

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING

EMMA YAIZA DIAZ;
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,

Plaintiffs,

v.

KURT S. BROWNING, Secretary of State of Florida;
BRENDA SNIPES, Broward County Supervisor of
Elections; JERRY HOLLAND, Duval County Supervisor
of Elections; LESTER SOLA, Miami-Dade
Supervisor of Elections; BILL COWLES, Orange County
Supervisor of Elections; and ARTHUR ANDERSON,
Palm Beach County Supervisor of Elections,

Defendants.

**SECRETARY'S RESPONSE TO PLAINTIFFS' MOTION
FOR AN ORDER EXTENDING THE MOTIONS DEADLINE**

Defendant, the Secretary of State of the State of Florida, submits this response to Plaintiffs' Motion for an Order Extending the Motions Deadline.

1. Based on this Court's scheduling order, entered March 6, 2007, all motions must be filed by October 8. (Doc. 202.) On October 3, 2007, five days before the motions deadline, the Secretary moved for an extension of time to file motions. The Secretary sought the additional time in light of the Court's decision to allow an additional deposition by the Plaintiffs. The Plaintiffs joined the Secretary's Motion on October 4, 2007.

2. Having not received a ruling on the Motion, the Secretary of State diligently prepared the motions and other papers filed yesterday to comply with the outstanding order. The Plaintiffs now say they are “unsure why Defendant Browning did not wait for the Court’s ruling.” (Doc. 285, ¶ 3.) The answer is simple—the Secretary did what was necessary to comply with the Court’s order. If there is anything to be unsure about, it is why Plaintiffs failed to do the same.

3. Moreover, Plaintiffs should not have been surprised by the Secretary’s filings. Counsel for Plaintiffs inquired by email about the Secretary’s plans should the Court not rule on the Motion. The Secretary’s counsel responded that absent a ruling, the Secretary would “have to live with the deadline.” Indeed, that is what the Secretary did. There was no “eleventh hour reversal” by the Secretary—just a recognition that the Court (and not the parties) controls all scheduling.

4. The only reversal was by the Plaintiffs who—without notice to the Secretary—ignored the deadline and sought additional time in hopes of enjoying the benefit of reviewing the Secretary’s paper before filing their own. This should not be permitted.

WHEREFORE, the Secretary respectfully requests that the Court deny Plaintiffs' motion.

Respectfully submitted, October 9, 2007:

/s/ Peter Antonacci

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been served electronically through the Court's CM/ECF system or by United States mail this 9th day of October, 2007, to the following:

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