

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

CHRISTOPHER GLEASON,

Plaintiff,

**CASE NO.: 24-003717-CI
UCN:522024CA003717XXCICI**

v.

JULIE MARCUS,

in her official capacity as

Pinellas County Supervisor of Elections; et al.,

Defendants.

**MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO
DISMISS**

COMES NOW, the Plaintiff, **Christopher Gleason**, pro se, and hereby files this Memorandum in Opposition to Defendants' Motion to Dismiss, and in support thereof states as follows:

INTRODUCTION

The Defendants have moved to dismiss the Plaintiff's complaint on several grounds, including alleged deficiencies in verification, lack of standing, and failure to state a claim. The Defendants' motion is fundamentally flawed, misapplies the relevant legal standards, and should be denied. The Plaintiff's complaint is legally sufficient, factually grounded, and sets forth claims that, if proven, would entitle the Plaintiff to relief.

LEGAL STANDARD FOR MOTION TO DISMISS

In evaluating a motion to dismiss, the court must accept all well-pleaded allegations of the complaint as true and must draw all reasonable inferences in favor of the plaintiff. As established in **Conley v. Gibson, 355 U.S. 41 (1957)**, a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of their claim. Florida courts adhere to this principle, as seen in **Santiago v. Mauna Loa Investments, LLC, 189 So. 3d 752 (Fla. 2016)**, and dismissal is improper if any facts support the claim.

I. VERIFICATION OF THE COMPLAINT IS LEGALLY SUFFICIENT

A. The Complaint is Properly Verified Under Florida Law

The Defendants argue that the complaint is unverified, yet **Fla. Stat. § 92.525** permits verification under penalty of perjury. The complaint contains a verification statement signed by the Plaintiff, confirming that the facts alleged are true and correct. If any technical deficiency exists in the verification, it can be cured by filing a supplemental verification affidavit, as supported by **Global Xtreme v. Corporate Center, 822 So. 2d 165 (Fla. 3d DCA 2002)**, where the court held that such deficiencies can be remedied without prejudice.

II. PLAINTIFF HAS STANDING TO BRING THIS ACTION

A. Plaintiff's Standing as a Candidate

The Plaintiff has standing as a candidate to bring claims challenging election integrity, irregularities, and public records violations. In **Beckstrom v. Volusia County Canvassing Bd., 707 So. 2d 720 (Fla. 1998)**, the Florida Supreme Court recognized that candidates have a vested interest in ensuring fair elections and may challenge election procedures. The Plaintiff alleges specific harm from the Defendants' failure to follow election procedures and provide public records necessary to monitor the election, thus establishing standing.

B. Plaintiff's Standing as a Registered Voter and Taxpayer

The Plaintiff also has standing as a registered voter and taxpayer. Courts have consistently held that voters have a legitimate interest in the integrity of elections and may challenge actions that potentially compromise that integrity, as stated in **Reynolds v. Sims, 377 U.S. 533 (1964)**. Additionally, as a taxpayer, the Plaintiff

has a direct interest in ensuring that public funds are not expended in violation of the law.

III. THE COMPLAINT STATES VALID CLAIMS FOR RELIEF

A. Claims under the Florida Public Records Act (Chapter 119)

The Defendants argue that the Plaintiff's public records claims are moot or insufficient. However, **Fla. Stat. § 119.07** mandates that public records be made available for inspection and copying within a reasonable time. The Defendants' assertion that it would take **18,000 hours** to produce records that could be generated in minutes constitutes a deliberate violation and obstruction under Chapter 119, and such conduct is actionable under **Weeks v. Golden, 764 So. 2d 633 (Fla. 1st DCA 2000)**, which prohibits unnecessary burdens on public records access.

B. Official Misconduct Under Fla. Stat. § 838.022

While the Defendants argue that Fla. Stat. § 838.022 is a criminal statute, the Plaintiff is not seeking criminal penalties but rather uses this statute to demonstrate Defendants' deliberate and unlawful conduct, which supports claims of conspiracy and violations of the Florida Public Records Act. Courts have recognized that intentional obstruction of public duties can support broader claims, as illustrated in **State v. Riker, 376 So. 2d 862 (Fla. 2d DCA 1979)**.

C. Conspiracy to Violate the Florida Public Records Act and Election Laws

The Plaintiff has sufficiently pled facts demonstrating a conspiracy among Defendants to obstruct access to public records and violate election laws. As per **Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)**, a conspiracy claim must include factual matter that suggests an agreement. The Plaintiff's complaint details specific actions taken by Defendants that indicate a coordinated effort to conceal records, obstruct access, and manipulate election procedures, thereby meeting the Twombly standard.

D. Equitable Tolling of the Statutory Deadline for Election Contests

The Plaintiff is entitled to equitable tolling under **Machules v. Department of Administration, 523 So. 2d 1132 (Fla. 1988)**, where the Florida Supreme Court recognized equitable tolling as appropriate when wrongful conduct prevents the

exercise of legal rights within a statutory period. Defendants' deliberate delays in providing records constitute the kind of wrongful conduct that warrants tolling the statutory period for the Plaintiff to file an election contest under **Fla. Stat. § 102.168**.

IV. PLAINTIFF'S CLAIMS ARE NOT MOOT

The Defendants erroneously assert that Plaintiff's claims are moot. However, Florida courts have repeatedly held that claims for injunctive and declaratory relief remain viable even when some actions have been completed if there is a continuing violation or the need to address ongoing misconduct. See **Gaines v. City of Orlando, 450 So. 2d 1174 (Fla. 5th DCA 1984)**, where the court allowed injunctive relief despite partial compliance by the defendants. The Plaintiff's claims seek to address ongoing violations of Florida's election laws and Public Records Act.

V. DEFENDANTS' MOTION TO DISMISS IS PREMISED ON FACTUAL DISPUTES INAPPROPRIATE AT THIS STAGE

The Defendants improperly seek to inject factual disputes into their motion to dismiss. It is well established that at this stage, the court's review is confined to the allegations within the four corners of the complaint. See **Cohen v. World Omni Financial Corp., 457 So. 2d 1109 (Fla. 4th DCA 1984)**. The Plaintiff has adequately pled facts that, if true, entitle him to relief, and dismissal is therefore improper.

VI. REQUEST FOR LEAVE TO AMEND

Should this Court find any aspect of the complaint deficient, Plaintiff respectfully requests leave to amend pursuant to **Fla. R. Civ. P. 1.190(a)**, which provides that leave to amend shall be freely given when justice so requires. The courts have consistently allowed parties the opportunity to cure deficiencies, as reflected in **Hart Properties, Inc. v. Slack, 159 So. 2d 236 (Fla. 1963)**.

CONCLUSION

For the reasons stated herein, Plaintiff respectfully requests that this Court deny Defendants' Motion to Dismiss in its entirety. The Plaintiff's complaint is legally sufficient, factually grounded, and supported by well-established Florida law.

Should the Court identify any deficiencies, Plaintiff requests the opportunity to amend the complaint.

Respectfully submitted October 1, 2024.

/s/ Christopher Gleason

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Memorandum in Opposition to Defendants' Motion to Dismiss was served via the Florida Courts E-Filing Portal to all counsel of record on this 09/24/2024.

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