places throughout the country. Plaintiffs intend to conduct such polls, as described below, on November 7, 2006 and on election days in the future at polling places in the State of Florida.

13. As they have in past elections, Plaintiffs have retained two highly respected polling organizations, Edison Media Research and Mitofsky International, to assist them in conducting their exit polls.

14. The exit polls are conducted as follows: Typically one polling reporter is assigned to each of the polling places randomly selected for the polls. For the reasons discussed below, polling reporters stand near the exit of the building in which the polling place is located unless otherwise instructed by election officials. Polling reporters are directed to be courteous and businesslike and not to obstruct any voter or interfere with the election process in any way. The polling reporters approach voters after they leave the polling place in a scientifically pre-determined pattern (*i.e.,* every fourth voter, every fifth voter, etc.) and ask if they would be willing to fill out a brief, anonymous questionnaire. The typical questionnaire solicits voters' views on various political topics of the day and requests demographic informa-

tion from each participating voter. Each participating voter is also asked how he or she voted. Polling reporters do not engage in electioneering activities of any kind.

15. Exit polls provide accurate data about voter behavior because of the near certainty that the persons interviewed have actually voted. The greater the distance from the polling place that the polling reporter is required to stand, however, the less reliable is the information gathered. There are several reasons for this. As a polling reporter moves farther and farther away from the polling place, the likelihood of a voter getting into his or her car and driving away, or of melding into a crowd of non-voters, increases. Second, as distance increases, it becomes harder to discern those who are voters from those who are not. Third, as distance increases, the statistical reliability of the sample itself decreases because it becomes impossible to interview in the scientifically selected pattern (*e.g.*, every fourth voter, every fifth voter, etc., etc.). A distance restriction will have a different impact on exit polling at any particular precinct depending on the particular layout of the area – for example, how close the parking lot is to the polling place. Requiring polling reporters to stand at least 100 feet from the place where voters exit the polling place substantially impairs their ability to conduct their exit polling activities and, accordingly, substantially reduces the statistical reliability and accuracy of their exit polls.

USE OF EXIT POLL DATA BY PLAINTIFFS AND OTHERS

16. Each of the Plaintiffs, and other members of the public, use the information obtained from exit polls in a variety of ways. The results of these polls are used by Plaintiffs, *inter alia*, to analyze and report upon how and why people have voted and to identify and comment on social and political trends. For example, in 1980, exit polls provided the

information from which the "gender gap" was first clearly identified and from which all subsequent analyses of this phenomenon have begun. During the 1988 presidential primaries, exit polls provided information that indicated that the gender gap was a continuing phenomenon and provided invaluable insights on voters' views concerning the first Black-American presidential candidate. In the 1992 Republican primary, exit polls showed the populist issues that led to Pat Buchanan's near-success in certain primaries and the reasons for President Bush's ultimate defeat in the general election. In 1996, the exit polls revealed that the gender gap was less striking than it had been in previous elections and that, while President Clinton won re-election, voters maintained their more conservative stance on the role of government, consistent with the results of the 1994 mid-term election. In the 2000 Presidential election, exit polls demonstrated how deep the divisions ran between voters for Bush and voters for Gore, noting that of all the major social categories (such as rich/poor, single/married, gay/straight, rural/urban, high school drop out/college graduate), only age did not show a significant difference in voting behavior. The results of the exit polls conducted in 2000 also showed that the gender gap was the largest then on record. President Bush made strong gains in the Latino vote and the urban vote according to the exit polls from the 2004 election, without correspondingly large drops among any other particular social category. Views on the Iraq war were also a strong predictor of the vote in 2004. These examples illustrate the unique value of exit polls in permitting analysis of the voting patterns of various groups according to sex, age, income, race and religion. The information gathered from exit polls has also been used by Plaintiffs in their election coverage and in formulating projections of the outcome of certain election contests.

17. The data obtained through exit polls is also used by scholars in many disciplines including, *inter alia*, political science, sociology, and history to analyze and comment upon how and why people have voted and to identify and comment on social and political trends. The exit poll data collected by Plaintiffs is archived after each election at the Roper Center at the University of Connecticut and at the Inter-University Consortium at the University of Michigan. The information is available through those archives to historians, social scientists, and others worldwide.

18. The information gathered from exit polls has also been used by elected officials in their study of voting trends and issues and as an aid to understanding their own electoral mandate.

19. Exit polls are the most reliable and accurate method for gathering information from voters themselves on election day about how and why they have voted.

20. Plaintiffs have jointly conducted exit polls within 100 feet of polling places in the State of Florida as part of their coverage of past elections. As recently as the November 2004 election, Plaintiffs conducted exit polls at Florida polling places within 100 feet of polling places. These polls were conducted without incident and without any complaint by the Secretary of State or any other election official.

DEFENDANT CLASS ACTION ALLEGATIONS

21. This action is brought against defendant Sola as representative of a defendant class comprised of all county Supervisors of Elections in the State of Florida. Supervisors of Elections, including defendant Sola, are charged by law with the duty to designate

those areas around polling places, within which, *inter alia*, voters' views may be sought and to ensure and maintain order at polling places throughout their respective counties.

22. The persons comprising the class, consisting of 67 Supervisors of Elections, are so numerous that joinder of all members is impracticable.

23. The question of law common to the class is whether the prohibitions against asking a voter a "fact" or "opinion" or conducting a poll within 100 feet of polling places in Florida as set forth in Fla. Stat. § 1-2.031(4)(a), (b), as amended, is violative of the First Amendment to the United States Constitution.

24. The defenses of defendant Sola are typical of the defenses of the class.

25. Defendant Sola, as Supervisor of Elections of the most populous county in Florida, will fairly and adequately protect the interests of the class.

26. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(A) in that the prosecution of separate actions against individual members of the class would create a risk of inconsistent or varied adjudication with respect to individual members of the class which would establish incompatible standards of conduct for the Plaintiffs. In the alternative, this action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2) in that the relief Plaintiffs seek is identical as to each member of defendant class and makes final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

BACKGROUND OF FLA. STAT. § 102.031(4)(a), (b)

27. At the time of the November, 1984 general election, Fla. Stat. § 104.36 provided, *inter alia*, that no person could solicit any vote, opinion or contribution or solicit signatures on petitions within 300 feet of polling places in Florida. In the context of an action instituted by an organization desiring to solicit signatures on petitions on election day, the United States District Court for the Middle District of Florida struck down the statute as violative of the First Amendment to the United States Constitution. *Clean-Up '84* v. *Heinrich*, 582 F. Supp. 125 (M.D. Fla.); 590 F. Supp. 928 (M.D. Fla. 1984). The decision of the district court declaring the statute unconstitutional was affirmed by the United States Court of Appeals for the Eleventh Circuit in *Clean-Up '84* v. *Heinrich*, 759 F.2d 1511 (11th Cir. 1985).

28. In October 1985, Spanish International Communications Corporation (WLTV-Channel 23) instituted an action before this Court challenging the constitutionality of Fla. Stat. § 104.36 and seeking to enjoin the Supervisor of Elections from prohibiting the conduct of exit polls within 150 feet of polling places on election day. This Court granted a temporary restraining order enjoining enforcement of the provision. *Spanish International Communications Corp.* v. *Firestone*, No. 85-3453, unpublished order (S.D. Fla. November 1, 1985).

29. Following the decision in *Spanish International*, the Florida legislature enacted Chapter 85-205 of the Laws of Florida which amended Fla. Stat. § 102.031 to permit any person or group to solicit voters within 150 feet of any polling place so long as such

persons notified the Supervisor of Elections at least three days prior to election day. The law did not otherwise restrict access within 150 feet of the polling place.

30. In 1987, the Florida Legislature adopted, and Governor Bob Martinez signed into law, House Bill No. 549, which amended section 102.031 yet again. Fla. Laws Ch. 87-184. The new law eliminated the notice provision contained in Fla. Stat. §102.031 and added a blanket prohibition against the solicitation of, *inter alia*, votes, opinions or contributions or the solicitation of signatures on petitions within 150 feet of Florida polling places.

31. Fla. Stat. § 102.031 was promptly challenged in *Florida Committee For Liability Reform* v. *McMillan*, 682 F. Supp. 1536 (M.D. Fla. 1988), and held to be unconstitutionally overbroad. The United States District Court for the Middle District of Florida observed that section 102.031 prohibited "virtually every form of expression between persons who are within 150 feet of the polling place," thus rendering the law "facially invalid."

32. Four days after the decision in *Florida Committee*, this Court issued an opinion in *CBS* v. *Smith*, 681 F. Supp. 794 (S.D. Fla. 1988), which involved a challenge by the three national broadcast networks (all plaintiffs here) who wished then, as they do now, to engage in exit polling. This Court enjoined enforcement of Fla. Stat. § 102.031, concluding that the statute was unconstitutionally overbroad because, *inter alia*, it prohibited the solicitation of opinions even if the solicitation caused no disruption to the electoral process. The Court concluded its opinion by observing that enforcement of Fla. Stat. § 102.031 "would

destroy the ability effectively to conduct exit polls and reporters' interviews throughout Florida," resulting "in the loss of valuable voter information[.]"

33. Soon after this Court issued its opinion in *CBS* v. *Smith*, the Florida legislature overhauled Fla. Stat. § 102.031 to make it consistent with this Court's decisions and the decisions of other courts, including the Eleventh Circuit Court of Appeals in the *Clean-Up '84* case. The 1989 amendments to Fla. Stat. § 102.031 were comprehensive. Not only did they reduce the "restricted zone" from 150 feet to 50 feet, they also provided that the solicitation of opinions (*i.e.* exit polling) would be permitted from *any distance*, provided that such polling took place in a "separately marked area . . . so as not to disturb, hinder, impede, obstruct, or interfere with voter access to the polling place or polling room entrance" and was clearly identified as an activity in which voters may participate voluntarily.

34. Sixteen years later, the legislature amended section 102.031 again, effectively repealing the 1989 amendments which had been designed to make the statute comport with this Court's decisions and the requirements of the First Amendment. These 2005 amendments (challenged here) reinstated the prohibition on all solicitation (imposing a restricted area of 100 feet) and provided no exceptions for non-disruptive solicitation.

35. Thus, Fla. Stat. § 102.031, as amended, is essentially the same law previously invalidated by this Court and others. The similarities between the current version of the law and the previous version held to be unconstitutional are reflected in the following chart:

Fla.Stat. § 102.031 (Today)	**Fla.Stat. § 102.031 (Held Unconstitutional in 1988)**
(4)(a) No person, political committee, committee of continuous existence, or other group or organization *may solicit voters inside the polling place or within 100 feet of the entrance to any polling place, or polling room where the polling place is also a polling room, or early voting site.* Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.	(3)(a) No person, political committee, committee of continuous existence, or other group or organization *may solicit voters within 150 feet of any polling place, or polling room where the polling place is a shopping center or mall on the day of any election.*
(b) For the purpose of this subsection, the term "solicit" shall include, but not be limited to, *seeking or attempting to seek any vote, fact, opinion, or contribution*; distributing or attempting to distribute any political or campaign material, leaflet, or handout; *conducting a poll*; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.	(b) For the purpose of this subsection, the term "solicit" shall include, but not be limited to, *soliciting or attempting to solicit any vote, opinion, or contribution for any purpose*; distributing or attempting to distribute any political or campaign material; soliciting or attempting to solicit a signature on any petition; and selling or attempting to sell any item, except within an established place of business.

36. The official staff analysis reports for section 102.031, as amended, state that the goal of the statute is to "preserv[e] the integrity of the election process" and that "solicitation of voters in close proximity to polling places leads to voter intimidation and interferes with the maintenance of order at the polls."

37. There is nothing in the staff analysis reports suggesting that exit polling has ever caused voters to be intimidated, interfered with the maintenance of order at the polls or caused any other kind of harm.

AS AND FOR A FIRST CLAIM

38. Plaintiffs repeat, reallege, and incorporate, the allegations of paragraphs 1-37 hereof as though fully set forth herein.

39. To the extent that it prohibits Plaintiffs from interviewing voters, after they have voted, within 100 feet of Florida polling places, Fla. Stat. § 102.031(4)(a), (b), as amended, impermissibly restricts Plaintiffs' speech and commentary about the political process and thus violates Plaintiffs' rights under the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment.

40. To the extent that it prohibits Plaintiffs from interviewing voters, after they have voted, within 100 feet of Florida polling places, Fla. Stat. § 102.031(4)(a), (b), as amended, impermissibly restricts Plaintiffs' opportunities to gather and receive information about the political process and thus violates Plaintiffs' rights under the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment.

41. To the extent that Fla. Stat. § 102.031(4)(a), (b), as amended, prohibits the solicitation of facts and opinions within 100 feet of Florida polling places while simultaneously permitting other activities within that zone, the statute is underinclusive in violation of the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment.

42. Plaintiffs seek to conduct exit polls within 100 feet of polling places in the State of Florida on November 6, 2006 and on election days in the future. If Plaintiffs are prohibited from doing so, Plaintiffs will be significantly restricted in their efforts to gather and

report truthful and significant information about the political process to the public, thus causing Plaintiffs irreparable harm for which there is no adequate remedy at law.

WHEREFORE, plaintiffs pray:

1. That this Court declare that to the extent Fla. Stat. § 102.031(4)(a), (b), as amended, prohibits Plaintiffs from interviewing voters, after they have voted, within 100 feet of Florida polling places, the statute violates Plaintiffs' rights under the First Amendment to the United States Constitution as made applicable to the states through the Fourteenth Amendment.

2. That this Court certify a defendant class comprised of all Supervisors of Elections in the State of Florida.

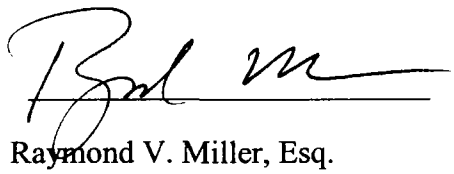
4. That this Court preliminarily enjoin Defendants and Defendant class members from enforcing the 100-foot prohibition against the solicitation of "facts" and "opinions" and the conducting of polls set forth in Fla. Stat. § 102.031(4)(a), (b), as amended, as against Plaintiffs on the day of the next general election, November 7, 2006.

5. That this Court permanently enjoin Defendants and Defendant class members from enforcing the 100-foot prohibition against the solicitation of "facts" and "opinions" and the conducting of polls set forth in Fla. Stat. § 102.031(4)(a), (b), as amended, as against Plaintiffs on election days in the future.

6. That this Court order such further or different relief as it may deem just and proper, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and the costs of this action.

DATED this _ day of September, 2006.

GUNSTER, YOAKLEY & STEWART P.A.

By: 

Raymond V. Miller, Esq.
GUNSTER, YOAKLEY & STEWART P.A.
One Biscayne Tower, Suite 3400
Two South Biscayne Blvd.
Miami, Florida 33131

Counsel for CBS Broadcasting Inc., American Broadcasting Companies, Inc., The Associated Press, Cable News Network LP, LLLP, Fox News Network, L.L.C. and NBC Universal, Inc.,

Of Counsel:

Susan Buckley
Kevin J. Burke
Brian Markley
CAHILL GORDON & REINDEL LLP
80 Pine Street
New York, New York 10005

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

06-22463

I. (a) PLAINTIFFS
CBS Broadcasting, Inc., et al

DEFENDANTS
Sue M. Cobb, Secretary of State of the State of Florida, et al.

CIV-HUCK

(b) County of Residence of First Listed Plaintiff New York
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Miami-Dade
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Raymond V. Miller, Esq.
2 S. Biscayne Blvd., Suite 3400
Miami, FL 33131 (305) 276-6000

Attorneys (If Known)

Dade 06-22463 CIV Pcl | MAG MAGISTRATE JUDGE SIMONTON

(d) Check County Where Action Arose: ☐ MIAMI- DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☑ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☑ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☑ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	☐ 610 Agriculture	☐ 422 Appeal 28 USC 158	☐ 400 State Reapportionment
☐ 120 Marine	☐ 310 Airplane	☐ 362 Personal Injury - Med. Malpractice	☐ 620 Other Food & Drug	☐ 423 Withdrawal 28 USC 157	☐ 410 Antitrust
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 365 Personal Injury - Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881		☐ 430 Banks and Banking
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability	☐ 630 Liquor Laws	PROPERTY RIGHTS	☐ 450 Commerce
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability	PERSONAL PROPERTY	☐ 640 R.R. & Truck	☐ 820 Copyrights	☐ 460 Deportation
☐ 151 Medicare Act	☐ 340 Marine	☐ 370 Other Fraud	☐ 650 Airline Regs.	☐ 830 Patent	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)	☐ 345 Marine Product Liability	☐ 371 Truth in Lending	☐ 660 Occupational Safety/Health	☐ 840 Trademark	☐ 480 Consumer Credit
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 380 Other Personal Property Damage	☐ 690 Other		☐ 490 Cable/Sat TV
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 385 Property Damage Product Liability	LABOR	SOCIAL SECURITY	☐ 810 Selective Service
☐ 190 Other Contract	☐ 360 Other Personal Injury		☐ 710 Fair Labor Standards Act	☐ 861 HIA (1395ff)	☐ 850 Securities/Commodities/ Exchange
☐ 195 Contract Product Liability			☐ 720 Labor/Mgmt. Relations	☐ 862 Black Lung (923)	☐ 875 Customer Challenge 12 USC 3410
☐ 196 Franchise			☐ 730 Labor/Mgmt.Reporting & Disclosure Act	☐ 863 DIWC/DIWW (405(g))	☐ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	☐ 740 Railway Labor Act	☐ 864 SSID Title XVI	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 441 Voting	☐ 510 Motions to Vacate Sentence	☐ 790 Other Labor Litigation	☐ 865 RSI (405(g))	☐ 892 Economic Stabilization Act
☐ 220 Foreclosure	☐ 442 Employment	Habeas Corpus:	☐ 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 230 Rent Lease & Ejectment	☐ 443 Housing/ Accommodations	☐ 530 General		☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 894 Energy Allocation Act
☐ 240 Torts to Land	☐ 444 Welfare	☐ 535 Death Penalty		☐ 871 IRS—Third Party 26 USC 7609	☐ 895 Freedom of Information Act
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	☐ 540 Mandamus & Other			☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	☐ 550 Civil Rights			☒ 950 Constitutionality of State Statutes
	☐ 440 Other Civil Rights	☐ 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed- (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page): a) Re-filed Case ☐ YES ☑ NO b) Related Cases ☐ YES ☑ NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause **(Do not cite jurisdictional statutes unless diversity)**:

28 USC 1331 - Constitutionality of Florida Statute 102.031

LENGTH OF TRIAL via 7 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: ☑ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☑ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD FBN: 818054 DATE 9/29/06

FOR OFFICE USE ONLY
AMOUNT $350.00 RECEIPT # 947664 IFP

09/29/06