

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

JOHN WILLIAM LICCIONE,

Plaintiff,

v.

**Case No. 24-003939-CI**

JULIE MARCUS, et al.,

Defendants.

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**PLAINTIFF'S RESPONSE TO DEFENDANT JENNIFER GRIFFITH'S**

**MOTION TO DISMISS**

**AND**

**REQUEST FOR HEARING**

Plaintiff John Liccione, pro se, submits this response in opposition to Defendant Jennifer Griffith's (Griffith) Motion to Dismiss the Plaintiff's First Amended Complaint (Amended Complaint). Griffith's motion is fundamentally flawed, relying on unsupported facts, allegations, mischaracterizations, and a misapplication of relevant legal standards. Contrary to Defendant's claims, Plaintiff has alleged sufficient facts to establish a plausible basis for each cause of action against Griffith, including claims of voter intimidation, campaign interference, mail ballot fraud, conspiracy, and the implementation of a sham candidate vetting process, hastily instituted just after Plaintiff announced his candidacy in the spring of 2023. Defendant's conduct, as described in the complaint, extends far beyond the scope of constitutionally protected rights to speech and association, instead involving unlawful acts aimed at interfering with Plaintiff's campaign and manipulating the electoral process. For these reasons, Defendant's

motion to dismiss should be denied in its entirety, allowing Plaintiff to proceed to discovery, present evidence, and litigate these significant issues.

### **1. Griffith's Sham Candidate Vetting Process**

Defendant Griffith claims Plaintiff's exclusion from the debate and other party materials was due to a pre-existing "candidate vetting process" that he allegedly failed. Plaintiff asserts that if such a process exists, it must be applied equally to all candidates without discrimination based on sex, disability, or other unlawful criteria, and without corrupt or criminal motive or for criminal purposes. Defendant has provided no evidence that a vetting process existed before or after Plaintiff's candidacy was announced, nor, if it did exist that it was applied equally to all five candidates. Plaintiff alleges the process was selectively applied to exclude him, and only him, in violation of Democratic party policies, of their own values, and unlawfully.

Griffith does not argue that Plaintiff's political positions, values, or history conflict with Democratic Party values. Instead, she falsely and baldly asserted publicly that Plaintiff is a man of moral turpitude, without providing any basis for this claim. Plaintiff was found not guilty at trial in 2018 after being wrongfully accused and imprisoned as a PTSD-disabled male domestic violence survivor. He contends that Griffith's assertion is unsupported and defamatory, as Griffith was well aware during the alleged "vetting process" of Plaintiff's not-guilty-at-trial verdict.

Plaintiff alleges that no such vetting process existed until after he informed Griffith of his candidacy in the early spring of 2023. Plaintiff argues it was a sham, created to exclude him while giving the other four candidates unfettered access to party resources,

speaking engagements, and promotional opportunities, without subjecting them to the same scrutiny, while affording them the due-process opportunity to rebut negative background information.

No Pre-existing Vetting Process: The so-called vetting process conveniently appeared only after Plaintiff announced his candidacy, and Plaintiff alleges it was designed specifically to exclude him under the color of a Party policy that did not exist and had never before been applied to any Democratic candidate. Griffith has produced no records, documents, or minutes to substantiate the existence of this process before Plaintiff's candidacy was known, or since. Plaintiff further alleges the process was applied only to him and not to the other candidates, demonstrating its discriminatory and pretextual nature.

A Broader Conspiracy: This sham vetting process was part of a broader conspiracy to interfere with Plaintiff's campaign and suppress his candidacy by unlawful means. Plaintiff's exclusion from the July 13<sup>th</sup> debate was not an isolated incident: It was part of a coordinated, 15-month effort by Griffith and her co-conspirators, which escalated well beyond the scope of first amendment protected activities. The Court must accept these well-pleaded allegations as true at the motion to dismiss stage (*Conley v. Gibson*, 355 U.S. 41 (1957)).

## **2. Griffith's Strawman Argument**

Plaintiff acknowledges that the Democratic Party, as a private political organization, has the (non-absolute right) to adopt a candidate vetting process: assuming it is lawful. As an extreme thought exercise, if the "candidate vetting process" involves assaulting,

battering, and ultimately murdering the candidate they hate, invoking a political party “candidate vetting process’ as a mantra, does not shield them from criminal or civil liability. Defendant's claim that Plaintiff is arguing otherwise is a strawman argument that Plaintiff has not made. Plaintiff is not challenging the Party’s right to create a lawful vetting process - equally applied – irrespective of sex and disability (or race or religion or sexual orientation).

### **3. Mischaracterization of Constitutional Protections and Projection**

Defendant Griffith argues that Plaintiff’s claims infringe on her rights to freedom of speech and association when in fact, it was *Plaintiff’s* free-speech rights, and Plaintiff’s right to peaceably assemble with voters, that were violated *by Griffith and her agents*. She is projecting her own unlawful acts on to Plaintiff. Plaintiff has alleged that Defendant’s actions involve wrongful acts far beyond the protection of the First Amendment. The U.S. Supreme Court has held that certain forms of conduct, such as fraud, intimidation, coercion, are not protected by the First Amendment (*Wisconsin v. Mitchell*, 508 U.S. 476 (1993)). In particular, the alleged acts of blocking access to Plaintiff’s campaign event and physically obstructing Plaintiff’s communication with voters, as well as the removal of his campaign sign, fall outside the scope of protected activities. In *United States v. Alvarez*, 567 U.S. 709 (2012), the court ruled that false statements are not categorically protected under the First Amendment in the context of the Stolen Valor Act. In *Schenck v. United States*, 249 U.S. 47 (1919) the court held that speech creating a clear and present danger is not protected by the First Amendment, particularly in the context of coercive speech or speech encouraging unlawful acts.

**The Political Speech on Plaintiff's Campaign Sign:** Plaintiff's campaign sign, which read, "*John Liccione for Congress: Building Florida, Saving America,*" and "*voteliccione.org*" is a clear form of political speech protected by the First Amendment. Unless Griffith is prepared to argue that "Building Florida and Saving America" are somehow anathema to Democratic Party values, there was nothing remotely objectionable on Plaintiff's campaign sign that warranted her harassment and sign snatching, and calling security on him while he was talking to voters. The content of this message on the sign directly communicated Plaintiff's overarching political vision for Florida and America at large, making it a critical part of his campaign communication. Defendant Griffith's act of removing this specific sign—while not touching the signs of any of the four other candidates—demonstrates that it was the political message along with his name and campaign website address on the sign, and *only* his sign, that triggered her unlawful action. This selective sign removal and campaign interference indicates that Griffith's intent was to suppress Plaintiff's political speech, rather than an honest attempt to exercise her own right to free expression. Such conduct falls outside the scope of constitutionally protected activities and constitutes unlawful interference with Plaintiff's campaign speech and his attempts to lawfully interact with voters.

Moreover, 52 U.S.C. § 10307(b) directly applies to the allegations in this case. This federal statute prohibits any form of intimidation, threats, or coercion that interferes with a person's ability to vote or participate in election-related activities and the political process in general. Defendant's obstruction of the hallway at Plaintiff's after-debate event, preventing voters from attending Plaintiff's campaign event, is a direct violation

of this statute. These acts are designed to suppress electoral participation and restrict access to political information, constituting voter intimidation and coercion.

In addition, under the *Reed v. Town of Gilbert* (576 U.S. 155 (2015)) ruling, while the case specifically involved content-based restrictions on speech, it affirms that political speech and access to political information are critical under the First Amendment. Defendant's actions in barring voters from engaging with Plaintiff, from seeing his campaign signs, and interfering with his ability to communicate to voters without harassment and intimidation, violate these fundamental protections.

#### **4. Physical Voter Intimidation and Coercion**

Plaintiff has provided specific factual allegations of physical voter intimidation and coercion, including:

- **Blocking the Hotel Ballroom Hallway:** Defendant Griffith and her agents on July 13, 2024 at the St Petersburg/Clearwater Marriott Hotel, conspired to physically block her debate attendees from accessing Plaintiff's after-debate event and coerced them into exiting the hotel down the back exit stairwell. This conduct, aimed at interfering with Plaintiff's right to campaign freely, to peaceably assemble with voters, and voters' right to engage with him in person, violates both state and federal laws prohibiting voter intimidation and coercion. (*52 U.S.C. § 10307(b); Fla. Stat. § 104.0615*).
- **Campaign Sign Theft and Harassment at St. Petersburg College:** Defendant Griffith personally removed Plaintiff's campaign sign in front of witnesses, followed by a public confrontation in the hallway instigated solely by

her that was aimed at preventing Plaintiff from engaging with voters and from seeing his campaign sign message. Then she continued to interfere by bringing a college security guard to where he was campaigning, on false pretenses, in an effort to stop him from campaigning and to remove his sign. These actions constitute both voter intimidation and interference with lawful campaigning activities, which go beyond protected political speech.

### **5. Pattern of Escalating Misconduct Well Beyond Protected Speech, Assembly**

Defendant's argument that her actions are protected as part of her freedom of speech and association cherry-picks the campaign vetting failing and the debate exclusion and ignores the broader pattern of escalating misconduct over Plaintiff's entire 15-month campaign. Plaintiff has alleged a systematic, deliberate, and *escalating* effort to interfere with his campaign, involving acts of voter intimidation and coercion, conspiracy to commit fraud, and campaign interference, and even battery and assault. This pattern includes not only exclusion from debates. It escalated well beyond into physical acts of intimidation, violence, and harassment, and voter intimidation, based on clear hatred and malice towards Plaintiff, which clearly fall outside any constitutional protection (*Wisconsin v. Mitchell*, 508 U.S. at 484).

### **6. Allegations of Conspiracy to Commit Mail Ballot Election Fraud Bolstered by Evidence**

Plaintiff has sufficiently pled a conspiracy involving Defendant Griffith and others to commit election fraud, including the fraudulent submission of mail ballot orders over the Internet, and the marking of blank ballots without voter consent. These allegations

are bolstered by specific evidence, including a whistleblower communique corroborating the fraudulent activities and a massive, singular, one-day spike in mail ballot orders in Pinellas County. On June 23, 2024, Florida’s publicly available mail ballot order records reflected a massive and never before or since seen spike of over 219,000 mail ballot orders on a Sunday—a highly suspicious and abnormal occurrence without precedent that was prima facie evidence of mail ballot ordering fraud. That further supports Plaintiff’s claims of mail ballot fraud. Under both federal and state law, such conduct constitutes fraud and violates election laws. (*52 U.S.C. § 20511; Fla. Stat. § 104.041*). Defendant’s motion to dismiss these claims is without merit.

#### **7. Misapplication of Anti-SLAPP Statute: No Prima Facie Case Established**

Defendant has failed to meet the burden of demonstrating a prima facie case under Florida’s anti-SLAPP statute, which is intended to protect legitimate free speech or petitioning activity in connection with public issues. Plaintiff’s allegations, including voter intimidation, campaign interference, battery and assault, conspiracy, and election fraud, fall squarely outside the scope of protected speech and cannot be shielded by the anti-SLAPP statute (*Gundel v. AV Homes, Inc.*, 264 So. 3d 304 (Fla. 2d DCA 2019)). For a defendant to succeed under anti-SLAPP protections on a motion to dismiss, they must first make prima facie showing that Plaintiff’s claims are solely based on Defendant’s exercise of their right to free speech or petitioning activity in connection with a public issue. To meet the burden of a prima facie anti-SLAPP claim at this stage, the Defendant must establish that:

- a. The Plaintiff’s Lawsuit Based Solely on the Defendant’s Exercise of First Amendment Rights: Defendant has not presented sufficient evidence and allegations or argument to demonstrate that Plaintiff’s claims arise solely or



primarily from constitutionally protected activities. Plaintiff's allegations in the Complaint—including conspiracy, voter intimidation, coercion, physical interference, fraudulent mail ballot mass production, and unlawful conduct at Plaintiff's campaigning venues—fall squarely outside the scope of protected free speech. These actions, as described by Plaintiff, represent criminal and civil misconduct, which cannot be shielded by anti-SLAPP protections. Further, no sworn affidavits or documented evidence were provided by the Defendant to substantiate that the activities in question were constitutionally protected expressions related to a public issue, as required to invoke anti-SLAPP.

- b. “The Lawsuit is Without Merit and Filed to Suppress Free Speech:” The defendant must also prove that the plaintiff's claims lack merit and were brought primarily to intimidate or silence the defendant's speech and right to freely assemble in connection to a public issue. Defendant has not met this burden. Plaintiff argues that blocking the hotel hallway so Griffith's debate attendees could be physically herded down a back exit stairwell to prevent them from attending Plaintiff's after-debate party after her “exclusive’ debate (sans Liccione) was over, is neither protected speech, nor protected assembly or association. It prevented individual voters, en masse, from *peaceably assembling with Plaintiff* at his just-down-the-hall campaign event. Griffith is accusing Plaintiff of that for which she is clearly guilty.

Plaintiff's complaint is based on numerous specific allegations of wrongful conduct—such as conspiring to fraudulently order and mark mail-in ballots, orchestrating physical barriers at campaign events, battery, and conspiracy to suppress lawful political

participation *by Plaintiff*—that are cognizable legal claims. These claims address specific, unlawful acts by the Defendant and her agents that directly harmed Plaintiff's campaign and cannot be reasonably construed as an attempt by Plaintiff to restrict legitimate free speech.

The Florida Second District Court of Appeal has clarified that a prima facie showing requires clear evidence that Plaintiff's claims are directly related to and primarily aimed at constitutionally protected activities. *Gundel v. AV Homes, Inc.*, 264 So. 3d 304, 314 (Fla. 2d DCA 2019) states that the defendant must first present sufficient factual evidence showing that the plaintiff's lawsuit is based on protected First Amendment activity (such as free speech in connection with a public issue) before the burden shifts to the plaintiff. In this case, Defendant has failed to provide such evidence, relying instead on conclusory statements without supporting documentation or sworn affidavits.

- c. Allegedly Improper Motive by Plaintiff: Defendant's anti-SLAPP claim also fails to establish that Plaintiff's motive was primarily to suppress free speech rather than to remedy further wrongful acts that directly impacted his campaign and the election at large, *at scale*. Plaintiff's allegations pertain to tangible, unlawful actions taken by Defendant and her agents that resulted in real harm to Plaintiff's ability to run an effective campaign. Without providing any factual basis for Plaintiff's alleged improper motive, Defendant's claim remains unsupported.

The court in *Davis v. Mishiyev*, 339 So. 3d 449, 453 (Fla. 2d DCA 2022), reinforced that a prima facie case under anti-SLAPP requires more than assertions; it requires actual

evidence showing that the plaintiff's claims are primarily based on an exercise of constitutionally protected rights such as free speech. Here, the defendant has provided no affidavits, documents, or any evidence demonstrating that Plaintiff's claims were aimed solely at suppressing lawful free speech or assembly, rather than addressing specific unlawful behavior. *Davis v. Mishiyev* reinforces that anti-SLAPP motions require evidence, not just assertions, and defendants must make a prima facie showing that the lawsuit primarily targets protected speech or petitioning activity. The burden shifts to the plaintiff only if the defendant provides such evidence. Conclusory statements or bare assertions by the defendant, without evidence and supporting affidavits, are insufficient to shift the burden under anti-SLAPP statutes.

#### **8. The Supervisory Role of Defendant Griffith**

Defendant Griffith's claim that she lacks supervisory power over party members is without merit. As Party Chair and the Democratic Party Boss in Pinellas county, Griffith exercises significant control over party operations and activities. Plaintiff has sufficiently alleged that her role as Chair involved directing the numerous unlawful and tortious actions that interfered with Plaintiff's campaigning abilities, including voter suppression tactics, campaign sign removal, candidate harassment, and fraudulent mail ballot ordering and ballot marking activities. Griffith cannot evade responsibility for the actions of party members under her leadership, let alone her own wrongful acts.

#### **9. A Repeating and Escalating Pattern of Misconduct**

When considered as a whole, the allegations in the complaint describe a coordinated and deliberate effort by Defendant and her co-conspirators to obstruct and fully destroy Plaintiff's campaign through unlawful means when he refused to withdraw from the

race. Defendant's reliance on the anti-SLAPP statute and First Amendment protections ignores the broader context of misconduct aimed at manipulating the electoral process and suppressing lawful political participation. (*Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)).

## **10. Conclusion**

Defendant Griffith's conduct, as alleged, goes far beyond constitutionally protected free speech and association rights. Plaintiff has presented substantial allegations of voter intimidation, conspiracy, mail ballot fraud, campaign interference, battery and assault, and the implementation of a sham candidate vetting process aimed at preventing Plaintiff, and only Plaintiff, from winning the Democratic primary, at all costs. These allegations are legally sufficient to proceed to discovery.

Griffith's allegations are unsupported by sworn affidavit or evidence. The burden of proof is on Griffith to prove that her candidate vetting process existed, that it wasn't adopted just after Plaintiff announced his candidacy to target him and only him, that it was applied equally, and that due process was equally afforded to all 5 candidates.

Griffith has not produced any such admissible evidence. There is no sworn affidavit attached to her motion to dismiss. For these reasons, the Court must deny Defendant's motion to dismiss and allow Plaintiff to proceed to discovery, and to present evidence in support of these serious claims.

**WHEREFORE**, Plaintiff respectfully requests that the Court deny Defendant Jennifer Griffith's Motion to Dismiss.

## **REQUEST FOR HEARING**

Plaintiff requests a hearing on Defendant Griffith's Motion to Dismiss.

Respectfully Submitted,

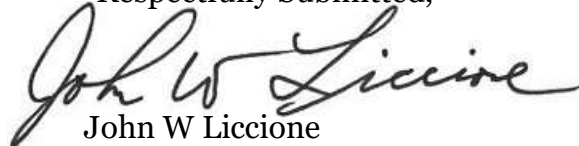


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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this on the 21st day of October 2024, 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 GEORGE A.D. THURLOW, ESQ., Attorney for Defendant JENNIFER GRIFFITH, at [gthurlow@rahdertlaw.com](mailto:gthurlow@rahdertlaw.com), [tmccreary@rahdertlaw.com](mailto:tmccreary@rahdertlaw.com) and [service@rahdertlaw.com](mailto:service@rahdertlaw.com), RYAN D. BARACK, ESQ. and MICHELLE E. NADEAU, ESQ., Attorney for Defendant WHITNEY FOX, at [rbarack@employeeights.com](mailto:rbarack@employeeights.com), JAMES B. LAKE, ESQ., Attorney for Defendant CATHY SALUSTRI LOPER, at [jlake@tlolawfirm.com](mailto:jlake@tlolawfirm.com), and Defendant Mark Weinkrantz via postage prepaid first-class mail at 4738 Belden Circle, Palm Harbor, FL 34685.

Respectfully Submitted,



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