IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
DIVISION 19

JOHN WILLIAM LICCIONE,

Plaintiff,

v.

Case No.: 24-003939-CI
UCN: 522024CA003939XXCICI

JULIE MARCUS, in her official capacity
as Pinellas County Supervisor of Elections, et al.,

Defendants.
_____/

DEFENDANT JULIE MARCUS' MOTION TO DISMISS, MOTION IN OPPOSITION TO INJUNCTIVE RELIEF

The Defendant, Julie Marcus (herein "Supervisor"), by and through undersigned counsel, moves to dismiss the First Amended Complaint for Electoral Fraud and Request for Damages (the "Complaint"), pursuant to:

(i) Florida Rule of Civil Procedure 1.140(b)(1) for lack of subject-matter jurisdiction, and

(ii) Florida Rule of Civil Procedure 1.140(b)(6) for failure to state a cause of action.

The Amended Complaint

Plaintiff, proceeding, *pro* se, filed the instant Complaint. Plaintiff was a candidate on the ballot for the August 20, 2024, race for the House of Representatives for the 13th District. Plaintiff did not win this race. Plaintiff makes allegations of election fraud but seeks relief in the form of monetary damages as well as emergency injunctive relief "nullifying the August 20th Democratic primary election results in CD-13." Compl., Prayer for Relief ¶ B. Despite Plaintiff's prayer for relief, this case does not constitute an election contest, nor does the Supervisor regard it as such. Plaintiff's injunctive relief sought demonstrates only that he is seeking relief that could only be

granted following the strict statutory constrictions of Florida Statute § 102.168. Although this is plainly not an elections contest, a review of the election results is instructive in demonstrating that the Plaintiff lacks standing in this matter. Plaintiff received only 3.93% of the vote. There is no reality, even excluding what Plaintiff falsely concludes are "fraudulent mail-in ballots" in which Plaintiff wins. Plaintiff asserts that the facts alleged in the Complaint are evidence of conspiracy and fraud which "infringed on upon the integrity of the electoral process and Plaintiff's lawful rights as a candidate…" Compl, ¶ 1. The Complaint specifically names six defendants. Compl., ¶¶ 3-9. as well as "other unknown co-conspirators".

The Complaint sets forth 10 counts: (i) Count I – Violation of Florida Statute § 104.041 – Fraud in Connection with Elections, (ii) Count II – Conspiracy to Commit Election Fraud, (iii) Violation of 52 U.S.C. § 20511 – Federal Election Fraud, (iv) Count IV- Civil Rights Violations under 42 U.S.C. § 1983, (v) Count V- Computer Fraud and Abuse Act Violation, (vi) Count VI - Intentional Interference with Prospective Economic Advantage, (vii) Count VII – Voter Intimidation and Voter Suppression, Civil Rights Violation, (viii) Count VIII: Request for Injunctive Relief, (ix) Count IX – Violation of Florida Public Records Sunshine Law, (x) – Count 10 -Damages.[1]

The Complaint is based, in part, on an anonymous unverified tip from "Tampa Girl". Compl. ¶ 19. The alleged tip states that the "Tampa Girl" was paid to mark ballots for Plaintiff's Opponents. *Id.* The tip is wholly unverified and is devoid of any indicia of reliability. Moreover, the Supervisor was not a candidate for the August 20, 2024, primary race for the 13th Congressional District and as such no ballots could be marked in favor. Plaintiff's focus on the Supervisor is based on a conclusory allegation that "an anomalously high number of absentee ballot requests"

[1] The Supervisor refers to each count using the same language that Plaintiff used in the Complaint. This is meant only the sake of organization and does not reflect any adoption or acquiescence of Plaintiff's language.

were submitted to the Supervisor on June 23, 2024. Compl. ¶ ¶10 -11. Plaintiff's focus on so called "fraudulent" mail in ballots is meritless and based on absolutely no fact. Plaintiff states in his Complaint that the Supervisor "outsources the publishing of its election results to a Tallahassee IT services company named VR Systems ("VR"). Compl. ¶ 31. Plaintiff spends several paragraphs speaking about his perception of what the posted online results by VR were and states that although the results were initially viewable, they suddenly became unavailable. Compl. ¶ 32-36. Plaintiff then a that the VR website being unreachable combined with the non-zero reports that were posted *before* polls closed is an "indicator of fraud and cyber-breach in the CD-13 Democratic primary race…." Compl. ¶¶ 33, 37.

Plaintiff also spends several paragraphs discussing various IP addresses and maritime vessels in sequence with the "Tampa Girl" anonymous tip. Compl., ¶¶ 21-32. Plaintiff fails to show any logical link between those facts and accusations of fraud or conspiracy to any of the Defendants, including the Supervisor.

"A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim, must state a cause of action and shall contain… (2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief…" Fla. R. Civ. P. 1.110 (b) (emphasis added). "When ruling on a motion to dismiss for failure to state a cause of action, the trial court must accept the material allegations as true and is bound to a consideration of the allegations found within the four corners of the complaint." *Murphy v. Bay Colony Prop. Owners Ass'n*, 12 So. 3d 924, 926 (Fla. 2d DCA 2009). Additionally, "any reasonable inferences drawn from the complaint must be construed in favor of the non-moving party." *Rolle v. Cold Stone Creamery, Inc.*, 212 So. 3d 1073, 1076 (Fla. 3d DCA 2017). Florida is not a notice pleading jurisdiction and "it is not enough merely to advise the defendant of the theory of the action." *See*

Cunningham v. Fla. Dept. of Children & Families, 782 So. 2d 913, 919 (Fla. 1st DCA 2001). Dismissal is appropriate when a plaintiff has failed to properly and separately plead each element of the cause of action. *See Kislak v. Kreedian*, 95 So. 2d 510 (Fla. 1957) (complaint must properly inform the Defendant of the specific cause against it). The Complaint is further flawed as this is a shotgun pleading which is well established as insufficient in the State of Florida

Under Florida law, "[l]itigants at the outset of a suit must be compelled to state their pleadings with sufficient particularity for a defense to be prepared." *Arky, Freed, Stearns, Watson, Greer, Weaver & Harris, P.A. v. Bowmar Instrument Corp.*, 537 So. 2d 561, 563 (Fla. 1988). "[W]here the elements of a cause of action are not pled in the complaint, they may not be inferred by the context of the allegations." *Sanderson v. Eckerd Corp.*, 780 So. 2d 930, 933 (Fla. 5th DCA 2001). These rules apply to self-represented litigants as well as attorneys.

Further, several Counts in the Complaint alleged fraud and/ or conspiracy. "It is well established that '[t]he plaintiff must raise a prima facie case of fraud, rather than 'nibble at the edges of the concept' through speculation and supposition." *Tikhomirov v. Bank of N.Y. Mellon,* 223 So. 3d 1112, 1116) (Fla. 3d DCA 2017). Moreover, pursuant to Rule 1.120, Fla. R. Civ. P., "in all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with such particularity as the circumstances may permit." Plaintiff's Complaint is based entirely on speculation and supposition and fails to meet the pleading threshold necessary to assert fraud.

I. THE COMPLAINT SHOULD BE DISMISSED WITH PREJUDICE FOR LACK OF JURISDICTION.

Counts I, II, III, IV, V, VI, VIII should be dismissed for lack of jurisdiction because Plaintiff has not alleged facts to support standing against the Supervisor.

The Complaint does not allege any facts which demonstrate that he has standing to

maintain this post-election lawsuit in court against the Supervisor. "Standing is a threshold jurisdictional inquiry: the elements of standing are an indispensable part of the plaintiff's case." *Wood v. Raffensperger*, 981 F.3d 1307, 1313-14 (11th Cir. 2020) citing *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 561 (1992). " The Florida Supreme Court has stated that there are "three requirements that constitute the 'irreducible constitutional minimum' for standing. First, a plaintiff must demonstrate an 'injury in fact'; which is 'concrete,' 'distinct and palpable,' and 'actual or imminent.' Second, a plaintiff must establish 'a causal connection between the injury and the conducted complained of. "State *v. J.P.* 2d 1101, 113 n.4 (Fla. 2004) (internal citations omitted).

Plaintiff lacks standing because he fails to allege any injury which is traceable to the Supervisor. Moreover, Plaintiff merely alleges that the Supervisor should have issued a fraud investigation. Compl. ¶ 11. Plaintiff offers no authority that the Supervisor was required to initiate a fraud investigation based on the speculatory content of the Complaint. Plaintiff also falsely asserts that the Supervisor outsources the publishing of election results to a Tallahassee IT services company named VR Systems. Compl. ¶ 31. Plaintiff further wrongly alleges that the Supervisor published a link to the VR website which showed that all election results showed zero *prior* to the polls closing. Compl. ¶ 33 (emphasis added). All of the allegations fail to demonstrate injury which is "concrete, particularized, and actual or imminent; fairly traceable to the challenged action; and redressable by a favorable ruling." *Clapper v. Amnesty Int'l USA,* 568 U.S. 398, 409 (2013).

Plaintiff's Amended Complaint amounts to nothing more than an impermissible collateral attack on the August 20, 2024, primary election. "Electoral Fraud" is generally alleged in Counts I, II, and III, resulting in the speculative loss of the "salary of a sitting US Congressman." (Count VI). "At common law, except for limited application of quo warranto, there was no right to contest in court any public election, [as] such a contest is political in nature and therefore outside the

judicial power." *Norman v. Ambler*, 46 So. 3d 178, 181 (Fla. 1st DCA 2010), *quoting McPherson v. Flynn*, 397 So. 2d 665, 667 (Fla. 1981). "Courts must take care in post-election challenges to avoid disenfranchising voters without clear statutory warrant." *Id*. (emphasis added). As a result, the right to challenge the results of an election are limited to that conferred by Florida Statutes, § 102.168 and "should be construed in strict conformity with the language of the statute." *Norman v. Ambler*, 46 So. 3d 178, 181 (Fla. 1st DCA 2010). Plaintiff is, therefore, barred from challenging the certification of the 2024 primary election as his Complaint and Amended Complaint did not invoke nor were they filed in strict conformance with Section 102.168. Fla. Stat. § 102.168 (2024); *see Burns v. Tondreau*, 139 So. 3d 484, 485 (Fla. 3d DCA 2014) (describing the "crux of *McPherson*" as being "grounded in the doctrine of separation of powers and in the strict construction of section 102.168"); *see also Kinzel v. City of N. Miami*, 212 So. 2d 327 (Fla. 3d DCA 1968) (affirming the trial court's dismissal of an election contest complaint for failure to timely name the appropriate defendants); *see also Bailey v. Davis*, 273 So. 2d 422, 423 (Fla. 1st DCA 1973) (finding that defect could not be cured after the statute of limitations lapsed).

Here, Plaintiff is seeking to contest the results of an election without filing a contest of election in accordance with the statutory provisions, has not joined indispensable parties and is time barred from filing a second amended complaint attempting to conform to § 102.168. Accordingly, dismissal with prejudice is warranted because the Court lacks jurisdiction to hear this improper collateral attack on the August election and Plaintiff lacks standing.

I. Counts I and II should be dismissed for lack of jurisdiction because no private right of actions exists under criminal statute, Florida Statute § 101.041.

Plaintiff asserts violations of state criminal statue under Count I of his complaint. Compl., Claims for Relief, Count I. Section 104.041, Florida Statutes embodies a third-degree felony offense for the perpetration "of any fraud in connection with any vote cast…" Fla. Stat. § 104.041

(2024).

This statute does not provide a private right of action under Florida law for enforcement of its provisions. While some Florida election-related statutes provide private rights of action, Florida Statutes, Chapter 104 does not grant any such right. S*ee e.g.*, Section 97.023(3), 99.097(5), 101.161(3)(c)(1), 102.168(1) (providing private rights of action). Violations of Chapter 104 can be subject to prosecution as misdemeanors, felonies, or criminal violations of the Florida Election Code by the state attorney in the appropriate court of competent jurisdiction or be subject to complaint proceedings before the Florida Elections Commission. Fla. Stat. § 106.27(1), Florida Statutes; *see also,* Fla. Stat. §106.25(1), Florida Statutes ("Jurisdiction to investigate and determine violations of ... chapter 104 is vested in the Florida Elections Commission.)[2]

Under Florida law, "[i]t is axiomatic that whether a private right of action exists for a exists for a violation of a statute is a matter of legislative intent" and "[a]bsent a specific expression of such intent, a private right of action may not be implied." *United Auto. Ins. Co. v. A 1st Choice Healthcare Sys.*, 21 So. 2d 124, 128 (Fla. 3d DCA 2009). The Florida Legislature has not created a private right for citizens to bring civil claims under Chapter 104, Florida Statutes.

Thus, Count I should be dismissed with prejudice for lack of subject matter jurisdiction.

Count II – Conspiracy to Commit Election Fraud

Similarly, Count II – "conspiracy to commit election fraud" should be dismissed for a lack of subject matter jurisdiction as well as failure to state a claim for which relief can be granted. In Count II, Plaintiff alleges "conspiracy to commit election fraud". Count II is purely a summary statement which fails to set forth any specific facts and fails to cite to any local, state, or federal law. Compl., Claims for Relief, Count II. For the sake of argument, the Supervisor assumes that

[2] The Office of Election Crimes and Security are also vested with authority to investigate potential election crimes in the State of Florida and refer cases for prosecution. Fla. Stat. ¶ 97.022(2024).

this is an extension of the allegations and attempted relief from Count I. Whether it is called election fraud or conspiracy to commit election fraud, there still exists no private right of action for the reasons discussed above.

As such, Count II of this Complaint should be dismissed with prejudice.

II. Count Three should be dismissed for lack of jurisdiction as well as a failure to state a cause of action.

Count III – Violation of 52 U.S.C. § 20511 – Federal Election Fraud

In Count III, Plaintiff attempts to assert a claim under 52 U.S.C. § 20511. Section 20511 only provides criminal penalties; it does not expressly provide for any civil remedies. 52 U.S.C. § 20511. Federal criminal statutes do not afford civil remedies. *See Mantooth v. Richards*, 557, So. 2d 646, 646 (Fla. 4th DCA 1990).

Notwithstanding this issue, Plaintiff cannot show that he was denied the right to vote. The Complaint only states a "broader 14-month-long criminal conspiracy by Democratic Party officials such as Defendant, Jennifer Griffith, and other Defendants, to manipulate the election results in favor of Whitney Fox against Plaintiff . . ." Compl. ¶ 20. Therefore, even if 52 U.S.C. § 20511 did provide for a private right of action, which it does not, Plaintiff has not pled any facts that show he was unable to vote.

Thus, this Count should be dismissed with prejudice for lack of jurisdiction and a failure to state a cause of action.

III. Count IV, V, and VI should be dismissed for failure to state a cause of action.

Count IV – Civil Rights Violation under 42 U.S.C. 1983

Plaintiff alleges generally that fraudulent activities alleged in the Complaint constitute an economic disadvantage against him as well as though who voted for him. Compl. ¶ 20. Plaintiff summarily mentions that an "abnormal number of ballots were submitted to the Supervisor and

that the Supervisor failed to conduct a fraud investigation. Compl. ¶10-11. Plaintiff points to no facts to support the allegation that an anomalous number of ballots were submitted to the Supervisors Office. Further, Plaintiff points to no authority mandating the Supervisor to conduct a fraud investigation". Even still, Plaintiff fails to meet the basic pleading requirements let alone the heightened requirement for fraud-based claims.

Plaintiff alleges, without any distinction between defendants, that all the Defendants (including the Supervisor) that civil rights were violated under 42 U.S.C. § 1983. Section 1983 is not a source of substantive rights; rather, it is a vehicle for vindicating federal rights conferred elsewhere. *Graham v. Connor*, 490 U.S. 386, 293-94 (1989).

Plaintiff alleges that the violation of civil rights occurred through fraudulent act but activities but fails to make any concrete factual allegations of wrongdoing attributed to the Supervisor. Moreover, as this is a fraud-based claim Plaintiff falls well short of meeting the heightened requirements for pleading fraud/ conspiracy-based claims.

Therefore, this Count should be dismissed for failure to state a claim for which relief can be granted.

Count V – Computer Fraud and Abuse Act Violation

In Count V, Plaintiff makes a single conclusory allegation that "Defendants, or those acting in concert with them knowingly and unlawfully accessed Plaintiff's computer without authorization or exceeding authorization, and thereby obtained information from a protected computer involved in interstate communication, resulting in damages and losses. The Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (the CFAA, imposes criminal and civil liability on individuals who access a computer without authorization or exceed authorized access. 18 U.S.C. § 1030 (2024).

Plaintiff again fails to state a claim even looking at the litany of allegations regarding IP addresses in the Complaint. Plaintiff states that on July 29th, 2024, his Microsoft account was hacked, and the login attempts were from various IP addresses coming from China, Russia, and Brazil. Compl. ¶ 39. Plaintiff further alleges that after being hacked that a "trojan virus was then synced down to Plaintiff's laptop…". Compl. ¶ 40. Plaintiff goes on to allege the various believed indicators of the virus that he experienced as well as the effects on his time. Compl. ¶ 41-42. Even if these allegations are true, Plaintiff has failed to cite any scintilla of evidence that any of the named Defendants were involved in the hacking of his computer.

Therefore, this Count should be dismissed as it fails to state a cause of action for which relief can be granted.

Count VI: Intentional Interference with Prospective Economic Advantage

The elements of a cause of action based on tortious interference with a business relationship are (1) the existence of a business relationship, (2) the defendant's knowledge of the relationship, (3) the defendant's intentional and unjustified interference with the relationship, (4) damage to the plaintiff as a result of the breach of the relationship. *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So. 2d 813 (Fla. 1994); *Sobi v. Fairfield Resorts, Inc.*, 846 So. 2d 1204 (Fla. 5th DCA 2003).

Here, while Plaintiff asserts that he has lost the salary of a US Congressman, he fails to show any facts that come close to supporting that claim. Again, Plaintiff never links any inactions or actions taken by the Supervisor which show or even suggest that the election results would have been different. Throughout the entire Complaint, Plaintiff does not show any business relationship or potential business relationship. Plaintiff cannot make a claim simply because he did not like the election results.

Therefore, Count VI of the Complaint should be dismissed.

Count VIII: Request for Injunctive Relief

Plaintiff seeks injunctive to relief prevent "further unlawful activities by the Defendants, to order Defendant Julie Marcus to produce requested election records upon demand by the Plaintiff, and to preserve the integrity of the electoral process…" Compl. ¶ 63. This motion for injunctive relief should be denied.

The issuance of an injunction generally requires: (1) a likelihood of irreparable harm; (2) the unavailability of an adequate remedy at law; (3) a substantial likelihood of success on the merits; and (4) public interest considerations. *Naegele Outdoor Advertising Co., Inc., v. City of Jacksonville*, 659 So. 2d 1046, 1047 (Fla. 1995) (internal citations omitted).

Addressing the first prong, Plaintiff must show a likelihood of irreparable harm. *Id.* Although "a person exposed to a risk of future harm may pursue forward-looking injunctive relief to prevent the harm from occurring, at least so long as the risk of harm is sufficiently imminent and substantial." *Clapper v. Amnesty Int'l, USA*, 568 U.S. 398, 414 (2013). In this case, Plaintiff has failed to demonstrate not only that there is potential future harm but moreover, that there was harm in the past. Even if the Plaintiff had demonstrated past illegal conduct, which he has not, a showing that defendant has acted unlawfully in the past is not enough to demonstrate future harm. *United States v. City of Tampa*, 2024 U.S. Dist. Lexis. 110770, 10 (Fla. Mid. Dist. 2024) (citing *City of S. Miami*, 65. F. 4th at 637 ("Past occurrences of unlawful conduct do not establish standing to enjoin the threat of future conduct.")

Furthermore, Plaintiff makes speculatory allegations about perceived criminal conduct about the Supervisor and other Defendants that fall well short of the meeting even the first prong of the request measure of injunctive relief. Specifically focusing on the allegations against the Supervisor, Plaintiff has done nothing other than make conclusory allegations regarding perceived criminal or unlawful conduct. As discussed above, Plaintiff falls well short of even basic pleading

requirements and therefore cannot possibly meet the standard for showing a likelihood of success on the merits. The standard for a preliminary injunction requires that all prongs be met. Plaintiff has not even met the standard for basic pleading requirements let alone a showing of a likelihood of success on the merits. As such, this Court need not consider the other factors.

Count IX- Violation of Florida Public Records Law

Chapter 119, Florida Statutes ("Public Records Act") requires that "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records." Fla. Stat. § 119.07(1)(a) (2024). A custodian of public records "must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith." Fla. Stat. § 119.07(1)(c) (2024). "A good faith response includes making reasonable efforts to determine … whether such a record exists and, if so, the location at which the record can be accessed." *Id*.

The only allegation under Count IX claims that "Plaintiff is in violation," not the Supervisor. Elsewhere in the Complaint, Plaintiff describes a public records request to the Supervisor which was submitted less than a week before he filed this suit, and he admits to receiving a response which he characterizes as automated. Compl., ¶ 46. But Plaintiff does not allege the content of the response and has not demonstrated a violation the Public Records Act, even after drawing all reasonable inferences in his favor. *Id*. Plaintiff has not stated any facts suggesting that the Supervisor's response to his request was not in complete compliance with the Public Records Act. Plaintiff, having admittedly received a response to his request, lacks any basis to support this claim which was filed only six days after submission of the request. *See Siegmeister v. Johnson*, 240 So. 3d 70, 73-74 (Fla. 1st DCA 2018) (pointing out that reasonable delay in a public records response is allowed and that mere delay does not create liability). Plaintiff does not

allege or establish unreasonable delay nor any failure to respond in in good faith by the Supervisor. Accordingly, the Complaint fails to state a cause of action for a violation of the Public Records Act and Count IX should be dismissed.

IV. Counts I, II, III, IV, V, VI, VIII should be dismissed failure to state a claim as they are shotgun pleadings.

As discussed above, each of the above listed counts fails to meet basic pleading standards. Plaintiff makes broad sweeping allegations against "Defendants" under the substantive counts of the Complaint, but rarely directs any allegations towards any specific Defendant. The issues are compounded by the fact that this is a shotgun pleading. A Complaint in which each count incorporates by reference all the allegations of each preceding count does not provide a short and plain statement of the ultimate facts as required by the rules of pleading, and it should be dismissed. *Gerentine v. Coastal Security Systems*, 529 So. 2d 1191, 1194 (Fla. 5th DCA 1988); *Frugoli v. Winn-Dixie Stores, Inc.*, 464 So. 2d 1292, 1293 (Fla. 1st DCA 1985). "[I]t is insufficient to plead opinions, theories, legal conclusions oar argument." *Barrett v. City of Margate*, 743 So.2d 1160, 1163 (Fla. 4th DCA 1999); *see also* Fla. R. Civ. P. 1.110(b) (requiring "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief").

Counts I, II, III, IV, V, VI, and VIII all summarily "re-allege and incorporate by reference the foregoing paragraphs". The Supervisor is unable to ascertain what alleged actions or inactions by her constitute the basis for Plaintiff's allegations.

Therefore, Counts I, II, III, IV, V, VI, and VIII should be dismissed for failure to state a cause of action.

V. Damages

While the Plaintiff's Complaint should be dismissed and therefore is not entitled to damages, the Supervisor responds to Plaintiff's assertion seeking attorney's fees. The Supervisor

Compl., Demand for Relief, ¶ F. The Supervisor explicitly does not concede that any award of damages is appropriate. However, specifically as to attorney's fees – they are wholly inapplicable in this case even if it were to survive the Supervisor's Motion to Dismiss because Plaintiff proceeds *pro se.*

Pro se litigants are not entitled to an award of attorney's fees. *See Kay v. Ehrler*, 499 U.S. 432 (1991) (holding that a *pro se* litigant who is also a lawyer is not entitled to attorney's fees.) *see also Massengale v. Ray*, 267 F. 3d 1298, 1302-03 (11th Cir. 2001) ("Because a party proceeding pro se cannot have incurred attorney's fees as an expense, a district court cannot order a violating party to pay a pro se litigant a reasonable attorney's fee as part of a sanction."); *see also City of Riviera Beach v. Lozman*, 672 Fed. Appx. 892, 899 (11th Cir. 2016)."); *see also U.S. v. Evans*, 561 Fed. Appx. 877, 880 (11th Cir. 2014) ("[P]ro se litigants are entitled to an award of attorney fees only to the extent that the 'services of an attorney were utilized and fees incurred.'").

WHEREFORE, the Defendant, Julie Marcus, respectfully request, that this Complaint be dismissed, and Plaintiff's Motion for Injunction be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was filed with the Clerk of the Circuit Court by using the Florida Courts E-Filing Portal and simultaneously served through the E-Portal to **JOHN WILLIAM LICCIONE**, **PRO SE,** Plaintiff at jliccione@gmail.com, **GEORGE A.D. THURLOW, ESQ.**, Attorney for Defendant **JENNIFER GRIFFITH**, at gthurlow@rahdertlaw.com, tmccreary@rahdertlaw.com and service@rahdertlaw.com, **RYAN D. BARACK, ESQ.,** and **MICHELLE E. NADEAU, ESQ.**, Attorney for Defendant **WHITNEY FOX**, at rbarack@employeerights.com and mnadeau@ksblaw.com and **JAMES B. LAKE, ESQ.,** Attorney

for Defendant **CATHY SALUSTRI LOPER**, at jlake@tlolawfirm.com and tgilley@tlolawfirm.com on the 2nd day of October 2024.

/s/ ***Kirby Z. Kreider***
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