

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

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

EMMA YAIZA DIAZ, et al.

Plaintiffs,

v.

KURT S. BROWNING, Secretary of State of
Florida, et al.

Defendants.

**DEFENDANT WILLIAM COWLES, ORANGE COUNTY SUPERVISOR OF
ELECTIONS, JOINDER IN MOTION FOR JUDGMENT ON THE PLEADINGS AND
SUPPORTING MEMORANDUM OF LAW**

COMES NOW the Defendant, WILLIAM COWLES, ORANGE COUNTY SUPERVISOR OF ELECTIONS ("Defendant Cowles"), by and through its undersigned attorney, and joins in Defendant Sola's Motion for Judgment on the Pleadings and Supporting Memorandum of Law, and adopts same as his own reference.

As with Defendant Sola, the sole cause of action remaining against Defendant Cowles is the "failure to provide a grace period" claim. D.E. 201. The Plaintiffs specifically allege in paragraph 137 of their Third Amended Complaint that state law prohibits the Defendant Supervisors of Election from accepting corrections to applications regarding the check boxes after the close of books. Defendant Cowles admitted this allegation. D.E. 207, ¶ 137. This Court, in its Order dismissing in part the Third Amended Complaint, held that "[u]nder state and federal law, Defendant Supervisors have no discretion and cannot be held liable." D.E. 201, at 15. The same arguments applicable to Defendant Sola are applicable to Defendant Cowles.

Dated this 10 day of April, 2007.

Respectfully submitted,

On Behalf of Defendant, William Cowles
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 10, 2007, 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 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 for Electronic filing.

BY: s/ Michael D. Cirullo, Jr.

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