

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING/O'SULLIVAN

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS; AMERICAN FEDERATION OF
STATE, COUNTY AND LOCAL EMPLOYEES,
AFL-CIO; FLORIDA PUBLIC EMPLOYEES COUNCIL
79, AFSCME, AFL-CIO; AND SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO,

Plaintiffs,

v.

KURT S. BROWNING, Secretary of State of Florida,

Defendant.

**SECRETARY OF STATE'S POST-TRIAL
MEMORANDUM AND PROPOSED FINDINGS OF FACT**

Kurt S. Browning, in his official capacity as Florida Secretary of State, respectfully submits this memorandum of legal authorities and proposed findings of fact.

Introduction

Plaintiffs ask the Court to declare unconstitutional Florida's twenty-nine day book-closing deadline as it applies to voter registration applicants who submit incomplete applications before the deadline. More specifically, Plaintiffs contend that the United States Constitution requires elections officials to allow applicants who submit applications before the registration deadline, but who do not complete their applications, to make changes to their submissions after the deadline and vote at the immediately ensuing election. Plaintiffs thus ask the Court to create

an unmoored exception¹ to Florida's registration deadline.

The evidence establishes that the registration deadline promotes a legitimate state objective: the orderly, accurate, and reliable administration of elections. It demonstrates that, in the hectic and tumultuous weeks before an election, the registration deadline enables election officials to give due attention to the countless number of essential tasks—great and small—imposed on them by federal and state law, by candidates and voters, by unforeseeable contingencies, and by the pressing necessities of election administration. For this very reason, the United States Supreme Court has, time and time again, upheld the constitutionality of registration deadlines—and it has done so without exception. This Court should do the same.

Legal Standard

“Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). “[A]s a practical matter, there must be substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). “To achieve these objectives, States have enacted comprehensive and sometimes complex election codes.” *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). As a result, “[e]lection laws will invariably impose some burden upon individual voters.” *Burdick*, 504 U.S. at 434. Each provision, “whether it governs the registration and qualification of voters, the selection and eligibility of candidates, or the voting

¹ The demanded exception favors one classification of applicants over others for no discernible reason. For example, an applicant who submits a properly completed application one day *after* registration closes might impose a lesser burden on election officials—and, consequently, a lesser risk of detriment to the orderly and accurate administration of elections—than an applicant who submits an incomplete application *before* registration books close and then submits a correction the day before an election. Such a rudderless classification invites further litigation that would terminate in the complete evisceration of the registration deadline, a goal advocated by at least one of Plaintiffs’ witnesses.

process itself, inevitably affects—at least to some degree—the individual’s right to vote.”

Anderson, 460 U.S. at 788.

“Consequently, to subject every voting regulation to strict scrutiny and to require that the regulation be narrowly tailored to advance a compelling state interest . . . would tie the hands of States seeking to assure that elections are operated equitably and efficiently.” *Burdick*, 504 U.S. at 434. Rather, a court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments . . . against the precise interests put forward by the State as justifications for the burden imposed by its rule.” *Id.* (internal marks omitted). Under this test, “severe” burdens on constitutional rights must be “narrowly drawn to advance a state interest of compelling importance.” *Id.* (quoting *Norman v. Reed*, 502 U.S. 279, 289 (1992)). “But when a state election law provision imposes only ‘reasonable, nondiscriminatory^[2] restrictions’ upon the First

² A regulation is nondiscriminatory if it is facially neutral. Thus, in *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 367 (1997), the Supreme Court examined a state law that prohibited a candidate from appearing on the ballot as the nominee of more than one party. The Court, noting that the prohibition applied to “major and minor parties alike,” concluded that it was reasonable and nondiscriminatory. *Id.* at 360. It did so despite the tendency of candidates, when forced to choose, to prefer the nomination of a major party, and the consequent disparate impact on minor parties. *See id.* at 367 (“[T]he States’ interest permits them to enact reasonable election regulations that may, in practice, favor the traditional two-party system.”). By contrast, in *Patriot Party of Allegheny County v. Allegheny County Department of Elections*, 95 F.3d 253 (3d Cir. 1996), the Court invalidated a state law which, on its face, prohibited minor parties from nominating candidates nominated by major parties, but not *vice versa*. Unlike the statute in *Timmons*, that in *Patriot Party* was facially discriminatory. *See id.* at 262 (citing the Circuit Court decision in *Timmons* and explaining that, while in *Timmons* “minor parties suffered only from the disparate impact of [an] across-the-board ban,” the laws at issue in *Patriot Party* “discriminate on their face.”).

In *Reform Party v. Allegheny County Department of Elections*, 174 F.3d 305 (3d Cir. 1999) (en banc), the Court reaffirmed its decision in *Patriot Party* in light of the Supreme Court’s decision in *Timmons*. *Timmons*, the Court acknowledged, recognized that a state law is not discriminatory merely because exerts a disparate impact “in practice.” The statute at issue in *Patriot Party*, however, was discriminatory “on its face.” *Id.* at 313 n.8. More recently, in *Gonzalez v. Arizona*, 485 F.3d 1041, 1409 (9th Cir. 2007), the Court sustained a state law that

and Fourteenth Amendment rights of voters, ‘the State’s important regulatory interests are generally sufficient to justify’ the restrictions.” *Id.* (quoting *Anderson*, 460 U.S. at 788). Thus, “[t]he approach used by the *Anderson* Court can be described as a balancing test that ranges from strict scrutiny to a rational-basis analysis, depending on the circumstances.” *Fulani v. Krivanek*, 973 F.2d 1539, 1543 (11th Cir. 1992).

The Supreme Court has never subjected registration deadlines to strict scrutiny. Instead, it has consistently treated them as reasonable, nondiscriminatory restrictions subject to a relaxed standard of review. In analyzing the constitutionality of a registration deadline, the Court explained that the proper inquiry is whether the challenged law imposes “arbitrary time limit unconnected to any important state goal.” *Rosario v. Rockefeller*, 410 U.S. 752, 760 (1973). Indeed, “registration requirements . . . are ‘classic’ examples of permissible regulation.” *Buckley v. American Constitutional Law Found., Inc.*, 525 U.S. 182, 196 n.17 (1999).

In *Dunn v. Blumstein*, 405 U.S. 330 (1972), the Supreme Court struck down Tennessee’s durational residency requirement, but it wrote favorably about registration deadlines. “The State closes the registration books 30 days before an election to give officials an opportunity to prepare for the election.” *Id.* at 347. The Court did not establish a particular timeframe that would pass constitutional muster, but it approved Tennessee’s thirty-day period. “[Thirty] days appears to be an ample period of time for the State to complete whatever administrative tasks are necessary to prevent fraud—and a year, or three months, too much.” *Id.* at 348.

Shortly after deciding *Dunn*, the Supreme Court addressed specific challenges to registration deadlines. In *Marston v. Lewis*, 410 U.S. 679 (1973), the Court sustained Arizona’s

required all voter registration applicants to provide proof of citizenship, concluding that the challenged regulation was nondiscriminatory because it “applies to all Arizonans.” And in *Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1375-76 (S.D. Fla. 2004), this Court refused to apply strict scrutiny to an absentee ballot deadline that was not “discriminatory on its face.”

fifty-day registration deadline. Recognizing that “a person does not have a federal constitutional right to walk up to a voting place on election day and demand a ballot,” the Court explained that states “have valid and sufficient interests in providing for *some* period of time—prior to an election—in order to prepare adequate voter records and protect its electoral processes from possible fraud.” *Id.* (emphasis in original). The Court accepted the legislative judgment “that the period is necessary to achieve the State’s legitimate goals.” *Id.*

The Court next decided *Burns v. Fortson*, 410 U.S. 686 (1973), upholding Georgia’s fifty-day registration deadline. Relying on *Dunn* and *Marston*, the Court concluded that “the 50-day period is necessary to promote . . . the orderly, accurate, and efficient administration of state and local elections, free from fraud.”³ *Id.* at 686-87 (quoting district court; ellipsis in original); *see also Beare v. Briscoe*, 498 F.2d 244, 247 (5th Cir. 1974) (acknowledging “the state’s right to impose some reasonable cutoff point for registration.”). It is clear from these cases that registration deadlines like Florida’s are constitutionally permissible.

Circuit Courts have piled on as well. In *Barilla v. Ervin*, 886 F.2d 1514 (9th Cir. 1989), *overruled on other grounds*, *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170 (9th Cir. 1996), the Court upheld Oregon’s 20-day deadline. It did so despite the fact that the 20-day deadline was enacted by voter initiative over the Legislature’s preferred one-day period, and despite experimental proof that a shorter period was feasible. And, in *Key v. Board of Voter Registration of Charleston County*, 622 F.2d 88 (4th Cir. 1980), the Court concluded that a 30-

³ In the context of primary elections, the Supreme Court has upheld a voter registration cutoff of eleven months. *Rosario v. Rockefeller*, 410 U.S. 752, 762 (1973). There, applicants had to register with a political party three months before a general election to be eligible to vote in the next primary election. *Id.* at 760. The Court noted that “the State is certainly justified in imposing some reasonable cutoff point for registration or party enrollment, which citizens must meet in order to participate in the next election.” *Id.* It then concluded that even the “lengthy” period between the enrollment deadline and the next primary election was connected to an important state goal. *Id.*

day book-closing period which prohibited even duly registered voters from making any corrections to their addresses after the book-closing deadline—thus precluding them from voting—was constitutional. “The statutory requirement that, as a qualification of voting in any election, one must be duly registered on the books of registration . . . at least thirty days before that election has been held perfectly valid and constitutional.” *Id.* at 90.⁴

In upholding book-closing deadlines, courts have recognized the difference between regulations that categorically deny the right to vote and those which merely require an applicant to take some action to satisfy reasonable registration requirements. In *Rosario*, the Court sustained a registration deadline and explained that, if an applicant’s “plight can be characterized as disenfranchisement at all, it was not caused by [the challenged law], but by their own failure to take timely steps to effect their enrollment.” 410 U.S. at 758. Likewise, in *Barilla*, the Ninth Circuit noted that applicants who failed to comply with the registration deadline “were all disenfranchised by their willful or negligent failure to register on time.” 886 F.2d at 1524. Because the applicants had ample opportunity to register, the burden imposed was not severe and strict scrutiny was not warranted:

Like Plaintiffs in *Rosario*, the three appellants in this case were not “absolutely disenfranchise[d]” by the challenged provision. They could have registered in time for the March 31, 1987 election, but they failed to do so. What is at issue

⁴ Congressional enactments are also in accord with Florida’s registration requirement. In 1970, Congress amended the Voting Rights Act of 1965 to provide that, with respect to presidential elections, state-law registration deadlines may not exceed thirty days. *See* 42 U.S.C. § 1973aa-1(d). More recently, in adopting the National Voter Registration Act of 1993, Congress provided that applicants who submit a “valid voter registration form” no later than the thirtieth day before any federal election must be permitted to vote. *See* 42 U.S.C. § 1973gg-6(a)(1)(A)-(D). Congress did not create a “grace period.” Indeed, it recognized the right of states to demand a “valid” form prior to the registration deadline. *See Association of Community Organizations for Reform Now v. Miller*, 912 F. Supp. 976, 987 (W.D. Mich. 1995) (noting that Congress left to states “the task of determining . . . that *the registration form as submitted complies with state law.*”) (emphasis added). Congress did not create a “grace period” then, and it did not create a “grace period” with the enactment of the Help America Vote Act in 2002.

here is not a “ban” on Plaintiffs’ right to vote, but rather, a “time limitation” on when Plaintiffs had to act in order to be able to vote. Accordingly, the burden imposed on these plaintiffs’ right to vote is not “substantial” enough to require strict scrutiny.

Id. at 1524-25 (citations omitted). The Court accordingly found that “rational basis” applied and concluded that Oregon’s book-closing deadline “easily” satisfied this standard. *Id.* at 1525.

Courts have, in similar contexts, analyzed and upheld election deadlines under a relaxed standard of review. In *Burdick*, a voter challenged the constitutionality of a state law that prohibited write-in votes. 504 U.S. at 430. The Court upheld the law, noting that the burden on the right to vote was “very limited” because the state afforded ample opportunities to candidates, prior to a deadline two months before the primary election, to obtain ballot placement. *Id.* at 436-37. The challenged law, the Court explained, simply required voters “to act in a timely fashion if they wish to express their views in the voting booth.” *Id.* at 437. Similarly, in *Friedman v. Snipes*, 345 F. Supp. 2d 1356 (S.D. Fla. 2004), this Court sustained the constitutionality of Florida’s election-day deadline for the return of absentee ballots. Noting that the law “only relates to the mechanics of the electoral process,” the Court concluded that “a lesser standard of review” applied. *Id.* at 1375-76. Far from denying the right to vote, the deadline was a “light imposition” on constitutional rights that required nothing more than timely action by voters in furtherance of the public interest in a “fair and honest election.” *Id.* at 1377.

Plaintiffs in this case nevertheless insist that, to the extent exceptions to the book-closing deadline are “feasible” or “doable,” they are also constitutionally mandated.⁵ The Constitution

⁵ The folly of this approach is illustrated by its consequences. The feasibility of any proposed registration deadline will vary from election to election. A presidential or gubernatorial election, for example, places immeasurably greater strain on election officials than a municipal election or local referendum. It would be impracticable, however, to tailor registration deadlines to the exact limits of feasibility under the infinite and ever-changing variety of possible circumstances.

does not require states to prove that every component of every election regulation is indispensably necessary to avoid either an election catastrophe or an absolute impossibility of performance.⁶ It might be feasible to permit voter registration or even voting on the Internet, to process requests for absentee ballots after any deadline, or to leave polls open until 10 p.m. rather than 7 p.m. Each of these changes might allow someone to vote who otherwise would not. But, as the Supreme Court has explained, “to deem ordinary and widespread burdens like these severe would subject virtually every electoral regulation to strict scrutiny, hamper the ability of States to run efficient and equitable elections, and compel federal courts to rewrite state electoral codes. The Constitution does not require that result” *Clingman v. Beaver*, 544 U.S. 581, 593 (2005) (internal quotations and citations omitted). The question is not whether Plaintiffs’ particular proposal is feasible, but whether an important regulatory interest supports the challenged law.

Analysis

Like nearly all states, Florida has a voter registration deadline. Florida’s requirement that registrations be complete twenty-nine days before an election is a reasonable, nondiscriminatory restriction that does not impose severe burdens on the right to vote. In addition, by enabling election officials to focus their efforts to critical election tasks in the weeks immediately preceding an election, the Florida’s book-closing deadline directly advances the important interest which the state and the public share in orderly and accurate elections.

I. THE CHALLENGED STATUTE IS A REASONABLE, NONDISCRIMINATORY REGULATION THAT DOES NOT IMPOSE SEVERE BURDENS.

Before 1994, Florida law provided for a “permanent single registration system” which

⁶ In fact, it is well established that, in the election context, there is no need for an “elaborate, empirical verification of the weightiness of the State’s asserted justifications.” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 364 (1997).

required all voter registration applicants to appear personally before a Supervisor of Elections, a deputy Supervisor of Elections, or a volunteer deputy voter registrar. *See* §§ 98.111 and 98.271, Fla. Stat. (1993). The Florida Voter Registration Act, adopted in 1994 to implement the federal National Voter Registration Act of 1993, greatly liberalized the voter registration process by increasing access to voter registration.⁷ Today, Florida provides ample opportunities for all of its citizens to submit completed voter registration applications in a timely fashion.

Florida law requires Supervisors of Elections to distribute applications “in their offices to any individual or group” and at other designated locations. § 97.052(1)(b)7.a.-b., Fla. Stat. (2007). It requires Supervisors to mail applications directly to any person who requests one. *Id.* § 97.052(1)(b)7.c. It requires offices that provide public assistance or serve persons with disabilities, centers for independent living, and public libraries to make voter registration application forms available. *Id.* § 97.021(40), 97.058(1), (6). It requires the Department of Highway Safety and Motor Vehicles, as a matter of routine, to provide voter registration opportunities in connection with every driver’s license transaction. *Id.* § 97.057(1). Upon request, the Florida Department of State must provide applications to armed forces recruitment offices, and all colleges and universities that receive state financial assistance are required to provide each enrolled student with an opportunity to register to vote. *Id.* §§ 97.021(31), 97.052(1)(b)4.-5, 97.0583. Florida law even allows “any private individual or group” to reproduce the application form, provided that the reproduction is in the approved format. *Id.* § 97.052(1)(c).

No longer must applications be procured by public officials or their trained and deputized

⁷ Florida law also facilitates voter registration by providing a single, uniform application form, *see* § 97.052(1), Fla. Stat. (2007), a departure from past practice which involved as many different application forms as counties, (2/8:11-12).

agents. (Tr. 2/8:10-11).⁸ Voter registration applications are now widely available in public and private locations, including banks, real estate offices, and post offices, and even on the Internet, and election officials send thousands of application forms at a time to third-party groups upon request. (Tr. 2/8:11). In Leon County, voter registration applications are available at over one hundred locations, including all public and private schools, grocery stores, and even a clothing store. (Tr. 2/5:170). The Supervisor of Elections employs an outreach coordinator to assist private groups that conduct voter registration drives. (Tr. 2/5:141). Fifty to sixty voter registration drives take place each year in Leon County, about twelve of which are staffed by the Supervisor of Elections' office. (Tr. 2/5:141). In Manatee County, application forms are available in banks, real estate offices, and in county offices, and the Supervisor of Elections works together with the political parties and interest groups, such as the League of Women Voters, to provide support to voter registration drives. (Tr. 2/6:71). Though the law does not require these groups to accept training, each of these Supervisors offers training to assure the submission of completed forms.

Not only are application forms readily accessible through numerous channels at any time of year, they may be delivered, by mail or in person, to countless locations across the state, such as the Supervisors' offices, the Division of Elections, social service offices, public libraries, and armed forces recruitment offices. § 97.053(1), Fla. Stat. (2007). Election officials continually process applications, entering them into the statewide voter registration database within thirteen days after receipt, *see id.* § 97.053(7), and sending notices to applicants who submit incomplete applications within five business days, *see id.* § 97.052(6). The year-round nature of voter registration, the liberal availability of voter registration applications, the assistance that election

⁸ Citations to the transcript refer to the reporter's real-time rough draft and designate the date (*e.g.*, "2/5" for February 5) and page number.

officials offer to applicants and third-party groups, the numerous means of submitting completed applications, and the requirement of prompt notice to applicants who submit incomplete applications dispel any suggestion that the registration deadline practically burdens the ability of Floridians to register to vote. Florida law provides every opportunity for applicants to effect their registrations long before books close twenty-nine days before an election.

II. THE BOOK-CLOSING DEADLINE PROMOTES AN IMPORTANT REGULATORY INTEREST.

The public interest in the maintenance of order in the election process is not only important, it is compelling. *Green v. Mortham*, 155 F.3d 1332, 1334 (11th Cir. 1998). The registration deadline, without an arbitrary exception for individuals who submitted incomplete applications, directly promotes this interest. In the weeks and even months before an election, the registration deadline provides a certainty and reliability that enable election officials to direct their efforts to the essential tasks of election preparation and thus minimizes the degree of disorder and the risk of error and even chaos.

The undisputed evidence shows that, between the registration deadline and election day, local election officials operate under immense pressure to complete the multitude of critical tasks imposed on them by law and by practice. First, immediately before the close of books, the number of applications submitted to election officials experiences a dramatic increase. (Tr. 2/6:74, 105). Third-party groups that conduct voter registration drives hoard voter registration applications that were completed weeks or months in advance and submit them at once to local election officials at the last possible moment. (Tr. 2/6:38, 87; Snipes Depo., 32; Tanko Depo., 48).⁹ Supervisor Sweat testified that, in Manatee County, third-party groups “keep the

⁹ References to depositions are those for which excerpts were entered into evidence as Defendant’s Exhibit 12.

applications in their car for three, four, five weeks” and “flood us at the last minute.” (Tr. 2/6:87). In 2004, one third-party group delivered 27,000 applications in a bundle to the Supervisor’s office in Hillsborough County on the last day of registration in 2004 (Tr. 2/6:65-66), and, on the same day, no fewer than 20,000 applications were delivered to the Supervisor’s office in Broward County (Tr. 2/6:149, 150; Snipes Depo., 35). In Miami-Dade County, ten thousand voter registration applications—many of them dated months earlier—were submitted immediately before the 2004 registration deadline. (Tr. 2/6:25-27). Even the Division of Elections in Tallahassee received thousands of applications daily before the 2004 general election and the 2008 presidential preference primary. (Tr. 2/8:19, 40).

Florida law requires election officials to enter the information on each application into the statewide voter registration database within thirteen days after receipt, *see* § 97.053(7), Fla. Stat. (2007), and inundations of last-minute applications have required election officials to use the entire period (Tr. 2/6:152). Based on an estimated processing time of ten minutes per application (Tr. 2/5:101-02), processing 27,000 applications would require 4,500 hours—the equivalent of 187.5 days if one person worked consecutive, twenty-four-hour days without intermission. And, for a period of five days *after* the book-closing deadline, election officials continue to receive applications that are treated as timely, so long as they are postmarked by the registration deadline, § 97.053(4), Fla. Stat. (2007), or were timely received by voter registration agencies, *id.* § 97.058(6). Meanwhile, officials must send notices, within five days after the entry of data into the statewide database, to all applicants who submitted incomplete applications. *Id.* § 97.052(6). In the weeks before an election, applications received after the registration deadline are frequently set aside for want of time. (Tr. 2/6:27, 75, 154; Snipes Depo., 134; Bedini Depo., 79-81).

Besides processing thousands of voter registration applications, election officials must:

- Process Absentee Ballot Requests. Supervisors of Elections process thousands of requests for absentee ballots. (Tr. 2/6:152). In 2001, the Florida Legislature made absentee voting available to all voters by eliminating the requirement that voters seeking to cast an absentee ballot affirm their inability to vote at the polls on election day, *see* Ch. 2001-40, § 53, Laws of Fla., and, in 2004, Florida abolished the requirement that an absentee voter's signature be witnessed, *see* Ch. 2004-232, Laws of Fla. Today, any person may request an absentee ballot without a reason, even by telephone. *See* § 101.62(1)(b), Fla. Stat. (2007). In connection with the 2008 presidential preference primary, local election officials processed over 600,000 requests for absentee ballots (Tr. 2/8:39), including about 130,000 in Miami-Dade County alone (Tr. 2/6:118-19). Each request requires election officials to determine the voter's proper ballot style—*i.e.*, the correct selection, based on the voter's residence, of federal, state, and local races and ballot measures (Tr. 2/6:119-20)—to mail the ballot to the voter, and, if returned, to collect the ballot and review the validity of the voter's signature before submitting the ballots to the county canvassing board, *see* § 101.68(1), (2), Fla. Stat. (2007).

- Design, Print, and Deliver Ballots and Sample Ballots. The preparation of ballots is a complex task. A primary election in Okaloosa County, for example, requires more than 300 different ballot styles. (Tr. 2/8:65). The 2008 presidential preference primary required 156 different ballot styles in Okaloosa County because municipalities consolidated their elections to fall on the same day. (Tr. 2/8:65-66). Besides designing the ballots, Supervisors of Elections must ensure that ballots are printed in sufficient numbers. (Tr. 2/6:118). Ballots used in Okaloosa County are printed in Rock Island, Illinois. (Tr. 2/8:64). The proper number of ballots of each ballot style must then be delivered to each precinct to ensure the availability of ballots on

election day. (Tr. 2/6:118). The allocation of ballots to polling places depends in part on the number of voters known to be registered at each precinct. (Tr. 2/5:199; 2/6:116). In Miami-Dade County, which contains over one million registered voters (Tr. 2/6:106), Supervisor Sola expects to order about four million sheets of paper to ensure a sufficient number of ballots at all locations at the fall 2008 primary election (Tr. 2/6:111). The Supervisors must also supply each polling location with sample ballots and must either publish sample ballots in a newspaper or mail them to individual households no later than seven days prior to an election. *See* § 101.20, Fla. Stat. (2007).

- Conduct Early Voting. In 2004, as a convenience to voters, the Florida Legislature formally instituted early voting. *See* Ch. 2004-252, § 13, Laws of Fla. Early voting allows any registered voter, beginning on the fifteenth day before an election, to cast a ballot at the main or a branch office of the Supervisors of Elections, or at any other early voting site designated by the Supervisor. *See* § 101.657(1), Fla. Stat. (2007). At the 2008 presidential preference primary, Miami-Dade County's twenty early voting sites welcomed 67,000 voters (Tr. 2/6:111-12), and 643,000 voters statewide availed themselves of the opportunity to cast an early ballot (Tr. 2/8:39). Designating early voting locations, equipping them, stocking them with ballots, and obtaining and training adequate personnel is therefore a relatively new and weighty responsibility imposed on local election officials during the busiest seasons. (Tr. 2/6:34, 108, 181; 2/8:100). Supervisor Sola testified that his office relies on the registration deadline to serve as a milestone with respect to early voting, since it enables election officials to know the volume of applications that must be processed in the brief period between the close of books and the commencement of early voting. (Tr. 2/7:115-16).

- Select Polling Locations. Supervisors of Elections must also select polling

locations. Each polling place must provide air-conditioning to preserve ballots and equipment from excessive humidity. (Tr. 2/8:69). Each must be compliant with the Americans with Disabilities Act to ensure access for disabled voters. (Tr. 2/8:69). Each must provide sufficient parking for voters (Tr. 2/8:69) and facilities for the accommodation of poll workers, such as restrooms and places to store food and medicine (Tr. 2/8:70). At polling places located on school premises, poll workers must undergo background checks, unless exempted by school officials (Tr. 2/8:71), and election officials provide for security personnel such as off-duty sheriffs (Tr. 2/8:70). Miami-Dade County alone uses about 550 polling places. (Tr. 2/6:29).

- Hire and Train Temporary Workers and Poll Workers. In the weeks before an election, the volume of work requires Supervisors of Elections to hire and train temporary workers. (Tr. 2/6:151). Supervisor Sweat testified that he has found it “extremely difficult” to train temporary workers and has elected to pay his regular employees at overtime rates instead. (Tr. 2/6:73). Election officials must also locate and train thousands of Floridians able and willing to assist at polling places on election day, an increasingly difficult task in some counties. (Tr. 2/8:27, 68). The immensity of the task of training poll workers is illustrated by the sheer number of such workers—between 8,000 and 10,000 in each of Broward and Miami-Dade Counties and 6,000 in Palm Beach County. (Tr. 2/6:103, 127; 3:70). In Manatee County, poll-worker training lasts four and a half weeks. (Tr. 2/6:79). In Okaloosa County, the Supervisor’s office trains poll workers and professional trainers throughout the book-closing period. (Tr. 2/8:100-01). Election officials must also make arrangements when poll workers “drop out.” In Okaloosa County, sixty poll workers dropped out in the final week before the 2008 presidential preference primary. (Tr. 2/8:71). The assignment of poll workers to polling locations turns in part on the number of voters known to be registered in particular precincts. (Tr. 2/6:119).

- Allocate and Test Voting Equipment. Not more than ten days before the commencement of early voting, the Supervisors must perform publicly advertised logic and accuracy tests to determine whether the hardware and software used in the tabulation of votes are functioning properly. *See* § 101.5612, Fla. Stat. (2007). Ballots are premarked according to a mathematical formula and entered into the voting system, and the tabulation is examined for errors. (Tr. 2/8:75-76). Book-closing data, a compilation of data produced by the Division of Elections on the basis of pre-election registration information, are entered into the machines to enable them accurately to perform on election day. (Tr. 2/8:75-77). The machines are then sealed and secured until they are allocated and delivered to individual polling places (Tr. 2/6:116; 2/8:78). At the 2008 presidential preference primary, Miami-Dade County deployed about 5,000 voting machines. (Tr. 2/6:110).

- Print, Supplement, and Distribute Precinct Registers. During the book-closing period, Supervisors of Elections print lists of registered voters, known as precinct registers, for placement at each polling place to enable poll workers to identify voters who present themselves on election day. (Tr. 2/5:158-59). Precinct registers are printed in Leon County two to three days before an election (Tr. 2/5:157), in Broward County ten days before an election (Tr. 2/6:157), and in Miami-Dade County one and a half to two weeks before an election (Tr. 2/6:15). Precinct registers are updated by marking voters who have already cast a ballot either by absentee or early voting (Tr. 2/6:13, 30, 157, 161), and are distributed to the appropriate polling location. The Deputy Supervisor of Elections for Miami-Dade County testified that, about one week before election day, precinct registers are packaged in cases for delivery. (Tr. 2/6:13).

- Update Information for Duly Registered Voters. After the registration deadline, election officials must continue to process updates to the names, addresses, and signatures of

duly registered voters. *See* § 97.055(1), Fla. Stat. (2007). Such changes can be submitted on a voter registration form at any voter registration agency (Tr. 2/5:119) or even by letter (Tr. 2/6:147-48), and they are effective immediately, enabling a voter who submits a change of address after the registration deadline to cast a ballot in the voter's new precinct (Tr. 2/5:155).

- Verify Petitions to Amend the Florida Constitution. During the book-closing period of presidential preference primaries, Supervisors of Elections are also engaged in verifying tens and perhaps hundreds of thousands of petition signatures in connection with proposed constitutional amendments. The deadline for the submission of petition signatures in support of proposed constitutional amendments is February 1 of the year in which the election is held, *see* Art. XI, § 5(b), Fla. Const., and the Supervisors of Elections must verify the signatures within 30 days after receipt, *see* Rule 1S-2.0091(2)(a), Fla. Admin. Code. Like third-party groups that collect voter registration applications, the proponents of petition initiatives hoard petitions and submit them in the period immediately preceding the deadline. While election officials in Miami-Dade County were preparing for the 2008 presidential preference primary, they were simultaneously inundated with about 100,000 petitions requiring verification. (Tr. 2/6:34). The Deputy Supervisor of Elections for Miami-Dade County was “begging people to help,” and those who did worked “overtime every night and Saturdays and Sundays” to perform these mandatory tasks. (Tr. 2/6:36). Indeed, Supervisors across Florida were “frantically checking petitions during the month of January.” (Tr. 2/8:27-28).

- Answer Inquiries by the Public and Candidates. While performing these tasks, election officials must also remain responsive to the public. Phone calls to election offices by individual voters regarding polling locations, voter identification cards, candidates, constitutional amendments, and countless other issues increase daily as election day approaches. (Tr. 2/6:152;

2/8:86, 100). Walk-in traffic also increases “dramatically.” (Tr. 2/8:86, 99). In addition to inquiries by members of the general public, phone calls and visits by candidates with election-related questions become so frequent that Supervisor Hollarn characterized the relationship between her office and candidates as “baby sitting.” (Tr. 2/8:100).

Not only must election officials perform these duties in the whirlwind atmosphere that precedes an election, they are frequently called upon to perform unforeseeable tasks. In 2007, for example, the Florida Legislature prohibited the use of touchscreen voting technology and appropriated more than \$27 million to the purchase of new voting systems by the fifteen affected counties. *See* Ch. 2007-30, §§ 6, 11, Laws of Fla. The new systems must be in place by the fall 2008 primary, and at this time not all counties have even purchased the requisite equipment. (Tr. 2/8:33).

As the Deputy Supervisor of Elections for Miami-Dade County testified, the intersection of these tasks during the book-closing period results in “pandemonium.” (Tr. 2/6:34). Supervisor Sola testified that, in Miami-Dade County, the atmosphere in election offices during this period is “intense” and “stressful,” and employees work long hours and weekends in preparation for an inflexibly scheduled election (Tr. 2/6:108). Data entry staff are “in a mad frenzy” to enter information from voter registration applications into the statewide database prior to the commencement of early voting. (Tr. 2/6:105). In Manatee County, the situation is “hectic.” (Tr. 2/6:77). Supervisor Sweat, who testified that he does not have adequate staff to “handle [the] voter registration workload,” worries that an exception to the registration deadline, if it results in even 200 or 300 corrected applications, would “pose a real problem.” (Tr. 2/6:72, 77). Supervisor Sola testified that such an exception might interfere with the orderly administration of elections, since his office is required to balance priorities and additional responsibilities could be

performed only “at a cost.” (Tr. 2/6:98-99, 104). His deputy testified that an exception to the registration deadline would increase the probability of mistakes. (Tr. 2/6:39). Supervisor Anderson echoed this view, testifying that he would be “very apprehensive” and “concerned” if an exception allowed corrections to applications through the book-closing period in Palm Beach County. (Tr. 2/7:84). He explained that, if corrections numbered in “the thousands,” his office’s ability to perform this function would be “questionable” (Tr. 2/7:84), and the volume of corrections might unduly burden his office and interfere with other election-related activities. (Tr. 2/7:84-86). And the volume of corrections would most certainly be considerable. Deborah Dion, the political director of the South Florida AFL-CIO, testified that her organization would use Florida’s recently amended public records laws to acquire lists of applicants who submitted incomplete applications in order to orchestrate corrections after the registration deadline. (Tr. 2/7:35). Moreover, because applicants often submit corrections on original application forms, an exception for corrections would require election officials before election day to review *all* applications submitted after the close of books, rendering the registration deadline meaningless. (2/5:253; 2/6:131-32, 147).

Furthermore, the ability of Supervisors of Elections to fulfill their duties capably and competently depends in great measure on the resources available to them. Each Supervisor’s office is funded according to the discretion of the local board of county commissioners. (Tr. 2/8:30-31). There is no statewide formula to determine the budgets of the respective Supervisors of Elections. (*Id.*) Because their offices are funded by counties, Supervisors of Elections are reliant primarily on property tax revenues. (Tr. 2/5:188). Supervisors in small counties, many of which have disproportionately low property values, are routinely underfunded. (Tr. 2/8:31). The Supervisor of Elections for Lafayette County, for example, has no full-time staff. (Tr. 2/8:30).

And, with the adoption of constitutional property tax measures, the resources available to Supervisors of Elections have been reduced. Supervisor Sancho has been directed by the Leon County Commission to reduce his expenditures by eight percent. (Tr. 2/5:189). Budget constraints increase the likelihood that additional responsibilities will result in confusion and error, underscoring the important regulatory interest that supports the registration deadline.

The evidence presented at trial clearly establishes that the challenged law advances an important state interest. The book-closing period is hectic and chaotic. Critical responsibilities converge at once and visit enormous pressure and stress on all the employees of Florida's Supervisor of Elections. The requirement that voter registration applicants submit complete and correct applications before registration books close on the twenty-ninth day before an election affords certainty and predictability and allows election officials to direct their exclusive and tireless attention to election management and preparation. In doing so, it decreases the confusion and distraction that to some degree already abound of necessity and thereby reduces the risk of error and disorder in Florida's election process.

IV. PLAINTIFFS LACK STANDING.

A. Plaintiffs Do Not Have Standing on Behalf of Their Members.

An organization has standing to assert the injuries of its members only if its members would otherwise have standing to sue on their own behalves, the interests at issue are germane to the organization's purpose, and the participation of the members is unnecessary. *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs.*, 528 U.S. 167, 181 (2000); *Ouachita Watch League v. Jacobs*, 463 F.3d 1163, 1170 (11th Cir. 2006). Under this test, members would "otherwise have standing to sue in their own right," only if (1) they have suffered an injury in fact that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical;

(2) the injury is fairly traceable to the defendant's challenged action; and (3) it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992) (quotations and citations omitted).

Plaintiffs lack standing under this test. Plaintiffs have identified no members who will be harmed by the challenged law at any future election. Rather, they simply cite past harm and assume that there will be harm in the future, and that it will be suffered by their members. Past injuries, however, are an insufficient predicate for equitable relief. In *Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983), the Court made clear that past exposure to harm will not, in and of itself, confer standing upon a litigant to obtain equitable relief "[a]bsent a sufficient likelihood that he will again be wronged in a similar way." *Id.* at 111. Anyone supposedly harmed in the past has had (and still has) ample time to submit a correct application before the registration deadline for the fall elections and therefore cannot reasonably have a sufficient likelihood that he will be wronged again. To assert standing, the Plaintiffs would need to demonstrate evidence of *future* harm, which they have not done.

B. Plaintiffs Do Not Have Standing on Their Own Behalves.

Plaintiffs have failed to present evidence of cognizable harm to themselves as organizations. While representatives of Plaintiffs testified that their missions include the registration of members and like-minded non-members (Tr. 2/6:164, 165; 2/7:21), even a "direct conflict" between "an organization's mission [and] a defendant's conduct is insufficient, in and of itself, to confer standing on the organization." *ACORN v. Fowler*, 178 F.3d 350, 361 n.7 (5th Cir. 1999); accord *National Treasury Employees Union v. United States*, 101 F.3d 1423, 1430 (D.C. Cir. 1996) ("[I]n those cases where an organization alleges that a defendant's conduct has made the organization's *activities* more difficult, the presence of a direct conflict between the

defendant's conduct and the organization's *mission* is necessary—though not alone sufficient—to establish standing.”) (emphases in original).

Plaintiffs made no attempt to establish injury to their organizations beyond the existence of such a conflict. John Sullivan, a representative of Plaintiff SEIU, testified that, with or without the demanded relief, his organization would fund voter registration efforts in the same way, and that it would not, after submitting applications to the Supervisors of Elections, attempt to determine which applications are incomplete. (Tr. 2/6:185-187). Deborah Dion testified that the South Florida ALF-CIO would conduct the same voter registration activities with or without an exception to the registration deadline and that it does not intend to obtain information from the Supervisors of Elections regarding incomplete applications. (Tr. 2/7:33-35).

While Ms. Dion, when informed that Florida law allows public records requests of information concerning incomplete applications, indicated that the South Florida AFL-CIO *would* make such requests after all, such witness-stand conversions are an inadequate substitute for the concrete and particularized injury that alone establishes standing. In *Elend v. Basham*, 471 F.3d 1199 (11th Cir. 2006), protestors challenged the alleged policy of the U.S. Secret Service to constrain protestors to “Protest Zones.” *Id.* at 1206. The protestors sought to establish injury by asserting that they “fully intend” to engage in peaceful protest “in the future.” *Id.* The Court noted that, “[g]iven . . . the unspecified details of where, at what type of event, with what number of people, and posing what kind of security risk, we are being asked to perform the judicial equivalent of shooting blanks in the night.” *Id.* at 1206-07. The protestor’s indefinite allegation of future injury “fail[ed] to provide any limitation on the universe of possibilities of when or where or how such a protest might occur.” *Id.* at 1209. The Court concluded that the alleged injury was not “imminent and concrete enough for judicial

consideration.” *Id.* at 1206.

The record here is equally devoid of specific, concrete facts establishing injury. Plaintiffs have failed to demonstrate that any injury they might sustain would “proceed with a high degree of immediacy, so as to reduce the possibility of deciding a case in which no injury would have occurred at all.” *31 Foster Children v. Bush*, 329 F.3d 1255, 1266 (11th Cir. 2003). “Such ‘some day’ intentions” as those faintly hinted at by Plaintiffs, “without any description of concrete plans, or indeed even any specification of *when* the some day will be—do not support a finding of the ‘actual or imminent’ injury that our cases require.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 564 (1992) (emphasis in original).

Conclusion

Florida’s requirement that voter registration applicants submit complete voter registration applications before the registration deadline on the twenty-ninth day before an election is a reasonable, nondiscriminatory restriction that does not impose severe burdens on the constitutional rights of applicants. Florida provides ample opportunities for its citizens to register to vote well in advance of the registration deadline. In addition, the registration deadline promotes an important regulatory interest by allowing Supervisors of Elections to devote their attention, their efforts, and their resources to the essential tasks of management and preparation in the final weeks before an election. It reduces the likelihood of confusion, disorder, and error, and directly advances the public interest in a fair and orderly election. Because the registration deadline, as applied to applicants who submit incomplete applications, is a reasonable, nondiscriminatory restriction that serves an important regulatory interest, it is constitutional.

DEFENDANT'S PROPOSED FINDINGS OF FACT

The Florida Legislature Has Made Voter Registration in Florida Very Easy

1. Prior to the enactment of the National Voter Registration Act (NVRA) in 1993, voter registration in Florida (with limited exceptions) had to be effected in person, before a local registrar. (Bradshaw, 2/8:7-8)
2. Currently, voter registration may be effected through a number of avenues in Florida. The most commonly used avenue is the Department of Motor Vehicles and Highway Safety (DHSMV). (Sancho, 2/5:118) Whenever a citizen visits a DHSMV office to apply for, or make changes to, his driver's license, the DHSMV official prompts the applicant regarding voter registration. (Sancho, 2/5:171-72)
3. Voter registration applications are also available through other state agencies, including state welfare offices and public libraries. (Hollarn, 2/8:89) And they are available through local community businesses and offices. (Sweat, 2/6:72)
4. Supervisors of Elections throughout the state regularly conduct voter outreach and voter registration drives, encouraging all eligible Floridians to register to vote. (Sweat, 2/6:71) (Sancho, 2/5:141)
5. Supervisors and their staffs are available to assist voters with registration anytime throughout the year. When a Supervisor's office receives incomplete voter registration applications, they send appropriate notices as soon as possible. (Korman, 1:238) They do not wait for any response from the Florida Voter Registration System (FVRS) before doing so. (Sancho, 2/5:179)
6. Florida currently has approximately 12.4 million registered voters. (Bradshaw, 2/8:37)

By Making Voter Registration Easier for Voters, the NVRA Has Imposed Substantial Burdens on Local Elections Officials

7. Following the enactment of the NVRA, many voter registration applications are collected by third-party groups, which frequently hoard applications, delivering them at the last moment. (Korman, 2/5:237); (Sweat, 2/6:87); (Snipes Depo, 32) (Tanko Depo, 48).
8. In 2004, Miami-Dade County received approximately 10,000 applications immediately before the book-closing deadline. (Korman, 2/6:25.) Many of these were signed by the applicants months before their submission. *Id.* at 27. In 2004, Hillsborough County received a single delivery of 27,000 applications on the book-closing date. (Johnson, 2/6:49, 65)
9. In 2004, Broward County received over 20,000 applications on the book-closing deadline, most of which were from third-party groups. (Kolodney, 2/6:149); (Snipes Depo at 35) The office could not handle them all, had to employ additional workers, and required fifteen days to process them all. (Kolodney, 2/6:152)
10. When the office is busy, such as leading up to a presidential election, a Supervisor's office may require the entire 13-day period permitted by law to input and process all applications received before the book-closing deadline. (Korman, 2/5:234)
11. In 2004, Miami-Dade County was forced to set aside many applications that were received after the close of books because of time limitations. (Korman, 2/6:27) Manatee County likewise holds late-submitted applications until after the election for processing. (Sweat, 2/6:75) Out of necessity, Broward County was also forced to give priority to those that were received timely. (Kolodney, 2/6:154) (Snipes Depo, 134-34) Duval County similarly sets aside late applications until after the election. (Bedini Depo, 79-81)

12. An election official's data entry and related processing can take up to ten minutes for a single voter registration application. (Sancho, 2/5:101) They frequently require between five and eight minutes. (Bedini Depo, 52)

The Supervisors' Duties During the Book-Closing Period Are Substantial

13. The last sixty days before an election (including the twenty-nine-day book closing period) are the most tumultuous times in a Supervisor's office. During this time, officials must review, process, and input the substantial volume of voter registration applications that are received shortly before the book closing period. They must prepare for and conduct early voting, which begins fourteen days after the book-closing deadline. They must review and respond to thousands of absentee ballot requests. They must recruit and train poll workers. They must respond to an increased volume of telephone and other inquiries from candidates and the voting public. They must process address and other changes of registered voters. They must prepare polling places, including addressing security needs. They must prepare and test voting equipment and plan for its distribution. They must distribute election day materials, including ballots. They must prepare, assemble, and deliver precinct registers. In addition, they must address any contingencies that may arise. (*See generally* testimony of Cowles, Hollarn, Sola, Korman, Snipes, and Bedini.)
14. The atmosphere in the Miami-Dade Supervisor's office during this period is pandemonium. (Korman, 2/6:34) During that same period for the January 2008 Presidential Preference Primary, the office processed 60,000 constitutional amendment petitions. The period is intense and stressful because the election is inflexible and cannot be postponed. (Sola, 2/6:108) The office is preparing for early voting, mailing absentee

ballots, and making other preparations. (Sola, 2/6:108) During the most recent book-closing period, the office processed approximately 65,000 absentee ballot requests.

(Sola, 2/6:120)

15. The Manatee County Supervisor of Elections' office has inadequate resources to handle its current voter registration duties. (Sweat, 2/6:72.) Its Supervisor of Elections does not trust the quality of temporary employees to handle issues relating to voter registration.

Id. at 73.

16. When applicants submit corrected applications, they often do so on a new form.

Therefore, officials are often unable to determine whether an application is a new application or a correction until they process the application. (Korman, 2/5:252);

(Kolodney, 2/6:131, 147)

17. Miami-Dade County alone has 749 precincts. (Korman, 2/6:29) It employs approximately 10,000 poll workers. (Sola, 2/6:103) The county has a population of approximately 2.7 million, with approximately 1,085,000 registered voters. (Sola, 2/6:106) For the August 2008 primary, the office plans to prepare over four million blank ballots for the new optical scan voting system. (Sola, 2/6:111)

18. Approximately 67,000 voters utilized early voting in Miami-Dade in the January 2008 election. Typically, approximately 20-30% of voters cast their ballots early. (Sola, 2/6:114)

19. Both early voting and absentee balloting contribute substantially to the workload of the Supervisors of Elections Offices. (Sola, 2/6:120)

20. Miami-Dade County endeavors to ensure all new applications are processed before early voting begins. (Sola, 2/6:105)

Supervisors of Elections Depend on the Book-Closing Deadline to Administer Accurate, Reliable, and Orderly Elections

21. Supervisors of Election rely on the book closing deadline to help prepare for early voting. (Sola, 2/6:115) They endeavor to ensure that all new applicants are able to vote on the first day of early voting, which is just fourteen days after the book-closing deadline.
22. Supervisors of Election also rely on the book-closing deadline to help prepare for election day. (Sola, 2/6:116); (Cowles Depo, 151). They use the knowledge of the number of registered voters to assign poll workers and equipment to the various precincts. (Sola, 2/6:116) (Hollarn, 2/8:66)
23. The number of ballots to be delivered to a precinct depends in part on the number of registered voters included in that precinct's boundaries. (Sancho, 2/5:199)
24. Miami-Dade County prints its precinct registers approximately two weeks before election day. It then takes three to four days to assemble the registers. The only supplements thereafter are to mark the names of individuals who voted early or by absentee, and are therefore ineligible to vote on election day. No new names are added. (Korman, 2/6:14, 30.)
25. In Broward County, registers are printed ten days before the election. (Kolodney, 2/6:157) Like in Miami-Dade, the supplements do not add names. Instead, they merely mark names of individuals who voted early or by absentee. (Kolodney, 2/6:157)
26. Changes to the registration figures may require changes to staffing or changes to allocation of equipment. (Cowles Depo, 162) This may also affect the number of bilingual poll workers required under federal law in Orange County. (Cowles Depo, 162).

27. Supervisors of Election rely on the book closing data to conduct accurate and reliable tests on their voting equipment. (Hollarn, 2/8:75)
28. Supervisors of Elections depend on the existing book-closing deadline—without the exception sought by the Plaintiffs—to conduct accurate, orderly, and reliable elections. (Hollarn, 2/8:102)

The Impact of a Court-Ordered Exception to the Book-Closing Deadline Would Have Detrimental Effects on the Orderly Administration of Elections

29. The volume of applications that would be submitted if a “grace period” were mandated is unknown. (Sola, 2/6:122)
30. Any volume of late corrections to incomplete applications could impact the distribution of resources and the orderly administration of accurate elections. (Sola, 2/6:99)
31. Groups or individuals have broad access to voter registration data. (Kolodney, 2/6:155)
- If a “grace period” were implemented, labor unions would seek access to this data from Supervisors after the close of books. (Dion, 2/7:35) This would provide a new challenge and burden for Supervisors of Elections.
32. Large volumes of late-filed corrections—if required to be processed—would pose a substantial problem for the Manatee County Supervisor of Elections’ office. (Sweat, 2/6:77) During the book-closing period, the office is focused on preparing for an orderly election, including training poll workers, printing roster books, and handling absentee ballot requests.
33. The imposition of an exception to the book-closing deadline—or a “grace period”—would increase the probability of mistakes being made in the Miami-Dade County Supervisor of Elections’ office. (Korman, 2/6:38)

Respectfully submitted, this 10th day of February, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 10, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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